Meanings of Citizenship in the U.S. Empire: Puerto Rico, Isabel Gonzalez, and the Supreme Court, 1898 to 1905

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ISABEL GONZALEZ'S trajectory from detained "alien" to Supreme Court litigant illuminates links between the legal history of U.S. empire and the legal history of race and immigration in the United States. Her case, *Gonzales v. Williams* (1904), was the first in which the Court confronted the citizenship status of inhabitants of territories acquired by the United States during its deliberate turn toward imperialism in the late nineteenth century. As with many cases, a combination of Gonzalez's actions and circumstances gave rise to the challenge. A single, pregnant mother, Gonzalez headed to New York from Puerto Rico in the summer of 1902. Subject to inspection at Ellis Island as an alien, she failed to gain entry to the mainland under an immigration policy that advocates of racial exclusion had shaped in line with their concerns about the sexual morals and family structures of immigrants. Gonzalez responded by drawing on familial social networks to challenge immigration authorities in federal court. She claimed that she was not an alien but a U.S. citizen. The Court would ultimately give her a narrow victory, holding that Puerto Ricans were not aliens but refraining from deciding whether they were U.S. citizens. While the dispute raged, however, lawyers and litigants gave it wider compass, comparing Puerto Ricans to women, children, domestic U.S. minorities, and colonized peoples. These comparisons reveal how Gonzalez's claim to membership in the U.S. empire-state implicated, and thus threatened to unsettle, doctrinal balances involving gender, race, and immigration.[1]

Steaming away from Puerto Rico aboard the S.S. *Philadelphia* in the summer of 1902, Gonzalez departed a homeland both within and beyond the U.S. nation. Puerto Rico was within the United States because on July 25, 1898, the United States invaded the island and then annexed it through the Treaty of Paris, congressionally confirmed on April 11, 1899, that brought an end to the war between the United States and Spain in Cuba, Puerto Rico, and the Philippines. That treaty recognized U.S. authority over these islands and Guam. Puerto Rico lay beyond the United States because a

combination of congressional and judicial action had denied the island full-fledged entry into the U.S. federal system. Prior to 1898 the United States had organized new acquisitions from nontribal governments into largely self-governing territories as a prelude to statehood and had generally extended broad constitutional protections and U.S. citizenship to free, nontribal residents. Prominent U.S. intellectuals argued that such steps were constitutionally mandated. After 1898 this precedent of relatively uniform treatment disintegrated. In Puerto Rico, for instance, Congress instituted a centrally controlled administration and declined to recognize Puerto Ricans as U.S. citizens. In *Downes v. Bidwell* (1901), the U.S. Supreme Court acknowledged these differences, judging that the U.S. Constitution functioned differently in Puerto Rico than on the mainland.[2]

Closely followed by politicians, scholars, and the public, *Downes* was the most important of the *Insular Cases*, a set of primarily early-twentieth-century decisions creating the constitutional underpinnings of the newly self-conscious U.S. empire. There, Justice Edward White introduced the doctrine of territorial nonincorporation. He reasoned that unlike prior territories, Puerto Rico had not been incorporated by Congress or by treaty into the U.S. Union. It was thus "foreign to the United States in a domestic sense"—that is, foreign for domestic-law purposes—but also part of the United States under international law. White here purported that the exigencies of empire could be reconciled with constitutional and democratic norms because the Constitution did not need to apply uniformly throughout the territories. Offering few details as to how specific constitutional provisions applied to unincorporated territories, the decision permitted establishment of unequal, undemocratic polities in such territories, did not demand that those territories eventually be incorporated, and granted wide latitude to Congress and the executive in structuring those polities. Frederic R. Coudert Jr., a lead attorney in *Downes*, later wrote, "The very vagueness of the [nonincorporation] doctrine was valuable." Yet jurists were initially more circumspect. In 1901 nonincorporation attracted only a plurality of justices. No opinion in *Downes* garnered five votes; four justices dissented. Representative Charles E. Littlefield told the American Bar Association, "Until some reasonable consistency and unanimity of opinion is reached by the court upon these questions, we can hardly expect their conclusions to be final."[3]

Though vagueness struck some as a questionable legal principle, nonincorporation nevertheless would become (and remains) accepted constitutional law. *Downes* thus settled the question of the administration of nonincorporated territories after a fashion. But, it left the status of the population of those ter-

ritories undecided. After *Downes*, Puerto Ricans lived in institutional limbo, uncertain whether they held U.S. citizenship or remained alien to their new sovereign. Treasury official F. P. Sargent stepped into this breach, instructing immigration officials to treat Puerto Ricans as aliens. This policy caught Gonzalez in its web, but it also gave her and her allies the chance to press courts to decide whether, as a native of an unincorporated territory, she was an alien or a national, a citizen or a subject. Observers knew these stakes. As the *New York Times* would write, Gonzalez's challenge to her exclusion at Ellis Island presented a "Porto Rican test case" on "the status of the citizens of Porto Rico." When the Supreme Court scheduled the case on an "advanced" basis, it confirmed what Gonzalez, her attorneys, and U.S. officials already understood: the construction and administration of a U.S. empire injected the status of colonized people into debates over U.S. citizenship, which remained unsettled long after *Dred Scott* (1857) and its 1868 reversal by the Fourteenth Amendment.[4]

Responding to her detention, Gonzalez and her family initially focused not on the question of citizenship but on the immediate goals of preserving Gonzalez's honor and bringing her to New York. They thus challenged the implication that she was a single woman without support. Once she lost her administrative appeal, Gonzalez switched tactics, turning to a judicial arm of the state to overturn the administrative decision that she was an alien. In that dispute, the modestly situated Gonzalez tapped into familial social networks to secure assistance from Coudert, a leading international-law attorney, and Federico Degetau y González, Puerto Rico's nonvoting resident commissioner to the U.S. House of Representatives.[5]

Rather than specifying the citizenship of the inhabitants of the new U.S. possessions, the Court unanimously issued a ruling as vague, in its own way, as *Downes*. Overruling immigration authorities—Gonzalez, the Court held, was not an alien for purposes of U.S. immigration laws—justices declined to decide whether she was a citizen. Again, the Court in its vagueness facilitated U.S. imperialism by neither denying the widely held belief that U.S. citizenship and U.S. nationality were coextensive nor interfering with congressional and administrative control of new territorial acquisitions. At the time, the distinction between citizen and subject made little practical difference; because the Court had eviscerated its constitutional content in postbellum cases involving women, immigrants, and people of color, U.S. citizenship promised Puerto Ricans few new rights. Yet in other cases, justices referenced a more substantive U.S. citizenship. White argued in *Downes*, for instance, that the United States might eschew expansion were it to mean extending

colonized peoples a U.S. citizenship for which they were unprepared. At the time, legal reasoning often involved deducing results from general principles and giving legal terms standard meanings across contexts. The status of Puerto Ricans thus implicated hard-to-reconcile strands of Supreme Court jurisprudence involving the great conflicts of citizenship haunting the U.S. polity: gender, race, and empire. By assiduously steering clear of deciding whether Puerto Ricans were U.S. citizens, the Court avoided these issues.[6]

The case of Isabel Gonzalez thus bears deeper scrutiny, not simply because of its importance to the evolving status of Puerto Ricans and their relationships with the United States, but because the parties involved all understood the problem of the citizenship status of Puerto Ricans to be inseparable from the many citizenship questions involving "dependent" and "unequal" populations in and around the United States. The U.S. empire-state included states of the federal union, incorporated territories like New Mexico, and colonial possessions like the Philippines. Until 1902 U.S. troops occupied the military protectorate of Cuba. All of these parts of the United States held populations whom the courts and political branches had determined enjoyed sharply unequal access to protections that many associated with citizenship. At the turn of the twentieth century, the U.S. Supreme Court sustained the Chinese exclusion, Jim Crow, and black disfranchisement polices implemented by the political branches of state and federal governments. Aspects of coverture continued to receive judicial support. Detribalization, conquest, and allotment extended U.S. authority over American Indians and their lands. In the Caribbean, the United States exercised informal but powerful influence. Deciding the citizenship status of Puerto Ricans meant carefully weighing and possibly upsetting this many-layered system of exclusion and domination. A new look at *Gonzales v. Williams* can help explain the uniqueness of Puerto Rican colonization, and of the U.S. citizenship Puerto Ricans eventually gained, by showing how obviously embedded the case was, for all those involved, in broader—indeed pervasive—problems of race, empire, gender, and inequalities among U.S. citizens.[7]

