

UNFADING HALO:
THE UNTOLD PROGRESSIVISM OF ELIHU ROOT

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For Puja and Asha with all my love.
For Mom and Dad, thanks for believing in me.

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INTRODUCTION:
REVISING ROOT

“True love of country is not mere blind partisanship. It is regard for the people of one’s country and all of them; it is a feeling of fellowship and brotherhood for all of them; it is a desire for the prosperity and happiness of all of them; it is kindly and considerate judgment towards all of them . . . The essential condition of true progress is that it shall be based up grounds of reason, and not of prejudice.”

Elihu Root

Throughout his long and distinguished career as a lawyer, statesman, and senator, Elihu Root modernized, reformed, and advanced progressive institutions at home and abroad. Like many reformers of his day, Root grew increasingly troubled by the growing inequality that developed out of the social, economic, and politic chaos of the Gilded Age. In one of the earliest works on the subject, Harold Faulkner established that during the Progressive Era, thoughtful men of the progressive strain worried that America “in making her fortune was in peril of losing her soul.”¹ Root recognized the growing need for reform, accountability, and efficiency of public institutions, while also promoting an individual responsibility need for education, morality, and self-restraint. Accordingly, he deemed it of the utmost importance reformers to remain “alive to the defects in our

¹ Harold Underwood Faulkner, *The Quest for Social Justice, 1898-1914* (New York: The Macmillan Company, 1931), 81.

system of laws and solicitous to find means to cure them.”² Elite lawyers such as Root formed a significant majority of progressive reformers who sought restore the public trust in civil government, depoliticize civil service appointments, and destroy political machines.³ Beyond these measures, Root, the supposed “archconservative,” sympathized with or worked toward many progressive efforts, including legal access for the poor, campaign finance reform, merit-based political appointments, civil service reform, corporate and inheritance taxes, trust busting, the regulation of corporations, direct primaries, and voting rights for African Americans. Though he championed a number of progressive ideas, Root failed to support all of the vast and varied progressive agenda, though he opposed only a specific few issues: women’s suffrage, direct election of senators, prohibition, and judicial recall. His stance on these principles made Root no less a progressive than his reformist counterparts who embraced only specific reforms and rejected others with a cafeteria-style approach. Regardless of their policy differences, Root and his progressive colleagues agreed the best type of government served the will and needs of its people. As a result, he embraced a progressive outlook toward enhancing and expanding the institutions of government, both local and state, to meet with the needs of a modern society often plagued with legal inequity, class divisions, and personal suffering.

² Elihu Root, *Judicial Decisions and Public Feelings: Address by Hon. Elihu Root as President of the New York Bar Association, at the annual meeting, in New York City, on January 19, 1912* (Washington, DC: Government Printing Office, 1912), 6.

³ Robert Gordon, “Are Lawyers Friends of Democracy?,” in *The Paradox of Professionalism: Lawyers and the Possibility of Justice*, Scott L. Cummings, ed. (New York: Cambridge University Press, 2011), 42.

Despite all of Root's progressive-minded endeavors, newspaper articles and subsequent historical works branded him as an unapologetic "corporatist," a shill for big businesses, or a conservative reactionary rather than showing the progressive undercurrents that composed his policies and personality. To increase sales, newspaper editors trumpeted the longstanding negative stereotypes of lawyers and combined them with the sensationalist journalism of the period. The earliest and most influential in this regard was the newspaper mogul William Randolph Hearst. Hearst, who failed to be elected for the governorship of New York in 1906, blamed the political clout wielded by Root as a primary reason for his loss. As a result, Hearst then launched a vitriolic public campaign against Root, wrongly labeling him as a tool of major corporations and a henchman for political bosses. He constantly paraded and exaggerated Root's limited, but highly visible role on William "Marcy" Tweed's defense team years before. These accusations, unchecked yet reprinted, made their way across papers through the Hearst newspaper empire, while small town papers, many already hostile toward urban life, merely reprinted and repackaged these falsehoods. According to those who knew Root, "no one held it against him," while Hearst's rags continued to portray him as an opponent to good government.⁴ Regardless, Root deserves the label of progressive reformer, even though very few at the time recognized it.

In 1915, Frederick Davenport represented one of the very few contemporaries to formally recognize progressive tendencies. A fellow New Yorker and political science professor at Hamilton College, he defended Root's progressive principles in a *Collier's*

⁴ Godfrey Hodgson, *The Colonel: The Life and Wars of Henry Stimson, 1867-1950* (New York: Alfred A. Knopf, 1990), 49.

article discussing the possibility of his presidential run the following year. Davenport quickly denied any allegation of Root's conservatism and instead claimed he was "not a Tory [conservative] at all."⁵ To the contrary, Root placed a great deal of faith in the ability of people to govern themselves. To prevent what Davenport called the "men in mass" from being manipulated, the government needed to construct efficient institutions, pass effective rules, and find leadership amongst well-educated experts who carried out the people's business honestly and effectively. Root hoped such efforts prevented large segments of the American population could "easily be swept off its feet by racial, religious, or economic prejudice."⁶ Internationally, he grew concerned that many Americans showed little interest in world affairs, making them more likely to overreact toward another country without first "having made adequate preparation therefor [sic], and without realizing at all their obligations or their duties."⁷ His concerns seemed almost cynical in the progressive age of possibilities. Regardless, the manipulation of emotion and the twisting of facts emerged as a significant tool of the trade amongst sensationalist newspapers and crooked political bosses of the period, though for different reasons.

Davenport recognized the progressive nature Root's reform efforts. He referred to the reform of the military as Root's commitment to "establish order and competency within the weltering chaos of inefficiency."⁸ The modernization and reorganization of the

⁵ Frederick Davenport, "Presidential Possibilities: The Real Elihu Root," *Collier's* 56, no. 9 (Nov. 13, 1915): 6.

⁶ *Ibid.*

⁷ *Ibid.*, 7.

⁸ *Ibid.*, 35.

military by Root allowed for military preparedness in the years prior to World War I and allowed for the conflict, at least from an American perspective, to end quickly and decisively in victory. He outlined the success of Root's South American tour in 1906 for reawakening the "spirit of national democracy and international fraternity" between the continental neighbors.⁹ Those efforts proceeded to construct the narrative of Root as a career reformer. More current events, however, proved Root's devotion to progressive ideas and reform.

Davenport considered Root's participation in the New York Constitutional Convention in 1915 as the clearest public revelation of his progressive philosophy. In a fiery speech, Root lashed out against the forces of government apathy, declaring, the people "have abundant cause for complaint."¹⁰ He regretted that in his over forty years in public service, the New York state government "has been no more representative than the government of Venezuela" due to its rampant political corruption.¹¹ Distraught over the inability to do the people's business, Root announced, "The time has come when invisible government must give way to government that is accountable and responsible."¹² He called for an amendment to completely reorganize the state government as "our answer to the demand of the people for reform."¹³ Davenport considered his speech a major signpost in his progressive evolution. With enough age,

⁹ Davenport, "Presidential Possibilities," 35.

¹⁰ "Weighing Down the Safety Valve," *Chicago Herald*, August 2, 1915.

¹¹ Davenport, "Presidential Possibilities," 37.

¹² "Weighing Down the Safety Valve," August 2, 1915.

¹³ *Ibid.*

experience, and respectability, Root now elicited enough power to “strike with overwhelming force and deliver a solar plexus” blow to the forces of corruption and ineptitude.¹⁴ Not only did Root’s actions in the constitutional convention evince Root’s progressive credentials, but Davenport saw them as the next logical step toward the presidency. Such a move allowed him to continue the wave of reform he first undertook during the Roosevelt administration. For Davenport, Root served as a respectable and credentialed presidential candidate that could bring together the splintered progressive and conservative factions of the Republican Party. Regardless of the author’s hopes, Root declined any nomination for the office.

Despite contemporary sources such as Davenport, the images of Root, like those constructed by Hearst, fulfilled a deep-seated societal need to create an uncaring villain to help explain the writhing social, political, and economic inequality of the period. His biographer explained if Root worked solely as tool of Wall Street “as Hearst and Pulitzer would have had many people believe,” why then did he support the progressive measure of the corporate income tax.¹⁵ In spite of his efforts, the allegations perpetuated by the media maintained a long shelf life, extending to historians who later wrote about him and uncritically accepted these suppositions. For example, one historian explained Root as having a reputation for being “a stalwart conservative, an apologist for the status quo and

¹⁴ Davenport, “Presidential Possibilities” 38.

¹⁵ Philip C. Jessup, *Elihu Root*, vol. 2 (New York: Dodd, Mead, and Company, 1938) 230.

the prerogatives of the rich and powerful, and a pawn of Wall Street.”¹⁶ Other scholars categorized him as the “quintessential political conservative of his day,” and someone even labeled him one of the “champions of conservatism.”¹⁷ These portrayals of Root as a conservative then tended to crystalize, by degree, into the historical works that followed.

The historiography surrounding Root consists of two major works in the field. In 1938, his long-time family friend and colleague of twenty-two years, Phillip C. Jessup, published an encyclopedic sixteen hundred-page biography on Root’s life entitled *Elihu Root*. Given the fact Jessup published it only a year after his death and worked actively with Root during his last seven years of his life to complete it, a bit of attachment to his subject comes through his writing. He freely concedes in the preface of his book that to “write the life of a man whom one has known, is inevitably a personal matter,” and that his feeling toward Root involved “not only admiration but of affection.”¹⁸ Though Jessup succeeds at painting Root as a diligent diplomatist and top-rate legal mind, the work tends to be merely a running narrative of Root’s day-to-day thoughts, concerns, and interactions. He fails to place his subject within an analytical framework of study and seems more content to merely chronicle the long and respectable life of an old friend.

¹⁶ Robert J. Lacey, “Elihu Root: Balancing Constitutionalism and Democracy,” in *In Defense of the Founders Republic: Critics of Direct Democracy in the Progressive Era*, Lonce H. Bailey and Jerome M. Mileur, eds. (New York: Bloomsbury Academic, 2015), 134.

¹⁷ Frederic L. Kirgis, Jr., *The American Society of International Law’s First Century, 1906-2006* (The Hague: Nijhoff Publishers, 2006), 15; Merle Eugene Curti, *The Growth of American Thought* 3rd ed. (Brunswick NJ: Transaction Publishers, 2004), 637.

¹⁸ Jessup, *Elihu Root*, vol. 1, v.

On the subject of Root's commitment to progressive ideals, Jessup had little to say. He described Root as an interesting mix of "natural conservatism," with the proper wisdom to understand the defects of the system. According to the author, Root recognized the importance of government intervention in people's lives, sympathized with the concerns labor, and supported big business regulation, but failed to appreciate the full thrust of the progressive movement. As a result, Root acted as a reformer of limited capacity, but fostered policies he found "pregnant with the ultimate good."¹⁹ While he often speaks of Root's conservatism, Jessup just as equally discussed his long history of reform. As far as his long-term agenda, Jessup found Root "advocated much that might have seemed visionary at the time but which the future justified."²⁰ Given the scope of his project, Jessup's seminal work accomplished much in elucidating his life story, but little in terms of a focused study of his political philosophy.

In 1954, historian Richard Leopold published a more condensed and focused view of Root's life in politics entitled *Elihu Root and the Conservative Tradition*. Within the scope of his study, Leopold, a practitioner of the consensus school, contended that Root "stands out as the ablest, most constructive conservative in American public life since 1900."²¹ He wrote at a time when the political philosophy of liberalism brought about by the rise of Franklin Delano Roosevelt and Harry S Truman faced significant backlash, leading to the election of the more "conservative" policies of Dwight D. Eisenhower and

¹⁹ Jessup, *Elihu Root*, vol. 2, 503.

²⁰ Ibid.

²¹ Richard Leopold, *Elihu Root and the Conservative Tradition* (Boston: Little, Brown & Co., 1954), 9.

a reinvented Republican party. With the transcendence of a new conservative movement within the nation, Leopold sought to plot the trajectory of this reawakened political force by searching for its undercurrents in the early part of the century.

Leopold claimed that conservatism of the late nineteenth and early twentieth century provided an intellectual bridge to the 1950s upsurge of conservative political thought. Using Root as an anchor point of his argument, the author claimed the tenants of conservatism served as the “major key to his life and thought.”²² Although Leopold provided exceptions in his explanations, such as pointing out that the basic concept of conservatism was not a static philosophy and that conservatives are not all reactionaries or necessarily opposed to change, he failed to consider the significance of his claims when engaging in an intellectual or philosophical classification process. Political ideologies and the intellectual undercurrents such as liberalism and conservatism, by their very nature, rest on the absorption of scattered and alternating views rather than the blanket acceptance of a conceptualized whole. The key difficulty arose when scholars, such as Leopold, attempted to categorize these ideologies and those that hold them by generalized assumptions rather than by examining the innate, individual complexities that form one’s conceptual framework.