"LIKELY TO BECOME A PUBLIC CHARGE": THE PATH TO THE SUPREME COURT

Although the war between the United States and Spain marked rising imperialist sentiment in the United States, it also sparked fierce opposition to imperial expansion. In 1900 William Jennings Bryan accepted the Democratic presidential nomination avowing that "[t]he forcible annexa-

tion of territory to be governed by arbitrary power differs as much from the acquisition of territory to be built up into States as a monarchy differs from a democracy." President William McKinley's victory—more a result of Bryan's advocacy of free silver than his foreign-policy positions—shifted the main battleground over U.S. imperialism from politics to the courts.[8]

A key participant in these battles, including the *Gonzales* case, was Frederic R. Coudert Jr. In 1895 Coudert began a career in New York as an international-law attorney and public intellectual; his father had recently been considered for a U.S. Supreme Court post, and Coudert knew many of Washington's and New York's most powerful men. For Coudert, imperialism created a professional opportunity. In 1901 he became front-page news after launching two Insular Cases—*DeLima v. Bidwell* (1901) and *Downes v. Bidwell*—for clients protesting tariffs levied on goods shipped between Puerto Rico and the United States. That January he argued before the U.S. Supreme Court that U.S. annexation of Puerto Rico had made it part of the United States, hence exempt from U.S. tariffs. The Court agreed in part. In *DeLima*, Justice Henry Brown wrote that Puerto Rico "was not a foreign country within the meaning of the tariff laws" in effect in 1899. But, he continued in *Downes*, Puerto Rico was "not a part of the United States within the revenue clauses of the Constitution." Thus, a newer, explicit tariff on Puerto Rico–U.S. shipments did not violate the U.S. constitutional rule that "all Duties, Imposts and Excises shall be uniform throughout the United States." Justice White's opinion for three justices in *Downes* went further, arguing that unless "the United States is helpless in the family of nations," it required the power to annex territories without extending inhabitants U.S. citizenship. He elaborated:

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

This proposition—that U.S. citizenship might be too substantive for some inhabitants of U.S. territories to enjoy—had important implications for Puerto Rico, Puerto Ricans, and the U.S. empire-state. In subsequent months, Coudert searched for a case with which to test it.[9]

A second key participant was Federico Degetau y González, a prominent Puerto Rican politician familiar with battles over the colonial status

of Puerto Rico. Degetau spent the mid and late 1890s in Spain advocating greater autonomy for his island. After 1898 Degetau refocused his advocacy of Puerto Rican self-government and liberty into support for U.S. statehood and citizenship for the island, a position shared by a broad segment of the island's political class. In 1899 Puerto Rican politicians reorganized political coalitions that had existed under Spanish rule into new, competing parties: the Republicanos and the Federales. Degetau cofounded the former party, which more strongly aligned itself in favor of U.S. policies on the island than did the Federales. In 1900 the U.S. Congress passed the Foraker Act, creating a civil government for Puerto Rico in which the U.S. president appointed the governor and upper legislative chamber and Puerto Ricans elected delegates to the lower legislative chamber and a resident commissioner to be their non-voting representative in Washington. The Republicanos nominated Degetau to be resident commissioner; then, shortly before the election, the Federales called a boycott of the polls, charging U.S. officials with favoritism and failure to prevent pro-Republicano violence. Now unopposed and still willing to stand for office, Degetau and his party won handily, becoming crucial allies to a United States then setting up and legitimizing the civil system laid out in the Foraker Act. Degetau, in his platform, insisted "that the inhabitants of the Island of Porto Rico are citizens of the United States." This position aligned him with the many mainlanders who believed that U.S. annexation had brought Puerto Ricans U.S. citizenship and full constitutional protections and Puerto Rico eventual statehood. After *Downes*, the contention that full constitutional protections and eventual statehood had accompanied U.S. annexation of Puerto Rico became hard to maintain. But for Degetau, it was citizenship that mattered most.[10]

Shortly after arriving in Washington in December 1900, Degetau set about keeping his campaign promise. In the face of official reluctance to clarify the status of Puerto Ricans, he sought out disputes that he hoped would force officials to specify that Puerto Ricans were U.S. citizens. In these cases he aimed to identify rights that Puerto Ricans could exercise if and only if they were U.S. citizens, and then convince an official to decide the claim in favor of a Puerto Rican. Following this strategy, he lobbied the chairman of the House Committee on Insular Affairs, Henry Allen Cooper, and sent letters to the secretary of state concerning inconsistent treatment of Puerto Rican migrants. He intervened in a Puerto Rican man's appeal of a U.S. military commission sentence. And he applied, personally, for a U.S. passport identifying him as a U.S. citizen and for admission to the bar of the U.S. Supreme Court. While these efforts did not produce immediate results,

Degetau was personally well received when he made them. Representative Cooper gushed after one Degetau missive: "I was very glad indeed to hear from you . . . and I congratulate the Porto Ricans that they have so eloquent and effective a representative as yourself." The *Washington Post* cooed, "Mr. Degetau . . . has the most beautiful black, silky whiskers and speaks English with a decidedly foreign accent." Degetau's efforts also attracted the attention of the Coudert Brothers law firm. Two months after the enigmatic results of its arguments in *Downes* and *DeLima*, the firm was, in Degetau's lawyer's words, "anxious to take up [the passport] case with [Degetau and his lawyer] and make a test case of it." Only the discovery of an adverse precedent derailed their joint endeavor to seek judicial clarity concerning the status of Puerto Ricans.[11]

The test case would come to Degetau and Coudert the next year from an unexpected source, a young mother named Isabel Gonzalez who was detained by immigration inspectors in New York. The year 1902 started badly for her. Still living in Puerto Rico, she became pregnant for the second time shortly before her fiancé left to find a factory job in Linoleumville, Staten Island, the neighborhood where Gonzalez's brother worked. When she sought to follow and marry him in mid-1902, she had reason to hope that she would join many Puerto Ricans who, Degetau noted, had "frequently disembarked unmolested in New York." The Treasury Department, however, issued new immigration guidelines that changed Gonzalez's status while her ship was en route. On August 2, 1902 she and other Puerto Ricans had become "subject to the same examinations as are enforced against people from countries over which the United States claims no right of sovereignty." Following the new rules, port officials transferred Gonzalez to Ellis Island.[12]

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

as suspect if they traveled with less than ten dollars. Like reformers and the welfare laws they would soon institute—both of which conceptualized women and children as dependents (though in fact many worked)—inspectors often attached the label of "public charge" to unmarried mothers and their children. Ellis Island policy dictated that "unmarried pregnant women were always detained for further investigation" and that single women were only released if family members came to claim them.[13]

Although Gonzalez carried eleven dollars in cash and telegrammed ahead to her family to pick her up, officials discovered her pregnancy during her early August 1902 line inspection. Consequently, a Board of Special Inquiry opened a file on Gonzalez. This file would grow and circulate as her case progressed. One version would reach the Supreme Court and appear in the *Gonzales* opinion. Later, that official account would also appear in scholarship on the case.[14]

The next day Gonzalez's uncle, Domingo Collazo, and her brother, Luis González, joined her at a hearing turning on whether she was "going to persons *able, willing and legally bound* to support" her and not entering for immoral purposes. Here the ostensibly administrative inquiry reflected a movement for racial exclusion that overlapped, in immigration policy, with ideas about moral behavior and proper relations between women dependents and male family members. Inspectors weighed proof of legitimate family relations through presumptions that certain kinds of women were inadequate mothers and certain kinds of men were insufficient fathers and husbands. In a speech to Princeton's senior class in November 1904, Williams explained his strict policies in terms of the "radical sociological, industrial, racial and intellectual distinctions" separating northwestern and southeastern Europeans and stated, "It will be a very easy matter to fill up this country rapidly with immigrants upon whom responsibility for the proper bringing up of their offspring sits lightly, but it cannot be claimed that this will enure to the benefit of the American people."[15]

For Gonzalez and her family, the hearings touched on traits to which Puerto Ricans and mainlanders attached negative honor, class, and race connotations: lack of membership in an economically self-sufficient man's home; absence of sexual propriety; and classification as pregnant and abandoned. Collazo and Luis González sought to portray Isabel Gonzalez as an upstanding, dependent woman in an honorable man's household. Isabel Gonzalez explained her first child through widowhood. For the second pregnancy, Collazo converted a missing fiancé into a husband whom he had seen "[a]bout two weeks ago" but who "could not come today" because "he is

working." Collazo hedged his bets, however, offering to assume the role of patriarch. He earned "$25 a week" as "a printer" and was "willing to take [Isabel Gonzalez] and provide for her." Inspectors, who likely began with racial and class prejudices, were wary. They sent Collazo and Luis González home, opining: "his wife is here and he should come for her." Two days later, still with no help from the father of Isabel Gonzalez's expected child, another attempt was made, this time by Domingo Collazo's wife, Hermina Collazo:

> Q. What does your husband do?
> A. He is a t[y]pographer and I do embroidery work; I also give lessons in embroidery work.
> Q. What is your husband's business worth?
> A. $25 a week.
> Q. Does your husband know that you came here in the interest of your niece?
> A. Yes, sir.
> Q. Can you satisfy this board that, in case this woman is released, you will stand by her and see that she does not get into trouble?
> A. Yes, sir, that goes without the saying.
> Q. Your husband will aid you in assisting the woman?
> A. Yes, sir.