Leopold typically projected Root as a conservative antidote to the progressive movement, which he considered the natural outgrowth of liberalism in early twentieth century America. In discussing a total appraisal of the statesman’s life, the author contends his ideas “provide the most useful reply to the progressive challenge.”²³ Such a

²² Leopold, *Elihu Root and the Conservative Tradition*, 8.

²³ Leopold, *Elihu Root and the Conservative Tradition*, 193.

claim not only relegated the ideas of the movement as belonging to one political ideology or the other, but also failed to address the nuance of progressivism in domestic and international spheres. In recent years, scholars attempted to address the problems in attempting to define progressive ideals as either politically left or right. As Wiecek suggested in his study of legal philosophy during this period, the progressive movement failed to function as a unified and cohesive group of advocates committed to a core group of agreed upon goals. Instead, the lack of consistency and organization served to spread the desire for reform across ideological spectrums and regions throughout the United States.²⁴

A recent historical biography by Jonathon Lurie, released in 2012, branded Root's longtime friend and fellow Republican William H. Taft as "progressive conservative," a term the former president coined himself.²⁵ Taft and Root represented two of the greatest legal minds of the period, often took the same legalistic views about political life, and worked together as friends and colleagues throughout their public careers. Both men identified with the "old guard" Republicans, remained aloof of the insurgent progressives such as Robert LaFollette and George Norris, and often viewed Woodrow Wilson and Louis Brandeis with contempt at times. All the while, their progressive tendencies for the most part mirrored Theodore Roosevelt, one of the great standard bearers of the movement.

²⁴ William Wiecek, *The Lost World of Classical Legal Thought: Law and Ideology in America, 1886-1937* (New York: Oxford University Press, 1998), 79.

²⁵ Jonathan Lurie, *William Howard Taft: The Travails of a Progressive Conservative* (New York: Cambridge University Press, 2012), 170.

Despite their progressive tendencies, the two remained in the shadows of the movement, but for different reasons. Even Taft recognized at the time how the two men were often overlooked in terms of reform. He pointedly addressed this by saying, “The fact is that while neither Root nor I ever got credit for being Progressive members of his last Cabinet, we were the most progressive and the two who usually aided and abetted President Roosevelt in what were called his radical policies.”²⁶ Unfortunately for Taft, his seemingly lackluster presidency damaged his reputation among progressives. The media’s portrayal of Root as a hard-nosed corporate lawyer tarnished his reformer image. Perhaps more importantly, both men lacked Roosevelt’s cult of personality, and the election of 1912 played a pivotal role in how the public viewed the men. Unfortunately, the very public falling out between the former “Three Musketeers” represented an individual political struggle foisted upon them by the competing forces within the very divided Republican Party and not something of their own making or choosing. In the end, the partisan forces unleashed in 1912 politicized their public relationships, ripping them apart. In the fallout, Roosevelt rose in the estimation of the progressive movement, while the reform efforts of Taft and Root faded, at least, from public view.²⁷

Despite the perception, these two men remained committed to progressive ideals. Beyond their differing views about women’s suffrage, Root and Taft looked to the progressive possibilities of law to address the problems faced by the nation. They both

²⁶ Jessup, *Elihu Root* vol. 2, 229.

²⁷ Robert E. Koehler, *Partners in Science: Foundations and Natural Scientists, 1900-1945* (Chicago: University of Chicago Press, 1991), 59. Koehler emphasizes this point, when he argues after the 1912 election, Root “retreated from Roosevelt’s liberal progressivism.”

supported the need for labor unions and abhorred labor violence. Like Root, Taft accepted that the duty rested with the government to “protect the weaker classes by ‘positive’ law.”²⁸ By the standards of today, Walter T. K. Nugent, who reviewed Lurie’s book, concluded, “Taft would likely be much too progressive for today’s conservatives.”²⁹ Lurie’s work sufficiently constructs a pathway for Taft and others like Root to reveal the progressive side of their nature that has often been ignored or overlooked by previous scholars.

Despite the conservative image of him, Root easily falls within the definitions of progressivism established in the historiography. Though historians find little to agree on about progressivism, they typically concede the vagueness and lack of cohesion in the movement at times.³⁰ Root often found himself at odds with other progressive reformers sometimes by conviction and other times by degree. He embraced some progressive-minded reforms and their means, while rejecting others. Throughout his career, Root consistently opposed women’s suffrage, rejected the principles of prohibition, and often ignored class conflict. Like many Americans of his day, Root viewed imperialism as a positive good while he looked at certain immigrant groups with a distrustful eye. To some historians these views disqualify Root from being labeled a progressive. In reality, such views reflected the polymorphous nature of the movement. For example, Root

²⁸ Lurie, *William Howard Taft*, 170.

²⁹ Walter Nugent, review of *William Howard Taft: The Travails of a Progressive Conservative*, Jonathan Lurie, *Journal of American History* 99, no. 2 (Sept. 2012): 622.

³⁰ *Ibid.*, *Progressivism: A Very Short Introduction* (New York: Oxford University Press, 2010), 3; Richard Hofstadter, *The Age of Reform: From Bryan to F.D.R.* (New York: Vintage Books, 1955), 5.

lodged his opposition to woman's suffrage, but then again so did Ida Tarbell, who served as a standing member of the New York State Association Opposed to Women's Suffrage.³¹ Did Tarbell's stand against women's suffrage negate the work she did as a very progressive muckraking journalist? Even Richard Hofstadter recognized that progressives were "critical of important aspects of what [he] called Progressive thinking."³² In fact, John Chambers II explained that due to disagreements, progressives "battled conservatives, radicals, other reformers, and often each other."³³ To this end, Michael McGerr aptly described the progressive ideal as "an explosion, a burst of energy that fired in many different directions."³⁴ Nugent conceded that within the movement historians framed as the Progressive Era, there existed "many varieties of Progressivism and Progressives."³⁵ The myriad reform efforts undertaken by reformers of the period, at times complemented and contradicted each another, making the ideology of the progressive movement hard to specifically define. Regardless, there existed a progressive spirit or set of ideas Root and his fellow crusaders shared that allowed for historians to define the movement as well as those who participated in it, as legitimate.

³¹ New York State Association Opposed to Woman Suffrage, *Thirteenth Annual Report* (Dec. 1908), 1.