While inspectors solicited Hermina Collazo's claims to moral supervision, they ignored her work and income, questioned her for coming to testify unaccompanied by her husband, and failed to record her name. They also refused to reconsider their demand to see Isabel Gonzalez's husband.[16]

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

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

Although Luis González apparently believed that this would mollify the inspectors' concerns about Isabel Gonzalez's family's capacity to care for her, the inspectors were indignant: "An arrangement then has been made

by which a marriage is to take place without the husband's consent?" Luis González affirmed that this was the case. The Board excluded Isabel Gonzalez from entry.[17]

When these attempts failed, Isabel Gonzalez depended upon Domingo Collazo and his access to male political and professional networks. In the 1890s Collazo had been active in a radical wing of the Cuban Revolutionary Party that sought an Antillean social revolution to improve the status of workers and people of color. He had attended meetings with Antillean activists Arturo Schomburg; Rosendo Rodríguez; and, most likely, Sotero Figueroa. He had also published articles in *La Doctrina de Martí*, a newspaper edited by Figueroa that protested growing conservatism on issues of race among Cuban Revolutionary Party leaders. In addition to printing and typography, Collazo described his callings as "writer," "clerk," and "correspondent" and "translator" for a "newspaper." Counted as white in later censuses, he came to know Puerto Rican leaders and U.S. senators and almost won appointment to Puerto Rico's cabinet. On August 18, 1902 he swore out a habeas corpus petition for Isabel Gonzalez. At about the same time, "She told her story to a friend, who in turn told it to [lawyer] Orrel A. Parker." On August 19, Parker's partner, Charles E. Le Barbier, filed Collazo's petition with the U.S. Circuit Court for the Southern District of New York. Seven weeks later, the court issued its opinion. Narrowing the issue to "whether or not petitioner is an alien," it ruled that she was an alien and upheld her exclusion.[18]

Although unaware of the Gonzalez case, on August 30, 1902, several weeks after Gonzalez disembarked at Ellis Island, Resident Commissioner Degetau wrote to the secretary of state in protest of the new rules that made Puerto Ricans subject to immigration laws. He explained that having "taken . . . an oath to support the Constitution," he deemed it his duty "to protest against" the Treasury Department circular. On October 5, at the secretary's suggestion, he forwarded his protest to the Treasury Department. In his response, the secretary of the Treasury called Degetau's attention to the Circuit Court opinion, which had recently affirmed the legality of Treasury policy. Degetau then contacted Le Barbier and Parker, who revealed that they planned to appeal Gonzalez's case to the Supreme Court. Here was the test case for which Degetau and Coudert had been looking. The question was not, anymore, whether immigration inspectors, following guidelines suffused with concepts of race and gender, deemed Isabel Gonzalez and her family desirable. The case could, Coudert wrote, "settle the status of all the native islanders who were in existence at the time the Spanish possessions were

annexed by the United States." By February 16, 1903, Coudert had joined the case, and by April he and Degetau had renewed their collaboration.[19]

Isabel Gonzalez, whose voice is absent from the administrative and trial records, nevertheless seems to have made a concrete decision to join the shift from an argument designed to redeem her individual honor and secure her entry to New York to one intended to secure citizenship for all Puerto Ricans. Indeed, while Gonzalez was out on bond, "the young man, whom 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 stateside. Rather than end her appeal on these grounds, however, she hid her marriage, delaying public redemption to press her claim that all Puerto Ricans were U.S. citizens. Partly as a result of Gonzalez's efforts, the official record came to portray her as did immigration inspectors: dependent, silent, and an object of state policy. There is an irony here. Gonzalez made huge efforts to put claims to dignity and belonging before a federal state that would preserve and disclose many of the documents its officials created and received. Yet because her efforts succeeded, the Supreme Court would read and repeat the "legal story" that immigration inspectors had crafted out of the testimonies witnesses had generated to sway them. Historians have not corrected this depiction of Gonzalez as a passive victim of governmental machinations. Yet her efforts caused people to create documents—later archived—that reveal a different woman: one who pressed and, as we will see, articulated claims to citizenship.[20]

"THE TWO PRECEDENTS IN HISTORY OF WHICH WE ARE LEAST PROUD": FREDERIC R. COUDERT JR. MAKES HIS CASE

The U.S. Supreme Court received the briefs in *Gonzales v. Williams* in late 1903. U.S. solicitor general Henry Hoyt's filing on behalf of the United States focused on the peculiar purposes of U.S. immigration laws. Reviewing bars to entry by Chinese, prostitutes, idiots, insane persons, paupers, certain diseased persons, and anarchists, among others, he highlighted Congress's desire to protect the mainland from harmful immigration. Hoyt then described how Puerto Rico and the Philippines were remote in time, space, and culture and suffered (in his eyes) problems of climate, overcrowding, primitive hygiene, low standards of living and moral conduct, and the extreme and willing indigency that characterized the tropics. Until Congress crafted exceptions to the immigration laws, Hoyt concluded, the

Supreme Court ought to respect Congress's intent to protect the mainland from these "very evils at which the law was aimed."[21]

On November 30, 1903 Frederic R. Coudert Jr. opposed the government with his brief on behalf of Isabel Gonzalez. He argued that (1) the Treaty of Paris transferred sovereignty over, and hence the allegiance of, Puerto Rico from Spain to the United States, and (2) under English and U.S. law, such transfers effected transfers of subjection or nationality. If accepted, these two points were sufficient to win Gonzalez entry to the mainland; existing immigration laws only excluded aliens. But, Coudert argued, the Court had to do more. Finding Puerto Ricans to be U.S. subjects or nationals without also holding them to be U.S. citizens would replicate the *Dred Scott* case of 1857, again creating a U.S. status between citizen and alien. He therefore made his third argument, that current U.S. law appropriately deemed all U.S. subjects or nationals also to be U.S. citizens. Moreover, he assured the Court, recognizing Puerto Ricans as U.S. citizens would not hamper U.S. imperial designs. U.S. women and minorities, he explained, possessed a U.S. citizenship similar to the statuses that other empires bestowed upon their subordinated peoples.

Coudert discussed the status of Puerto Ricans in the United States by comparing the United States to France and England and Puerto Ricans to Europe's colonial subjects, free U.S. blacks, American Indians, women, and children. Significantly, he did not cast Puerto Ricans as white men who deserved full membership in the U.S. political community. Instead, he suggested that the United States, consistent with its practice in both states and incorporated territories, follow other imperial powers, which had found it convenient and natural to grant women and minorities narrow forms of membership akin to U.S. citizenship.

Turning to case law, Coudert portrayed a U.S. citizenship which generally accompanied U.S. nationality and that, similar to nationality in other empires, was widespread and largely inconsequential. He chose cases in which the Court affirmed that men and women born within U.S. jurisdictions were U.S. citizens whatever their sex, race, and ethnicity. In the same cases, the Court eviscerated those aspects of the Fourteenth Amendment that protected the content of U.S. citizenship. The *Slaughter-House Cases* (1873) virtually nullified the Privileges and Immunities Clause of that amendment. *Minor v. Happersett* (1875), a case about women's suffrage, eliminated voting as a potential federal citizenship right. Striking a federal anti–race discrimination law, the Court forbade Congress to regulate private action under the Fourteenth Amendment in the *Civil Rights Cases* (1883). *Wong Wing v.*

United States (1896) confirmed that the U.S. Constitution guaranteed some individual rights for all people but offered few protections specifically to U.S. citizens. Taken together, the cases indicated that the U.S. Constitution attached slim protections to federal citizenship; U.S. citizens had to look to their states for the balance of their rights. When U.S. women and people of color complained that their states denied them such rights, the Court declared itself impotent.[22]

The problem that the Gonzalez case raised, Coudert contended, was how to adapt a postbellum U.S. citizenship jurisprudence—itself adapted to the challenges of "expansion and assimilation" posed by predominantly antebellum acquisitions—to a new problem: U.S. "imperialism, *i.e.*, the domination over men of one order or kind of civilization, by men of a different and higher civilization." To make this distinction between earlier expansion and the new imperialism, Coudert relied upon myths of a vacant West and Southwest. Prior territories, he claimed, had only contained American Indians who did "not long survive the contact with civilization" and an "insignificant . . . number" of people "largely of Caucasian race and civilization" whom the U.S. nation had integrated. Puerto Rico, by contrast, had a large, stable population. If previously migration to the frontier had "soon made the new lands thoroughly American," neither "extermination" nor "assimilation" would solve "the problem of to-day."[23]

Coudert rejected placing Puerto Ricans in the "seemingly paradoxical legal category of 'American Aliens.'" He explained that doing so would make outsiders of residents of domestic territory. Under British common law that U.S. courts had long respected, he argued, transfers of legal allegiance like that effected by the Treaty of Paris automatically also transferred subjection. Moreover, because Puerto Rico was part of the United States under international law, holding against Gonzalez "would declare the law of the United States, as expounded by its highest tribunal, to be that there exists under the jurisdiction of the United States a large class of persons who are strangers and aliens here and in every other nation of the globe."[24]

So what to do with a people the nation would not assimilate, exterminate, or exclude? Appealing to judges' paternal tendencies, Coudert framed the issue in terms 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." Allegorically casting Puerto Rico as a woman in need of the protection of the masculine

United States not only resonated with the "facts" of the case, it also pointed the way to a solution. Puerto Ricans could be citizens on the model of other dependents, including women. The Court, he suggested, could synthesize U.S. jurisprudence on citizens of color with sister empires' treatments of colonized peoples. Doctrines limiting the claims of U.S. blacks, American Indians, and women, among others, could serve as a model for the legal status of residents of the newly acquired territories: grant citizenship, but withhold rights. Coudert saw "no room for quibble as to who are aliens," for congressional "reservation as to political status and civil rights" of Puerto Ricans was consistent even with U.S. citizenship.[25]

In its citizenship jurisprudence, Coudert contended, the Court had inadvertently paralleled the practices of other empire-states, notably France. France's approach to status helped Coudert delineate what he took to be the central confusion in the case: a failure to distinguish tiers of citizenship and subjection. In France, "the holder of political rights or privileges in a State" was an "active citizen[]," the status to which the word "citizen" referred in normal U.S. discourse. By contrast, U.S. law recognized as U.S. citizens nearly all U.S. nationals regardless of political rights: women, children, and blacks. Coudert explained that France had also always recognized the French nationality of its subordinate peoples, be they minors, married women, "Cochin" Chinese, "Taïti[ans]," or Algerians. It had then divided these peoples into two groups. People "such as minors, women and incompetents" were "passive citizens," a status identical with "subjection at common law" and carrying "full civil but no political rights." "[U]ncivilized or semi-civilized tribes or people who become wholly subject to [French] jurisdiction" were called "subjects" and enjoyed neither French political nor civil rights; in matters of private law they were "left under their own rules and customs." Thus, though French citizens and subjects in Coudert's rendering differed in the types of private-law rights they enjoyed—the civil rights of the French nation or the traditional private-law rights of their locale—all French nationals enjoyed some form of private-law protection. U.S. citizenship, much less U.S. nationality, did not guarantee its holders such private-law protections. Access to federal courts aside, the U.S. Supreme Court had held that most rights deemed civil and popularly thought to attach to citizenship came through state law and state citizenship and could only be vindicated at the state level. Thus, the Court had three options: declare Puerto Ricans to be aliens; recognize an intermediate status between alien and citizen; or follow a model even more flexible than those of other great powers and grant Puerto Ricans acknowledgedly rights-poor U.S. citizenship.[26]

Coudert argued that, practically, the Court had to choose between deeming Gonzalez a mere U.S. subject or also a U.S. citizen, neither of which would guarantee her full political or civil rights. To sort this out he returned to domestic case law. He cited two precedents for the former possibility. *Dred Scott v. Sanford* (1857) held that free blacks were not U.S. citizens, yet were also "not aliens but American nationals or subjects because their allegiance, complete and absolute was owing to the United States." *Elk v. Wilkins* (1884) had been to the same effect for American Indians who took up residence among white U.S. citizens. In both cases, U.S. history and democracy had repudiated the Court: the Civil War and the Fourteenth Amendment undid *Dred Scott*, and the congressional Dawes Act (1887) reversed *Elk*. To create anew "a situation in which citizenship and subjection were not identical," Coudert argued, would betray "the spirit of our Constitution[] and the jurisprudence of this Court" and depend upon "the two precedents in our history of which we are least proud." Luckily, he reasoned, there was no need to make subjects anew. There already was a status in U.S. law that the Court had adapted to the needs of U.S. imperialism: U.S. citizenship. Because the Court had already drained much of the content from U.S. citizenship, the justices needed not deny U.S. citizenship to Puerto Ricans. They could thus facilitate the project of imperialism while avoiding historical censure for repeating *Dred Scott*.[27]

DRY RUN TO A DECISION: ORAL ARGUMENTS AND JUSTICE WILLIAM DAY

When Coudert addressed the Court on December 4, 1903, he faced resistance from Justice William Day. Day was the Court's most junior member and had not taken part in *DeLima v. Bidwell* or *Downes v. Bidwell*. Despite his lack of seniority—President Theodore Roosevelt had nominated him that year—he had extensive experience with U.S. empire and law. In the late 1890s he had been secretary of state under President William McKinley and had led the U.S. Treaty Commission that negotiated the Treaty of Paris before becoming a U.S. Circuit Court judge. Day's objection came when Coudert posed a choice between reenacting *Dred Scott* by creating U.S. subjects and extending Puerto Ricans a relatively inconsequential U.S. citizenship:

> Mr. Coudert: . . . [T]here have been two instances . . . in which subjection or nationality and citizenship were not determined by the same tests. . . .

> Justice Day: Would not "allegiance" be a better word than "subjection" there?
> Mr. Coudert: Well, I use the word "subjection" because it is the common-law term. . . .
> Justice Day: You will probably not find that term in any American discussion of the relations between the people of either the United States or its territories.
> Mr. Coudert: . . . [T]he Attorney-General at this bar stated that . . . these persons were American subjects; . . . perhaps it would be more proper to have called them liegemen. . . .
> Justice Day: I prefer that term to the other.

Day did not suggest that the Court grant Puerto Ricans broad U.S. citizenship rights. Rather, he sought a new term—"liegemen"—that would be intermediate to "alien" and "citizen" but carry none of the monarchical implications of "subject" or its associations with *Dred Scott*. The intervention only made sense if Day wanted to decline Coudert's proposal that the Court avoid either creating U.S. subjects or extending Puerto Ricans rights by recognizing the inconsequentiality of U.S. citizenship. This reluctance to acknowledge explicitly that the Court had drained much meaning from U.S. citizenship needed not reflect qualms about U.S. treatment of women, people of color, or colonized peoples. As Justice White had demonstrated in *Downes*, it was possible to leave precedents concerning the status of women and domestic minorities undisturbed while describing a U.S. citizenship that appeared to be sufficiently rich in rights and privileges to justify unequal or undemocratic policies in new, unincorporated U.S. territories. Coudert forged ahead. While he acknowledged that liegemen had "a flavor of poetry about it," Day's preference for the term was merely "a question of taste." Functionally, he reiterated, it did not matter whether Puerto Ricans were "liegemen, nationals or subjects, all of which terms are absolutely identical as far as the law is concerned." The Court, he insisted, had to choose: reintroduce "subjects" into U.S. law or extend Puerto Ricans rights-poor U.S. citizenship.[28]

THE VOICE OF PUERTO RICO: FEDERICO DEGETAU Y GONZÁLEZ BEFORE THE COURT

In his brief to the U.S. Supreme Court, Resident Commissioner Federico Degetau y González took a dramatically different approach than did Coudert. Writing from an official, male, and Puerto Rican perspective, the former Spanish citizen associated his island with markings of male honor like

economic self-sufficiency, martial experience, and exercise of political and civil rights. Reinterpreting rather than rejecting colonial and expansionist precedents, he drew imperial and cross-cultural comparisons. He did not seek "passive" U.S. citizenship akin to that enjoyed by women and people of color, nor did he seek to gain active citizenship for other colonized and marginalized people. Instead, he claimed—for Puerto Ricans like him—a robust U.S. citizenship associated with white men; civilization; economic, legal, and political opportunities; and military and tax obligations.[29]

A key to this argument was the contention that Puerto Ricans were not "natives" in the colonial sense. The Treaty of Paris might vest Congress with discretion to determine the citizenship status of "native inhabitants" of Spain's former possessions, he admitted. But these natives, he argued, encompassed "the uncivilized tribes of the Philippine Islands," not "Spanish citizens born in Porto Rico." Under Spanish rule, he noted, Puerto Ricans enjoyed such rights as representation in the national legislature, national citizenship accompanied by constitutional protections, "the same honors and prerogatives as the native-born in Castille," and broad autonomy. Even after U.S. annexation of Puerto Rico, Spain let Puerto Ricans be military officers, embassy officials, and senators. Here, Degetau aimed to place Puerto Rico into the broader context of historical U.S. expansion. He indicated that Puerto Ricans resembled the French and Mexicans who had been incorporated into U.S. citizenship in earlier U.S. cessions when he claimed that Puerto Ricans differed from Filipino "*tribes*," "*Mongolians*," and the "*uncivilized native tribes [of] Alaska*."[30]