³² Richard Hofstadter, *The Age of Reform*, 6.

³³ John Whiteclay Chambers II, *The Tyranny of Change: America in the Progressive Era, 1900-1917* (New York: St. Martin's Press, 1980), 107.

³⁴ Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America* (New York: Oxford University Press, 2003), xvi.

³⁵ Nugent, *Progressivism*, 5.

In spite of the differences within the movement, Root adopted many of the common values shared by progressives. As pointed out by Glen Gendzel, in the broadest terms progressives rejected the conservative idea of negative statism and political abnegation.³⁶ They passionately accepted that government institutions provided the best mechanisms to try and control the massive changes of the period.³⁷ Root's speeches sometimes questioned the intention and means of federal government intervention.

Surprisingly, progressives often expressed a fear of the state, even as they expanded the government's powers.³⁸ Not so surprisingly, their primary concerns involving the government's expansion of power stemmed from previous problems associated with corruption and inefficiency, not the fear of intervention itself.³⁹ Thus, Root fought against political corruption for more than mere moralism or efficiency. He believed governments had a duty to serve the public responsibility, and crooked bosses and political machines prevented the state from fulfilling its obligation.⁴⁰ In a letter to his friend William White, Root likened his political reform efforts to being "Old Noah," telling the New York political bosses for years that "this is no ordinary shower, but a

³⁶ Glen Gendzel, "What the Progressives Had in Common," *Journal of the Gilded Age and Progressive Era* 10, no. 3 (Jul. 2011), 337.

³⁷ Steven J. Diner, *A Very Different Age: Americans of the Progressive Era* (New York: Hill and Wang, 1998), 12; Brian Stipelman, *That Broader Definition of Liberty: The Theory and Practice of the New Deal* (Lanham, MD: Lexington Books, 2012), 42.

³⁸ Gendzel, "What the Progressives Had in Common," 335.

³⁹ Lacey, "Elihu Root," 147.

⁴⁰ *Ibid.*

flood [of reform], and that they would better hurry up and get into the Ark.”⁴¹ Playing on the biblical story, the political bosses refused to take heed of his warnings to their peril. Unlike the reactionaries, Root believed that government at every level had an increasing role to play in the lives of everyday citizens, righting societal wrongs and providing efficient public services. In a speech, he argued, “The intervention of that organized control which we call government seems necessary to produce the same result of justice and right conduct.”⁴² Said another way, progressive reformers embraced what Chambers referred to as the “interventionist impulse,” what Nugent simply defined as “the feeling that something must be done.”⁴³ Though progressive reformers splintered off in many different directions, their penchant for reform served as the consistent theme of the movement.⁴⁴

The movement involved reformers not just reengineering governmental institutions, but also remaking individuals and society in their own progressive image. Given all the changes in society, reformers shared a profound sense of loss for a past they often romanticized. Industrialization, corporatization, modernization, urbanization, and immigration upended any semblance of a way of life these reformers once knew.⁴⁵ The

⁴¹ Jessup, *Elihu Root*, vol. 2, 154.

⁴² Elihu Root, *Judicial Decision and Public Feeling: Address by Hon. Elihu Root as President of the New York Bar Association, at the annual meeting, in New York City, on January 12, 1912* (Washington, DC: Government Printing Office, 1912), 5.

⁴³ Nugent, *Progressivism*, 3.

⁴⁴ Ibid.; Eldon J., ed., *The Social and Political Thought of American Progressivism* (Indianapolis: Hackett Publishing Company, 2006), xi.

⁴⁵ Gendzel, “What the Progressives Had in Common,” 335, Hofstadter, *Age of Reform*, 5-6; Nugent, *Progressivism*, 2.

resulting political corruption, economic exploitation, and social erosion threatened to undermine the very fabric that held the nation together. According to Robert H. Wiebe, progressives sought to restore order and control as the pillars of the old pastoral society and its supposed values eroded away.⁴⁶ Root and other activists recognized that to change the behaviors of individuals, they needed to change the culture, system, and expectations those individuals operated within.⁴⁷ He, along with other progressives, walked a thin line between the need to promote the public good while upholding the American commitment to individual rights. If society disliked a law as it stood, the desirable thing was “to make the law what the community wishes it to be.”⁴⁸ Often, Root believed the causes of reformers stood “in advance of the rest of the people,” therefore requiring a “campaign of education, a reconciliation of conflicting views, and much discussion as to the kind and form of change.” As pointed out by Rodgers, progressives found themselves not so much overwhelmed by their problems, but they “swam in an abundance of solutions.”⁴⁹

Root attempted to reawaken a national sense of public service as a way to revive and safeguard republican values. In a 1911 letter, he argued what self-governing people needed was “not to find devices by which its members may evade the performance of their duty, but the individual sense of responsibility and the public spirit to lead them to

⁴⁶ Robert H. Wiebe, *The Search for Order, 1877-1920* (New York: Hill and Wang, 1967), xiii-xvi; Lacey, “Elihu Root,” 136.

⁴⁷ McGerr, *A Fierce Discontent*, xiv.

⁴⁸ Root, *Judicial Decision and Public Feeling*, 6.

⁴⁹ Daniel Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge: Harvard University Press, 1998), 6-7.

perform their duty.”⁵⁰ If possible, Root hoped to bring balance between individual pursuits and public concerns. Only by individuals recognizing the national scope of the America’s problems and redesigning government institutions to operate against such sizable forces could the American people effectively once again envision themselves as masters of their own social, political, and economic fate.⁵¹ On the whole, Root’s efforts mirrored larger progressive aims that redefined individualism as an important, yet subservient, subset of the greater community.⁵²

Scientific expertise represented another aspect of the progressive movement to promote efficient administration and produce policies in the public interest. Wiebe identified this “scientific government” as “a procedure, or an orientation, rather than a body of results.”⁵³ This type of government promised opportunity, progress, order, and community, relieving people of the fear of exploitation.⁵⁴ Throughout his career, Root argued in favor of merit and expertise as a measure of public service. He rejected the spoils system in favor of a less political and more performance based means of measurement. As Stipelman notes, progressives recognized the development of this type of apolitical bureaucracy allowed for public decision to be made without getting bogged

⁵⁰ Jessup, *Elihu Root*, vol. 2, 151.

⁵¹ Stipelman, *That Broader Definition of Liberty* 42-3.

⁵² Hofstadter, *Age of Reform* 5-6.

⁵³ Wiebe, *The Search for Order*, 147.

⁵⁴ Ibid., “Progressivism Arrives,” in *Who Were the Progressives?*, Glenda Elizabeth Gilmore, ed. (New York: Bedford St. Martin’s, 2002): 83.

down in ideology or interest.⁵⁵ According to Williams and Matheny, such a progressive discourse helped “transcend the narrow, suspect self-interest of various groups and serve the common good.”⁵⁶

In the end, progressives such as Root shared a view that they all labored toward a societal common good. According to Nugent, the whole progressive mantra boiled down to a “belief in society, a common good, and social justice, and that society could be changed into a better place.”⁵⁷ Root remained steadfast in his devotion to the progressive vision of transformation, while some questioned his commitment to reform. In discussing the value of government involvement in society, Root declared:

I do not think there is any better rule to be applied to the affairs of life, to all the laws and practices, which enter into government, than the rule of making them conform to the truth as we find it to be. If a law or practice does not conform to the reality of things it is false, and it makes trouble, and you cannot prevent it making trouble. If conditions change so that laws or practices, which at one time conformed to the affairs of life no longer conform to them, the then time has come to change the laws and practices.⁵⁸

As a realist, he viewed effective reform as a long game and the march of progress as evolutionary, rather than revolutionary.⁵⁹ The process of reform necessitated a gradual

⁵⁵ Stipelman, *That Broader Definition of Liberty*, 42.

⁵⁶ Bruce A. Williams and Albert R. Matheny, *Democracy, Dialogue, and Environmental Disputes: The Contested of Social Regulation* (New Haven: Yale University Press, 1995), 12.

⁵⁷ Nugent, *Progressivism* 5; Gendzel, “What the Progressives Had in Common,” 337.

⁵⁸ Richard H. Hollen and Richard S. Tuthill, “Uses of Stock Having No Par Value,” *American Bar Association Journal* 7, no. 11 (Nov. 1921): 580.

⁵⁹ Price V. Fishback, “The Progressive Era,” in *Government and the American Economy: A New History* (Chicago: University of Chicago Press, 2007), 288.

process that “can not be produced at a single blow from the mind of anyone or of any group or interest or class.”⁶⁰ As Nugent pointed out, Root along with his progressive contemporaries believed meaningful change “was reformist, not radical.”⁶¹ Throughout his career, Root dedicated himself to cleaning up political corruption, limiting corporate influence in politics, ensuring the sanctity of the ballot, and several other progressive causes. He served the interests of his community tirelessly on countless boards, journals, commissions, panels, and organizations. When the government called him to serve, he always accepted, even though monetarily it made more sense to maintain his private law practice. Above all, Root devoted his public career to carrying out the public good, and to the worthy goal of uplifting society.

Though Root’s domestic reform agenda mirrored the efforts of his progressive counterparts, what set him apart was the fact he transplanted these progressive ideals into reforms into America foreign policy. Though the goals of reformers sometimes differed domestically and abroad, they both fell beneath the broad umbrella of the progressive movement. He reorganized the US military to reflect changes in civil service reform that embraced meritocracy over the spoils system. Just as progressives expanded the role of education and scientific principles in the lives of everyday Americans, Root extended this philosophy into the US military as part of the “Root Reforms.” During his time in the federal government, Root promoted responsive and efficient government in Cuba and the Philippines. Just as domestic progressive legislation used the power of the federal government to protect the most vulnerable groups in society, Root penned Platt

⁶⁰ Root, *Judicial Decision and Public Feeling*, 5.

⁶¹ Nugent, *Progressivism*, 4.

Amendment and the Roosevelt Corollary to the Monroe Doctrine to extend America's protection to those regions, not to plunder them. Many of the problems Americans struggled with at home, the world faced abroad. Since progressives empowered the government in their efforts to resolve domestic concerns, it only makes sense they used the full force of Washington to aid in solving the problems that confronted the globe.

Root contended nations could no longer remain in isolation and must deal with the economic, social, cultural, and political facets that bound their world together. Despite the differences in culture, tradition, religion, or philosophy between nations, Root believed law provided the ablest and fairest mechanism to work out issues that arose between individuals and states. He declared this principle in a 1909 speech, pointing out that "peace can never be except as it is founded upon justice."⁶² In a London interview conducted in 1921, Root laid out what he termed the "problem of diplomacy." He admitted that often the barrier to reconciliation between the nations arose from one side's lack of "respect for the feeling and prejudices of others."⁶³ In order for law to be accepted by all the nations, he foresaw the need to codify a set of international laws that reflected the will of the global community, mapping out agreed upon legal remedies rather than economic or military coercion as an instrument of foreign policy. Root remained committed to this core concept, but throughout his life as a public official and citizen shifted the means of attaining such an end.

Root represented a minority of internationally progressive lawyer-diplomats that sought to bring order to the interactions of states, reduce global conflicts, and introduce

⁶² Elihu Root. *The American Journal of International Law* 3, no. 2 (1909): 426.

⁶³ Andrew Ten Eyck, "Elihu Root—A Study of the Man and His Ways." *The Outlook* 129 (Sept.-Dec. 1921): 429-30.

worldwide institutions comprised of more nations of the world than ever before. For decades, he labored to promote the progressive ideals of reconciliation, mutual protection, standardization, and codification to the rest of the world. Although he once occupied the position of secretary of war, Root spent the majority of his career trying to make peace by extending the progressive principles of domestic arbitration, uniform legislation, and judicial institutions beyond American borders. As a result, Root attempted to heighten the American public's awareness of international law and its importance, while also searching for ways to press upon the global community the need to strengthen, refine, and redevelop international institutions in order to preserve peace and assure even-handed justice between states. Root looked to law and progressive ideals to find new ways to solve long-standing problems between governments throughout the world. During his time as secretary of state, he hoped to diffuse the possibility of war between the US and Japan, while rekindling cold relations with Latin America.

In the Far East, Root attempted to reconcile America's relationship with the major powers of the Pacific as a way to prevent unnecessary war. Though it was hailed as a peaceful triumph, the outcome of the Treaty of Portsmouth, as negotiated by TR, created a great deal of animosity between the US and Japan. By 1906, war between the two nations seemed likely. Amid the possible escalation conflict with Japan, racist laws passed in California unfairly targeted Japanese immigrants and their families. This internal squabble about race threatened to light the fuse of international war. In spite of all the political pressure, Root utilized federal government power to overturn local laws, while firming up Japanese relations with a series of conciliatory and mutually beneficial agreements. Mirroring Roosevelt's "square deal" philosophy at home, Root's actions

calmed the rising tide of war, while attempting to protect the rights of those whom lacked the guarantees promised through American citizenship.