The United States, Degetau admonished, was tardy in extending appropriate treatment to his traditionally rights-bearing, self-governing people. Under U.S. naturalization laws, which required that applicants renounce allegiance to a foreign sovereign, Puerto Ricans could not become U.S. citizens. But tribal American Indians could renounce tribal allegiances and become U.S. citizens. Because Congress had not organized Puerto Rico "with the separate national character accorded to some Indian Tribes," he explained, the United States provided less access to U.S. citizenship to Puerto Ricans than to American Indians. Moreover, on the mainland the U.S. Civil Service Commission and West Point equivocated over participation by Puerto Ricans and Puerto Rican voting rights varied by jurisdiction. But it was not too late. The United States, he noted, had made advances toward treating Puerto Ricans—especially Puerto Rican men—like U.S. citizens. They paid U.S. taxes, swore allegiance to the U.S. Constitution and laws, elected a nonvoting delegate to the House of Representatives

(Degetau), and were Americans and citizens of a U.S. territory. As recently as 1897, Degetau reminded the Court, Spain had responded to U.S. pressure by granting Puerto Rico a liberal Charter of Autonomy. Now the Court could redeem U.S. democratic traditions and leadership.[31]

Degetau also sought to distinguish the active Puerto Rican citizenry from Cubans and Filipinos by describing the differences between what "was asked by the American Government of the inhabitants" of each locale. In a deal resembling the status contract of marriage, he recounted, President William McKinley had instructed the secretary of war in 1898 that Cubans were to grant their "honest submission" to receive from the United States "support and protection." Under a different presidential instruction, he continued, Filipinos had sworn to "recognize[] and accept[] the supreme authority of the United States," entering a relationship like that of child to parent. By contrast, he claimed, Puerto Ricans had become U.S. citizens as a result of military orders ratified by Congress. In line with military rules, 1,100 prospective Puerto Rican officeholders (including Degetau) had renounced their allegiance to Spain and agreed to "support and defend the Constitution of the United States against all enemies home or foreign." This, Degetau claimed, had effected "a plain renunciation of all foreign allegiance and an explicit acceptance of the duties of citizenship." The oath invoked male realms of political rights and participation by speaking of defending the nation from foreign enemies, occupying political office, and upholding the U.S. Constitution. Cuba agreed to receive protection from the United States like a wife; the Philippines accepted the authority of the United States like a child; Puerto Rico swore allegiance to and took up the defense of the United States like a man.[32]

Degetau portrayed a population actively and naturally blending into the United States against which barriers to citizenship seemed out of place. Under the Foraker Act, he related, mainlanders resident in Puerto Rico, along with all Puerto Ricans, constituted a single body politic—the people of Puerto Rico. Since mainlanders retained their U.S. citizenship while becoming Puerto Rican, which he treated as equivalent to acquiring Puerto Rican citizenship, Puerto Rican citizenship could not be an alternative to U.S. citizenship. Thus, Degetau argued, Puerto Rican citizenship was territorial citizenship, coexisting with the U.S. citizenship that the Fourteenth Amendment guaranteed to all those born within the U.S. nation. Focusing on fields dominated by men, Degetau also illustrated how Puerto Ricans needed U.S. citizenship to exercise autonomy and control within business

and law. Without U.S. citizenship, U.S. policy nationalizing Puerto Rican vessels would cripple the industry because another law required such vessels to be owned and commanded by U.S. citizens. Noncitizens could not be bank directors nor prosecute actions in the Court of Claims. Although the Foraker Act indicated that Puerto Rico ought to benefit from most U.S. laws, many statutes applied only to U.S. citizens. Degetau's arguments asked the Court to consider him, an accomplished civil servant, rather than Gonzalez, an unmarried mother, as the model for Puerto Rican citizenship. He closed on a personal note: "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."[33]

"THE QUESTION IS THE NARROW ONE": THE SUPREME COURT DECIDES

Two months later, Chief Justice Melville Fuller announced the Court's unanimous holding: "[W]e . . . cannot concede . . . that the word 'alien,' as used in the [immigration] act of 1891, embraces the citizens of Porto Rico." Reviewing U.S. law, he explained that the United States had made "[t]he nationality of the island . . . American" and integrated Puerto Rico into the United States. It had in Puerto Rico created a civil government with heads named by the U.S. president; implemented congressional oversight; established a U.S. district court; run judicial process in the name of the U.S. president; nationalized Puerto Rican vessels; and put most U.S. statutes into force. The opinion was a modest victory for Puerto Ricans. It struck down the Treasury guideline under which Gonzalez had been held but did not address Congress's power to regulate the movement of Puerto Ricans from the island to the mainland. As to whether Puerto Ricans were U.S. citizens, nationals, subjects, or liegemen, Fuller wrote: "We are not required to discuss . . . the contention of Gonzales' counsel that the cession of Porto Rico accomplished the naturalization of its people; or that of Commissioner Degetau, in his excellent argument." This strategic silence solved Justice Day's dilemma and united the Court. Justices declined the choice between either reenacting *Dred Scott* by reintroducing "subjects" into U.S. law or acknowledging that U.S. citizenship was largely inconsequential. As in *Downes v. Bidwell*, vagueness proved valuable as the Court sought to accommodate U.S. empire and constitutional democracy.[34]

CLAIMS-MAKING ACCELERATED: ISABEL GONZALEZ WRITES BACK

Although technically the Supreme Court handed Isabel Gonzalez a victory in her case while avoiding the broader question of Puerto Rican citizenship, she did not see it that way. During the hearings and trials her voice was noticeably absent, but when modest media coverage accompanied the decision, she took the opportunity to break the silence. Her first intervention was to correct the false picture of her that she had allowed to stand during the trial. As reporters described her, she "had come here in search of a man who had promised to marry her and had failed to keep his promise." She sought to set the record straight. On the day of the Court's ruling, one of her lawyers, Orrel Parker, told the *New York Times* of her matrimony and consequent change in status. Her honor, it was thus revealed, had been restored.[35]

Next, and this time in writing, Gonzalez addressed the case more broadly, attacking the decision as an insult. A year after the ruling, still married and thus still a dependent, Gonzalez seized a public voice. She addressed the *New York Times*, writing in published letters, "Gen. Miles went to Porto Rico to save us, and proclaimed to the wide winds his 'liberating' speech." But instead of U.S. citizenship, Puerto Ricans got "the actual [current] incongruous status—'neither Americans nor foreigners,' as it was vouchsafed by the United States Supreme Court apropos of my detention at Ellis Island for the crime of being an 'alien.'" The romance between the United States and Puerto Rico in her tale ended in a *rapto*—a breach of promise. Having deceived Puerto Ricans out of one honorable status—Spanish citizenship—the United States was obliged to extend Puerto Ricans a new honorable status—U.S. citizenship. But instead of meeting its obligation to Puerto Rico, the United States made the plight of the victim, Puerto Rico, into Gonzalez's "crime." The island's predicament became the basis of investigations into Gonzalez's honor. In using this romantic metaphor to protest U.S. policies in Puerto Rico, Gonzalez did not seek a passive citizenship like that which Coudert described. Instead, she sought restoration of the "liberties and franchises" that constituted the active, male citizenship advocated by Degetau. Her claim was that having been harmed like a woman, Puerto Rico ought to be recompensed like a man.[36]

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.

Thus, the United States was an inferior empire for failing to extend U.S. citizenship and autonomy to Puerto Ricans; it needed to "learn a lesson from Great Britain, and note how she relies for the success of her colonial policy upon scrupulous respect for the local laws and customs of her varied possessions." Similarly, the United States misclassified Puerto Ricans—with their Spanish heritage and civil law tradition—as of lower social status than the "Hindoo or the Mogul," to whom Great Britain accorded the right to have their "law cases . . . settled in accordance with the codes of those lands, that is to say, the Purana and the Koran."[37]

CONCLUSION

Isabel Gonzalez's challenge to immigration officials' attempts to exclude her as an alien likely to become a public charge sparked administrative, legal, and media discussions about the status of Puerto Ricans. These discussions explicitly linked problems of colonial administration to issues of immigration and to U.S. doctrines acquiescing in treatment of U.S. citizens—chiefly women and people of color—as dependent and unequal. Gonzalez and lawyers in the case moved easily among these legal realms, aided by shared languages of race, gender, and morality. Stories about honor tied together claims about the desirability of Puerto Ricans as immigrants, their fitness for self-government, and the suitability of Puerto Rico for traditional territorial status. For Coudert, Puerto Ricans were abandoned women, Puerto Rico a waif. Degetau described a manly island, and Gonzalez depicted Puerto Rico as a victim of seduction. Hoyt, like Williams, saw failed parents, rearing children outside moral, economically self-sufficient homes.

Gonzales v. Williams also capped a constitutional counterrevolution half a century in the making. After decades of judicial ambiguity as to the meaning of U.S. citizenship, Chief Justice Roger Taney, in his 1857 *Dred Scott* opinion, described a U.S. citizenship rich in rights; the Founders, he argued, did not intend free blacks—whom he depicted as long denied many rights by states—to possess this robust U.S. citizenship. Eleven years and a civil war later, the Fourteenth Amendment reversed, recognizing "the privileges or immunities of citizens of the United States" but insisting that "all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States." As Coudert recognized, even though the U.S. Supreme Court had eviscerated the Privileges and Immunities Clause, it had, for thirty years, construed the Fourteenth Amendment to mandate U.S. citizenship for all people subject to U.S. jurisdiction and born in lands

under U.S. sovereignty. During those years, U.S. expansion had all but ceased. Justice White gave one reason why: the specter of inhabitants of new territories gaining unspecified rights as new U.S. citizens could operate as a brake on U.S. expansion.[38]

When the U.S. political branches took their imperial turn in the late nineteenth century and annexed new territories, they brought the above issues to a head. Opinions varied as to the consequences of the annexations for the U.S. constitutional democracy and its new possessions. Some mainland politicians and commentators held that the U.S. Constitution allowed the United States to have colonies; others promoted partial incorporation into the U.S. polity; a third group contended that U.S. annexation brought inhabitants of new territories a U.S. citizenship that was accompanied by full constitutional protections and eventual U.S. statehood. In Puerto Rico, both major local political parties, the head of organized labor, and, according to observers, most people favored, and to a lesser degree expected, U.S. citizenship. Many people looked to courts to adjudicate these varied positions. Yet when Gonzalez confronted justices with the question of whether inhabitants of newly acquired territories had become U.S. citizens, they ducked.[39]

This judicial whimper made a bang. In 1905, untethered from litigation and speaking in her own voice, Gonzalez explained that the decision and surrounding events marked Puerto Ricans as inferior to "full-fledged American citizens" and showed General Miles's pledges on behalf of the United States "to be nothing but bitter mockery and waste paper." Later, some island leaders came to oppose U.S. citizenship as promising few rights and foreclosing Puerto Rican independence. In 1914, Bureau of Insular Affairs law officer (and later U.S. Supreme Court justice) Felix Frankfurter wrote, U.S. "citizenship [would] not defeat the conscious purpose against incorporation" of Congress and thus not alter application of the Constitution to Puerto Rico or guarantee it eventual statehood. After Congress extended U.S. citizenship to Puerto Ricans in 1917, the Court proved Frankfurter right. Judicial vagueness, it seemed, had eliminated what was for some the promise and for others the peril of U.S. citizenship.[40]

NOTES

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1. *Gonzales v. Williams*, 192 U.S. 1 (1904); Transcript of Record, *Gonzales*. Documentary inconsistencies foreclose precise dating of Gonzalez's departure and arrival. I abbreviate four citations: (1) National Archives and Records Administration, Record Group: NARA, RG; (2) William Williams Papers, New York Public Library: WWP, NYPL; (3) El Centro de Documentación Obrera Santiago Iglesias Pantín, Microfilm Roll 2: CDO:2; and (4) Centro de Investigaciones Históricas, Colección Angel M. Mergal, caja __, cartapacio __, documento __: CIHCAM __/__/__. Various spellings of Gonzalez's name appear in official records. From among them, the Court chose Isabella Gonzales. I use her spelling in the one letter I have found which she signed. Isabel Gonzalez to Federico Degetau, April 10, 1904, CIHCAM 5/I/5. I presume others did not depart from Spanish usage and omit tildes in their names. Filings and lower-court records in *Gonzales* are available at the Making of Modern Law database.

2. *Downes v. Bidwell*, 182 U.S. 244 (1901); Treaty of Paris, 30 Stat. 754 (April 11, 1899); Foraker Act, 31 Stat. 77 (April 12, 1900); infra n. 11. The United States had annexed Hawai'i in 1898. See Newlands Resolution, 30 Stat. 750 (July 7, 1898). On prior annexations, see, e.g., Louisiana Purchase Treaty, 8 Stat. 200 (April 30, 1803), Art. III; Florida Cession Treaty, 8 Stat. 252 (February 19, 1821), Art. 6; Texas Annexation Resolution, 5 Stat. 797 (March 1, 1845); Treaty of Guadalupe Hidalgo, 9 Stat. 922 (February 2, 1848), Arts. VIII–IX; Gadsden Purchase Treaty, 10 Stat. 1031 (December 30, 1853), Art. V; and Alaska Purchase Treaty, 15 Stat. 539 (March 30, 1867), Art. III. Judicial affirmation that U.S. territories existed to become U.S. states and that citizenship and constitutional rights followed free, nontribal U.S. migrants into U.S. territories had come in *Scott v. Sandford*, 60 U.S. 393, 446–51 (1857). The archetypal federal law guaranteeing U.S. territories self-governance upon reaching threshold populations of U.S. citizens is the Northwest Ordinance, 1 Stat. 50 (August 7, 1789). Variation characterized U.S. treatment of 1898 and 1899 acquisitions. Hawai'i gained U.S. citizenship and a fully elected legislature via the Organic Act of Hawaii, 31 Stat. 141 (April 30, 1900). Filipinos suffered a civil war, anemic self-governance, and no recognition as U.S. citizens. See Philippines Organic Act, 32 Stat. 691 (July 1, 1902), and Paul A. Kramer, *The Blood of Government: Race, Empire, the United States, and the Philippines* (Chapel Hill, NC, 2006). Cuba became formally independent in 1902. See Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery* (Cambridge, MA, 2005). Between 1889 and 1912, all ten U.S. territories contiguous to existing states became states. Yet only Hawai'i among the lands acquired in 1898 and 1899 subsequently became a U.S. state. See Hawaii Admission Act, 73 Stat. 4 (March 18, 1959), and Lucy Maddox, *Citizen Indians: Native American Intellectuals, Race, and Reform* (Ithaca, NY, 2005), 9. The heterogeneous opinions of U.S. officials and commentators differentiated various 1898 and 1899 acquisitions. See, e.g., Lanny Thompson, "The Imperial Republic: A Comparison of the Insular Territories under U.S. Dominion after 1898," *Pacific Historical Review* 71 (November 2002): 535–74,

and José Cabranes, *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans* (New Haven, CT, 1979).

3. *Downes*, 182 U.S. at 341, 288–93, 300, 306 (White, J., concurring); Frederic R. Coudert, "The Evolution of the Doctrine of Territorial Incorporation," *Columbia Law Review* 26 (November 1926): 850; Charles E. Littlefield, "The Insular Cases," *Southern Law Review* 1 (1901–2): 478. Justice John Harlan sought fuller constitutional rights for Puerto Ricans. See *Downes*, 182 U.S. at 375 (Harlan, J., dissenting). On the development, legacy, and doctrinal implications of the anomalous status of Puerto Rico and the Insular Cases, see, e.g., Christina Duffy Burnett and Burke Marshall, eds., *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution* (Durham, NC, 2001); Christina Duffy Burnett, "Untied States: American Expansion and Territorial Deannexation," *University of Chicago Law Review* 72 (Summer 2005): 797–879; César Ayala and Rafael Bernabe, *Puerto Rico in the American Century: A History since 1898* (Chapel Hill, NC, 2007), 177, passim; Efrén Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington, DC, 2001); Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire* (Lawrence, KS, 2006); and Juan R. Torruella, *The Supreme Court and Puerto Rico: The Doctrine of Separate and Unequal* (Río Piedras, PR, 1985).

4. "Porto Rican Test Case," *New York Times*, November 3, 1903, 6; Motion to Reassign, *Gonzales*; *Dred Scott v. Sanford*, 60 U.S. 393 (1857); U.S. Const. amend. 14, § 1. On insubstantiality of nonincorporation, see *Downes*, 182 U.S. at 373 (Fuller, C. J., dissenting). In subsequent years some legal scholars included *Gonzales* among the *Insular Cases*. See, e.g., Pedro Capó Rodríguez, "The Relations between the United States and Porto Rico," *American Journal of International Law* 13 (1919): 483–525; and 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, including this author, concur. See Sparrow, *Insular Cases*; Rivera Ramos, *Legal Construction of Identity*; and Christina Duffy Burnett, "A Note on the Insular Cases," in Burnett and Marshall, eds., *Foreign in a Domestic Sense*, 389–92.