In Latin America, Root pursued a conciliatory diplomatic policy known as the Root Doctrine.” The doctrine called for a complete reevaluation of the relationship between the United States and Latin American in the wake of the Platt Amendment for Cuba, Panama’s revolt against Colombia, and the announcement of the Roosevelt Corollary to the Monroe Doctrine. His efforts reflected his desire to assuage anti-American sentiment throughout region. Root’s policy of embracing Latin America diplomatically represented a first step in his attempt to get European nations to recognize South American states as equal sovereigns, thus increasing the number of countries brought together to decide “international” issues. It was only from this point of departure that international institutions would gain legal authority and enjoy the acceptance of the global community. He attended and chaired a number of conferences designed to nurture a very delicate Pan-American spirit and international unity.

More importantly, his 1906 South America goodwill tour represented the first time any American official traveled to the region in almost thirty years. Throughout his trip, he announced the benevolence of American intentions and the sincerest desire for regions to come together for each other’s benefit. So in developing the first “Good Neighbor” policy with Latin America, Root envisioned the long-term goal of broadening the scope and composition of international institutions in order to sanction their existence and extend the approval of their power in to a larger world system. Root realized the path toward gaining such high-minded objectives would necessarily advance slowly and therefore, he dedicated the majority of his life to that end.

In foreign relations, Root and other international progressives pushed for the standardization and codification of international law as a way to simplify and streamline what appeared to be an increasingly complex global world.⁶⁴ He held the concept that law, foreign or domestic, was “not made for lawyers, but for their clients” and as a result should be “administered as far as possible along the lines of laymen’s understanding and mental processes.”⁶⁵ Though there existed different cultures, customs, religions, languages, laws, and codes throughout the nations of the world, he ultimately believed that creating an international body based on shared precepts of law could bring the world together, thereby reducing global conflict and violence. He endeavored to chart a path away from the European-centered, power politics of centuries passed and embrace a new set of international legal standards in order to guide the world through inherent conflicts bound to show up as the world grew a little bit smaller with each passing year.

From the fallout of World War I, Root slowly plotted a changing trajectory from his previous position of only “kindly consideration and honorable obligation” through international law and began to embrace the need for “collective force” to enforce decisions made by an international body. Though the United States failed to sign on as a member of the League of Nations, Root worked to bring to life Article XIV of the charter, calling for the creation of the Permanent Court of International Justice (World Court) that later became the Court of International Justice in the years following World War II. Though he never achieved his ultimate goal of standardizing international law,

⁶⁴ Crowe, *Building the Judiciary*, 20.

⁶⁵ Thomas E. Lyons, “Courts and Commissions,” *Marquette Law Review* 6 (1921-1922): 16.

his efforts along with his progressive vision paved the way for organizations still in existence today such as the United Nations and the European Union.

Throughout his life, Root carried the banner of progressive internationalism. Root exemplified the wisdom of his age along with a foresight well beyond many of his contemporaries in his support of international progressivism. Though he failed to produce quick changes within the foreign policy establishment and only a few bore the mark of his efforts, he struggled throughout his life to fundamentally change the dynamics of foreign relations at home and abroad. The United States foreign policy establishment of the mid to late twentieth century ignored his call for broader inclusion in the international community, the resolution of disputes by an apolitical judicial body, and an end to unilateral coercion under the banner of “power politics.” The United Nations hoped to alleviate many issues that led to previous outbreaks of war such as a lack of international dialogue, the inability to peaceably mediate disputes, and the lack of effective collective security. As a result, international institutions worked only to resurrect pre-existing power structures and spheres of influence with the United States at the helm of leadership. As it turned out, Root’s persistent warnings for a truly international body and calls for international equality before the law went unheeded by American leaders of the post-World War II period, continuing unnecessary warfare and reinforcing power inequities between nations of the world to this very day.

One of Root’s biographers mistakenly claimed Root proved unsuccessful in motivating the spirit of his generation and as a result, it remains “unlikely he will move men’s minds and hearts in the future.”⁶⁶ This flawed assertion failed to consider the

⁶⁶ Leopold, *Elihu Root*, 195.

number of Root's contemporaries who carried on the philosophy and policies he developed years and even decades earlier. He promoted American involvement in international institutions well before the creation of the League of Nations, and many of the concepts he developed later comprised part of the United Nations created nearly a decade after his death. Subsequent presidents of both parties and numerous secretaries of state continued to work with Root to secure policies, ranging from the creation of the World Court to international policies of disarmament. On a more contemporary note, the embodiment of Root's ideas can be found under the auspices of the European Union. The construction of this international organization in 1993 which includes membership from nations of widely ranging ethnic, cultural, historical, political, and economic background all composed on the basis of mutual economic agreements, human rights ethics, and most importantly the codification of agreed upon legal standards stands as a testament to the world, which Root endeavored to create.

CHAPTER I:
ROOTING LAW IN ORDER

“To be a lawyer working for fees is not to be any the less a citizen whose unbought service is due to his community and his country with his best and constant effort.”

**Elihu Root
Speech at Yale Law School, June 27, 1904**

Standing before a group of students at the Yale Law School, Elihu Root reminded these young and aspiring attorneys, “You will strive for your clients in many courts; but it will be your high privilege to . . . use all your opportunity, all your learning, all your experience, in pleading with the people of your country for the perpetual life of the great rules . . . which underlie our institutions, and which only the governing people can keep alive in our land.”¹ Throughout his legal career, Root served a multitude of clients. He served clients both of great wealth and those with little means. He represented those on big corporate boards and men with little more than a shingle over their head. He argued for his client’s rights in the courtroom and later for the protection of citizens’ rights at the New York state house. Despite his historic label as merely a “corporate lawyer,” Root used the skills of his profession to implement progressive reforms in the state of New York during the 1880s and 1890s on behalf of his greatest client of all, the public. Unfortunately, Root’s legal work on behalf of headline-grabbing, high-profile clientele

¹ Elihu Root, "Some Duties of American Lawyers To American Law," *Yale Law Journal* 14, no. 2 (Dec. 1904): 76.

overshadowed, if not eclipsed, his other efforts to reshape the legal and political institutions. Like almost half of all urban lawyers, Root engaged in myriad civic-minded progressive reforms.² Far from being a tool of the moneyed interests, this “citizen lawyer” argued on the public’s behalf for improving indigent access to legal services, stamping out government and economic corruption, and amending the New York state constitution to provide for fair and honest elections.