5. I am indebted to Rebecca J. Scott and her idea of concepts of citizenship in "Public Rights and Private Commerce: A Nineteenth-Century Atlantic Creole Itinerary," *Current Anthropology* (April 2007): 237–56. See also Laurent Dubois, "An Enslaved Enlightenment: Rethinking the Intellectual History of the French Atlantic," *Social History* 31 (February 2006): 1–14; 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; and Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ, 2004). By contrast, Rogers M. Smith uses citizenship as a baseline for cross-temporal comparisons in *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven, CT, 1997), while T. H. Marshall uses it as a modern analytic category under which to group related historical practices in *Citizenship and Social Class, and Other Essays* (Cambridge, UK, 1950). James H. Kettner examines citizenship as a relatively stable legal term in *The Development of American Citizenship: 1608–1870* (Chapel Hill, NC, 1978).

6. *Gonzales*, 192 U.S.; 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; see also, e.g., cases cited infra n. 22.

7. *Plessy v. Ferguson*, 163 U.S. 537 (1896); *Giles v. Harris*, 189 U.S. 475 (1903); *Chae Chan Ping v. United States*, 130 U.S. 581 (1889); Francis Paul Prucha, *The Great Father: The United States Government and the American Indians*, vols. 1 and 2 (Lincoln, NE, 1984); *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903); Scott, *Degrees of Freedom*; Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge, MA, 2000); Linda Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York, 1998); Candice Lewis Bredbenner, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship* (Berkeley, CA, 1998); Linda K. Kerber, "The Stateless as the Citizen's Other: A View from the United States," *American Historical Review* 112 (February 2007): 1–34; see also, e.g., Cyrus Veeser, *A World Safe for Capitalism: Dollar Diplomacy and America's Rise to Global Power* (New York, 2002); and Rebecca J. Scott, "Public Rights, Social Equality, and the Conceptual Roots of the *Plessy* Challenge," *Michigan Law Review* 106 (March 2008): 777–804. On interrelationships of race and U.S. empire, see Sanford Levinson, "Why the Canon Should Be Expanded to Include *The Insular Cases* and the Saga of American Expansionism," *Constitutional Commentary* 17 (Summer 2000): 241–66; Richard H. Pildes, "Democracy, Anti-Democracy, and the Canon," *Constitutional Commentary* 17 (Summer 2000): 295–319; and Shelley Fisher Fishkin, "Crossroads of Cultures: The Transnational Turn in American Studies," *American Quarterly* 57 (March 2005): 17–57. On Puerto Rico within U.S. empire, see Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico* (Berkeley, CA, 2002).

8. "Mr. Bryan's Speech of Acceptance," *New York Times*, August 9, 1900, 8; Sparrow, *Insular Cases*, 108; Cabranes, *Citizenship and the American Empire*, 1–6, 18–44.

9. *DeLima v. Bidwell*, 182 U.S. 1, 200 (1901); *Downes v. Bidell*, 182 U.S. at 287; U.S. Const. art. 1, § 8; *Downes*, 182 U.S. at 306 (White, J., concurring); Virginia Kays Veenswijk, *Coudert Brothers: A Legacy in Law: The History of America's First International Law Firm, 1853–1993* (New York, 1993); 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 (November 2002): 1–284; George A. Finch, "Frederic René Coudert: February 11, 1871–April 1, 1955," *American Journal of International Law* 49 (October 1955): 548–49; Opening Argument of Mr. Coudert for Plaintiff in Error in *DeLima*, 182 U.S. 1 (1901), *Downes*, 182 U.S. 244 (1901); see also, e.g., New Associated Press, "Locating Porto Rico," *Los Angeles Times*, January 10, 1901, 1.

10. "Porto Ricans' Ambition," *Washington Times*, (date, page unknown), available at MD NARA, RG 350 Bureau of Insular Affairs, General Records, General Classified Files, 1898–1945, Entry 5, Box 21, File 168:40; correspondence of Federico Degetau, CIHCAM 2/I; Manuel F. Rossy et al., *Platform of the Porto-Rican Republican Party* (San Juan, PR, 1899); Gonzalo F. Córdova, *Resident Commissioner, Santiago Iglesias and His Times* (Río Piedras, PR, 1993), 65–71, 91–95; Foraker Act, 31 Stat. 77 (April 12, 1900); Pedro A. Cabán, *Constructing a Colonial People: Puerto Rico and the United States, 1898–1932* (Boulder, CO, 1999), 62–71; Elmer B. Adams, "The Causes and Results of Our War with Spain from a Legal Standpoint," *Yale Law Journal* 8 (December 1898): 119–33; Selden Bacon, "Territory and the Constitution," *Yale Law Journal* 10 (January 1901): 99–117; James W. Stillman, "Citizenship in Ceded Territory," *Green Bag* 11 (May 1899): 203–8. Other legal scholars

argued that annexation had brought Puerto Ricans something less than U.S. citizenship, full constitutional protections, and eventual statehood. Congressional views also varied. Some senators opposed extending Puerto Ricans U.S. citizenship because they worried that full constitutional protections and eventual U.S. statehood might accompany it. Others at least briefly supported U.S. citizenship for Puerto Ricans. See, e.g., Sparrow, *Insular Cases*, 40–55, and Cabranes, *Citizenship and the American Empire*, 18–44.

11. Henry A. Cooper to Federico Degetau, July 8, 1901, CIHCAM 3/II/33; "Roosevelt Hears All," *Washington Post*, November 19, 1901, 3; Henry Randall Webb to Federico Degetau, November 15, 1901, CIHCAM 3/III/99; "Porto Rican Commissioner," *Washington Post*, December 15, 1900, 4; Henry Randall Webb to Federico Degetau, August 14, 1901, CIHCAM 3/III/61; Federico Degetau y González to Secretary of State, January 30, 1901, CIHCAM 2/VI/19; John W. Willis to F. Degetau, April 3, 1901, CIHCAM 2/IX/3; F. Degetau to Manuel F. Rossy, May 3, 1901, CIHCAM 3/I/4; Resident Commissioner to Henry A. Cooper, July 15, 1901, CIHCAM 3/II/33.

12. Federico Degetau to Secretary of Treasury, October 5, 1902, CIHCAM 3/VI/56; Circular No. 97, August 2, 1902, in *Circular Instruction 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* at 3–6.

13. Immigration Act of 1891, 26 Stat. 1084 (March 3, 1891) § 1; Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill, NC, 1995), 147, 141–48, 154, 184, 196–97, passim; Louis Anthes, "The Island of Duty: The Practice of Immigration Law on Ellis Island," *New York University Review of Law and Social Change* 24 (1998): 563–600, 565–66, 581–82, 587–89, passim; Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (New York, 1982); Erika Lee, *At America's Gates: Chinese Immigration during the Exclusion Era, 1882–1943* (Chapel Hill, NC, 2003); Secretary to the President to William Williams, April 1, 1902, Box 1, WWP, NYPL; Linda Gordon, "Social Insurance and Public Assistance: The Influence of Gender in Welfare Thought in the United States, 1890–1935," *American Historical Review* 97 (February 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): 253–74.

14. Transcript of Record, *Gonzales* at 4–5, passim; see also, e.g., Rivera Ramos, *Legal Construction of Identity*, 3, 6.

15. Salyer, *Laws Harsh as Tigers*, 147; William Williams, Outline of Address Delivered to the Senior Class of Princeton in November 1904, Box 6, Folder 4, WWP, NYPL; 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).

16. Transcript of Record, *Gonzales* at 4–6, passim. On Latin American honor generally, see Sueann Caulfield, *In Defense of Honor: Sexual Morality, Modernity, and Nation in Early-Twentieth-Century Brazil* (Durham, NC, 2000); Sueann Caulfield, Sarah C. Chambers, and Lara Putnam, eds., *Honor, Status and Law in Modern Latin America* (Durham, NC, 2005). On honor in Puerto Rico, including its relations to class, race, gender, and periodicals, see Eileen J. Suárez Findlay, *Imposing Decency: The Politics of Sexuality and Race in Puerto Rico, 1870–1920* (Durham, NC, 1999), 4, 7, 20, 25–26, 32, 34–35, 40–46, 56, 85–86, 94–95, passim.

17. Transcript of Record, *Gonzales* at 5–6; Findlay, *Imposing Decency*, 40–46; Eileen J. Findlay, "Courtroom Tales of Sex and Honor: *Rapto* and Rape in Late Nineteenth-Century Puerto Rico," in *Honor, Status and Law*, ed. Sueann Caulfield, Sarah C. Chambers, and Lara Putnam, 205.

18. *Trow's General Directory of the Boroughs of Manhattan and Bronx City of New York* (New York, 1909 and 1910 eds.); U.S. Censuses of 1910 and 1920, http://ancestry.com; "Porto Ricans Not Aliens," *New York Times*, January 5, 1904, 8; Transcript of Record, *Gonzales* at 7, 1, 8–9, passim (Lacombe later approved Gonzalez's parole); MD NARA, RG 350, Personal Name Information File, 1914–1945, Coleman to Collier, Entry 21, Box 121, Domingo Collazo; D. Collazo, "Desde Nueva York," *La Correspondencia de Puerto Rico*, December 19, 1903, 1; Las Dos Antillas Political Club Minutes, 1892–1908, Schomburg Collection, NYPL; Aline Helg, *Our Rightful Share: The Afro-Cuban Struggle for Equality, 1886–1912* (Chapel Hill, NC, 1995); Instituto de Literatura y Lingüística de la Academia de Ciencias de Cuba, *Diccionario de la literatura cubana*, digital ed. (Alicante, Spain, 1999). In the 1890s Collazo was a member of the Dos Antillas Political Club, a New York group comprised primarily of Antilleans of color. I am grateful to Professor Jesse Hoffnung-Garskof, who told me about the ethnic makeup of this club. On activism and social networks of Caribbean immigrants of color in New York, see Irma Watkins-Owens, *Blood Relations: Caribbean Immigrants and the Harlem Community, 1900–1930* (Bloomington, IN, 1996); Winston James, *Holding Aloft the Banner of Ethiopia: Caribbean Radicalism in Early Twentieth-Century America* (New York, 1998); and Jesse Hoffnung-Garskof, "The Migrations of Arturo Schomburg: On Being *Antillano*, Negro, and Puerto Rican in New York, 1891–1938," *Journal of American Ethnic History* 21 (Fall 2001): 3–49. On the importance of a being a national of one's nation of residence or of a nation important to one's nation of residence, see, e.g., Benjamin Heber Johnson, *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans into Americans* (New Haven, CT, 2003); and Marc C. McLeod, "Undesirable Aliens: Race, Ethnicity, and Nationalism in the Comparisons of Haitian and British West Indian Immigrant Workers in Cuba, 1912–1939," *Journal of Social History* 31 (Spring 1998): 599–623.

19. Federico Degetau to Secretary of Treasury, October 5, 1902, CIHCAM 3/VI/56; Appellant's Brief, *Gonzales* at 3; Charles E. Le Barbier and Orrel A. Parker to Federico Degetau, January 12, 1903, CIHCAM 3/VII/6; Transcript of Record, *Gonzales* at 12; Frederic R. Coudert Jr. to Federico Degetau, April 20, 1903, CIHCAM 4/II/144.

20. "Porto Ricans Not Aliens" (quotation 1). Two implications of this article merit additional study. First, because most Puerto Ricans in 1903 could not naturalize as U.S. citizens, it would have been unusual had Gonzalez married a Puerto Rican recognized as a U.S. citizen. Second, it would be curious had Gonzalez's lawyers known of Gonzalez's marriage mooting her case, deceived the Court by not mentioning it, and then revealed the deception immediately after the decision. Barbara Young Welke, *Recasting American Liberty: Gender, Race, Law, and the Railroad Revolution, 1865–1920* (Cambridge, MA, 2001), 234–45 (quotation 2); *Gonzales*, 192 U.S. at 7. Thank you, Monica Kim, for a helpful suggestion.

21. Brief for the United States, *Gonzales* at 55–60.

22. Appellant's Brief, *Gonzales* at 18–28; *Slaughter-House Cases*, 83 U.S. 36 (1873); *Minor v. Happersett*, 88 U.S. 162 (1875); *The Civil Rights Cases*, 109 U.S. 3 (1883); *Wong Wing v. United States*, 163 U.S. 228 (1896); *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

23. Appellant's Brief, *Gonzales* at 32, 3–4.

24. Ibid. at 4–5, 3, 6–7, 13–21, 28, 32.

25. Ibid. at 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 U.S. justices had come of age in a legal culture that enforced a civil action for breach of contract to marry. Ibid.

26. Appellant's Brief, *Gonzales* at 6, 35–36, 33–34, 1–7, 22–24, 27–28, 37; see also Argument of Coudert, *Gonzales* at 51–53, 62–65. Coudert did not suggest that the Court should or might classify Puerto Ricans as active citizens.

27. Appellant's Brief, *Gonzales* at 6, 38–39, 25, 28–32; *Dred Scott v. Sanford*, 60 U.S. 393 (1857); *Elk v. Wilkins*, 112 U.S. 94 (1884); Dawes Act, 24 Stat. 388 (February 8, 1887).

28. Argument of Coudert, *Gonzales* at 54–56, passim; Sparrow, *Insular Cases*, 147. My analysis here benefits from Christina Duffy Burnett, "Empire and the Transformation of Citizenship," in *Colonial Crucible: Empire in the Making of the Modern American State*, ed. Alfred W. McCoy and Francisco A. Scarano (Madison, WI, forthcoming), which emphasizes the Court's apparent acceptance of the idea of U.S. noncitizen nationals.

29. See sources cited supra n. 17. On manhood, mastery, honor, and U.S. citizenship rights, see Glenda Elizabeth Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896–1920* (Chapel Hill, NC, 1996); and Laura F. Edwards, *Gendered Strife & Confusion: The Political Culture of Reconstruction* (Urbana, IL, 1997).

30. Amicus Curiae Brief, *Gonzales* at 27, 30, 18 (citing as the source of the quotation "Zamora y Coronado, 'Legislación Ultramarina,' Tomo I, p. 255–257"), 28 (citing the source of the quotation as "Foreign Relations of the United States, 1898. Correspondence with the United States Peace Commissioners, p. 961"), 5–7, 19–22, 29, 36.

31. Ibid. at 33–34, 21–22, 32, 36. José Trías Monge clarifies that Puerto Rican rights under Spanish rule varied throughout the 1800s; just before U.S. annexation, Puerto Rico had little guarantee that the autonomy Spain had just accorded it would be permanent. See *Historia constitucional de Puerto Rico* (Río Piedras, PR, 1980), 133–34, passim.

32. Amicus Curiae Brief, *Gonzales* at 25–26 (citing, in turn, sources of quotations as "General Order No. 101, July 13, 1898, President McKinley to the Secretary of War"; "Public Laws and Resolutions passed by the U. S. Phil. Com., p. 429"; and Degetau's own certificate); Foraker Act, 31 Stat. 77 (April 12, 1900).

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

34. *Gonzales v. Williams*, 192 U.S. at 12, 10, 8–11, passim. Though nonapplicability of the National Origins Act of 1924, 43 Stat. 153 (1924), would facilitate large-scale migrations of Puerto Ricans to the United States, explicit congressional extension of U.S. citizenship to Puerto Ricans, more than *Gonzales*, would be responsible. See Mae M. Ngai, "The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924," *Journal of American History* 86 (June 1999): 67–92, and infra nn. 39–40 and accompanying text.

35. "Porto Ricans Not Aliens."

36. Isabel Gonzales [sic], "What Porto Rico Demands," *New York Times*, December 20, 1905, 10; Isabel Gonzalez, "Sauce for Goose and Gander," *New York Times*, August 5, 1905, 6.

37. Isabel Gonzalez, "Where England Shows Tact: It Is in Respecting Local Laws and Customs in Her Colonies," *New York Times*, September 3, 1905, 6.

38. U.S. Const. amend. 14, § 1; Kettner, *Development of American Citizenship*; Austin Allen, *Origins of the Dred Scott Case: Jacksonian Jurisprudence and the Supreme Court, 1837–1857* (Athens, GA, 2006); Sam Erman, "An 'Unintended Consequence': *Dred Scott* Reinterpreted," *Michigan Law Review* 106 (April 2008): 1157–1165 (reviewing Allen).

39. Supra n. 11 and sources cited therein; Córdova, *Resident Commissioner, Santiago Iglesias*, at 65–68, 75, 103, passim. On a labor leader's support for U.S. citizenship and belief that most islanders agreed with him, see Santiago Iglesias to Samuel Gompers, April 20, 1914, CDO:2.

40. Gonzalez, "Sauce for Goose and Gander"; Gonzales [sic], "What Porto Rico Demands"; Cabán, *Constructing a Colonial People*, 193 (quoting U.S. Senate Committee on Pacific Islands and Porto Rico, *A Bill to Provide a Civil Government for Porto Rico: Hearings on S. 4604*, 63d Cong., 2d sess., 1914, 23); Santiago Iglesias to Samuel Gompers, April 20, 1914, CDO:2; Jones Act, 39 Stat. 951 (March 2, 1917); *Balzac v. Porto Rico*, 258 U.S. 298 (1922). Some later courts followed the lead of the U.S. Supreme Court, settling claims involving U.S. citizenship on other grounds. By extending Puerto Ricans rights regardless of their citizenship, these courts reduced the number of rights that Puerto Ricans could expect to accompany U.S. citizenship. See, e.g., *ex rel. Rodriguez v. Bowyer*, 25 App. D.C. 121 (1905) (construing a federal law as making Puerto Ricans eligible to apply for certain jobs whether or not they were U.S. citizens).