Throughout much of United States history, lawyers along with their occupation engendered a great deal of condemnation and antipathy. Despite being officers of the court serving in some of the highest and indispensable capacities of government work, such as president, legislator, and judge, lawyers as a group have continued to face the mockery, disparagement, and distrust of a large segment of the American people. Jokes, both then and now, abound pointing out how they lack humility, self-control, and a general sense of decency. In the early eighteenth century, the poet Samuel Coleridge included a jab at lawyers in his work, *The Devil’s Thoughts*. In the fourth stanza, he writes about Beelzebub’s journey to Earth and what he witnessed:

He saw a Lawyer killing a Viper,
On a dunghill hard by his own stable;
And the Devil smiled, for it put him in mind,
Of Cain and his brother, Abel.³

Closer to the twentieth century, none other than Mark Twain once reportedly quipped, “It is interesting to note that criminals have multiplied of late, and lawyers have also, but I

² Gordon, “The Citizen-Lawyer,” 1191.

³ Samuel Taylor Coleridge, *The Poems of Samuel Taylor Coleridge*, ed. Ernest Hartley Coleridge (London: Oxford University Press, 1912), 320.

repeat myself.”⁴ For those who represented high-profile corporate clients, especially during the Progressive Era, the public’s revulsion ran even deeper.

During the late nineteenth century, the growth of new urban centers along with the rise of the modern corporation provided for greater economic expansion, leading to advancement and development of specialties and stratification within law. As corporations took hold, American law started to transform away from a focus on individual private practice toward the development of firms that utilized a division of labor and specialized in corporate law. This new era required corporate lawyers to be more forward looking than reactionary on behalf of their corporate clients.⁵ In the years following the Civil War, railroad, oil, banking, and mining corporations first extended an interest in hiring lawyers on retainer, to represent them exclusively in the towns and regions their companies worked. As noted by Richard Hofstadter, lawyers critical of these changes mourned the fact, “law had lost much of its distinctly professional character and had become a business.”⁶ Over the years, many corporations even took to hiring lawyers directly to work for their business, thus cutting out the middleman.

In cities along the east coast, bar association leaders grew concerned about the sudden increase in the employment of corporate in-house lawyers and the perceived demise professional independence. At a meeting of the Baltimore Bar Association, one of its members decried, “Corporations doing our business are working not only to our

⁴ Raymond Wacks, *Law: A Very Short Introduction*. (Oxford: Oxford University Press, 2008), 152.

⁵ William T. Gossett, “The Corporation Lawyer’s Social Responsibilities,” *American Bar Association Journal* 60, no. 12 (Dec. 1974), 1517.

⁶ Richard Hofstadter, *The Age of Reform: From Bryan to FDR* (New York: Vintage Book Publishing, 1955), 158-59.

detriment, but . . . are pushing the lawyers to the wall. They advertise, solicit, and by their corporate influence and wealth monopolize the legal field.”⁷ Their cases, along with the high-profile clients they defended, routinely grabbed the headlines and provided fuel to the public’s disdain with the status quo of the Gilded Age.

Rumors mixed in with real stories that often reinforced the public’s growing concerns about unfettered corporate greed and corruption. By the early twentieth century, the term “corporate lawyer” became synonymous with “opprobrium” and “opprobrious epithet.”⁸ A San Francisco editor explained the reason the term “corporation lawyer” became “a term of reproach is that some of them . . . apply their perverse ingenuity to the invention of ways and means to evade or nullify the law” and were employed “to show their employers how to break the law with immunity.”⁹ In another article, the same editor claimed the occupation accounted for the “most important and most dangerous criminal class.”¹⁰ One journalist succinctly explained both the benefits and risks of being labeled as a “corporate lawyer.” On the one hand, a successful lawyer gained a good living by representing corporations, but “no longer leads the community he did once,” rendering

⁷ Albert Gibson and Robert McLean, eds., "Corporate Monopoly In The Field of Law," *Law Notes* 15 (May 1911): 22.

⁸ John T Noonan, Jr., *Persons and Masks of the Law: Cardozo, Holmes, Jefferson and Wythe as Makers of the Masks* (Berkeley: University of California Press, 1976), 86; Henry W. Taft, *Occasional Papers and Addresses of an American Lawyer* (New York: The Macmillan Company, 1920), 13.

⁹ "A Defense of The Corporation Lawyer," *San Francisco Call*, November 11, 1906.

¹⁰ "A Short Way With The Corporation Lawyer," *San Francisco Call*, July 25, 1907.

his advice and his character as “tainted.”¹¹ As a result, the public often included lawyers retained by these businesses as accessories in an immoral crime, representing their clients out of their misguided loyalty to wealth rather than their duty to the law.

The public unfortunately classed lawyers not as public servants, but as “an employee of a corporation, and it results that the penalty for corporate sins is sometimes visited upon him” no matter their moral scruples.¹² Even the newspaper editor who denounced corporate lawyers as “dangerous” admitted, “There are plenty of honest corporation lawyers and their number is coextensive with that of the honest corporations.”¹³ Lawyer Henry Taft told the students of Harvard Law School that the corrupt corporate lawyers accounted for “a relatively small portion of the entire membership of the bar,” but as a class this small group “brought great discredit upon the profession.”¹⁴ Regardless of the admission, the perception of lawyers as corporate heels continued in popular media and in the popular imagination.

Beginning in the 1900s, faulty public perception, further reinforced by sensationalized stories in the media, created a skewed and inaccurate depiction of Elihu Root in the way they depicted his character and motivations. Much of his early legal career as portrayed in newspaper articles of his time and subsequent historical works branded him as an unapologetic “corporatist.” Newspaper stories circulated through the country painting Elihu Root as a “hired gun,” merely serving the interests of large

¹¹ "Hoot Mon," *Minneapolis Journal*, December 2, 1906.

¹² Taft, *Occasional Papers*, 12.

¹³ "A Defense of The Corporation Lawyer," November 11, 1906.

¹⁴ Taft, *Occasional Papers*, 14-6.

corporate trusts in maximizing their profits by minimizing his client's liability. A writer for the *Springfield Republican* declared Root "at the very front of those lawyers who have reduced 'law honesty' to a science and made that science the servant of corporation rascals."¹⁵ In a Shreveport newspaper, the editor claimed, "There is no man in the country who has a longer or perhaps more unscrupulous record as a trust lawyer than Elihu Root."¹⁶ Root's actions in representing some of these corporations, according one journalist, seemed "most difficult for an ordinary Christian to understand."¹⁷ Despite the portrayal of Root as a morally absent corporate henchman, a newspaper editor partly explained the reason for the moral confusion, though he failed to explain his contribution to the overall problem. In his article, he explained "the public mind is not finically logical," causing the honest corporate lawyer to "continue to bear and suffer for the sins of his wicked brothers."¹⁸ Unfortunately, the journalist failed to see the role he and his colleagues often played when they presented one-sided and often exaggerated media reports about corporate lawyers, Root in particular.

Speculation fueled the flames of suspicion and distrust, reinforcing a skewed view about Root's career and intentions. One of Root's biographers agreed, "there was nothing essentially discreditable in Root's work as a 'corporation lawyer,' nothing to justify the insinuations and accusations of the less temperate and less factual muckrakers and of the

¹⁵ "If Not Foraker, Why Root?," *Boston Evening Transcript*, November 23, 1908.

¹⁶ "Foraker And Root, Corporation Lawyers," *The Caucasian* (Shreveport, LA), February 16, 1909.

¹⁷ "If Not Foraker, Why Root?," November 23, 1908.

¹⁸ "A Defense of The Corporation Lawyer," November 11, 1906. In this passage, the author uses the word "finically" to mean particularly.

hostile political editors.”¹⁹ Even his own biographer and friend asserted, “He was never willing to be a ‘company lawyer’ who becomes a mere employee devoting all his time to the corporation which employs him.”²⁰ In a speech, Root called for his colleagues in the law to counter these inaccurate claims. He told the audience, “Wherever people are wrong, that ought to be shown; and wherever they are right the conditions ought to be remedied.”²¹ The media at large helped contribute to the overall negative view of corporate lawyers, but one media mogul affected the public’s view of Root more than any other. In this instance, Root readied to confront his accuser in the court of public opinion.

By 1905, newspaper tycoon William Randolph Hearst and Root engaged in a very public verbal sparring match in the run-up to a highly contentious New York gubernatorial election. Charles Evan Hughes, close friend and Republican confidant of Root, challenged Hearst, who ran as a Democrat, for the governorship of New York. In October, Root delivered a highly loaded speech against Hearst who had tried to run on the popularity of fellow New Yorker President Roosevelt and his reformist positions. Roosevelt authorized Root to speak for him when it came to distancing Hearst from the president’s policies and describing his views on the newspaper giant. During his speech, Root utilized his definition of demagogue to implicate Hearst as a person “who for selfish ends seeks to curry favor with the people . . . by pandering to their prejudices or wishes

¹⁹ Richard Leopold, *Elihu Root and the Conservative Tradition* (Boston: Little, Brown And Company, 1954), 18.

²⁰ Jessup, *Elihu Root*, vol. 1, 187.

²¹ Elihu Root, "The Layman's Criticism of The Lawyer," *Virginia Law Register* 20, no. 9 (Jan., 1915): 653.

or by playing on their ignorance or passions.”²² Using Roosevelt’s first address to Congress, Root repeated the president’s charge against Hearst for the assassination of President McKinley given his paper’s ability to “appeal to the dark and evil spirits of malice and greed, envy and sullen hatred.”²³ After the speech,” Roosevelt declared, “neither Tweed nor Benedict Arnold began to do as much damage to this country as Hearst has done.”²⁴ When the election returns came in, Hearst lost the election to Hughes, laying significant blame for the loss on Root’s speech.

Over the next decade, a defeated and angry Hearst used his media arsenal to attack and ruin Root at almost every turn. In the process, he and his massive news empire almost single-handedly created the popular image of Root as a pawn of powerful corporate interests. In just one article alone, Hearst’s reporters characterized Root as a “pander of public thieves,” someone “mixed up in shady transactions,” and the “lawyer of any public corporation scoundrel that cares to hire him.”²⁵ The *New York World*, a

²² Root, *The United States and the War* (Cambridge: Harvard University Press, 1918), 203.

²³ *Ibid.*, 226.

²⁴ *Ibid.*

²⁵ "Hearst Vs. Root," *Lodi Sentinel* (Lodi, California), March 19, 1907. When Root accepted the Secretary of War position offered by President McKinley, the paper depicted him as a tool of the trusts, the lackey of big business interests that the Hearst newspaper empire supposed battled against. Every cartoon contained Root as a small, smiling figure labeled “Root” gleefully following the president or the puppeteers of the trusts who pulled the strings that controlled the government. His personal assaults on Root’s character continued throughout the preceding decades. Hearst’s assertions rested on his ability to mix a sprinkle of disconnected truth with much larger heaps of conjecture and innuendo, as his journalistic reputation bears out. Sadly, Hearst’s informational sphere of influence and the American public’s appetite for theatrical journalism converged to brand Root as constantly putting his personal career and his newspaper’s profits above principle. For more discussion, see Ian Mugridge, *The View from Xanadu: William Randolph Hearst and*

Hearst owned rag, launched an attack on Root as an example of a corporate lawyer who “devises legal forms to accomplish purposes of his clients which are essentially immoral and illegal.”²⁶ In a speech, Hearst himself declared that he and his newspapers “fought the corporations that own him [Root],” including Root’s supposed corporate masters in the “street railway trust and the whisky trust, the steel trust and the sugar trust and the gas trust.”²⁷ Beyond the incendiary words, Hearst and his lackeys failed to produce a single shred of verifiable evidence showing Root acted in any illegal or even in unethical ways. Moderate and fair-minded observers conceded Root “followed the rules as he found them and played the game honestly.”²⁸ Respected jurist John Noonan claimed, “no fellow professional of his day could have seen him as one . . . who had brought discredit on the bar.”²⁹ To the contrary of the image portrayed about him, Root utilized his proficiency, position, and professionalism to implement progressive reforms.

“Citizen lawyers” such as Root successfully balanced their private duties as a practicing lawyer along with the greater philosophical ideas of rendering a “public service.” In fact, during the last quarter of the nineteenth century, “most successful lawyers were drawn into the orbit of powerful corporate clients.”³⁰ A lawyer from the

United States Foreign Policy (McGill-Queen’s University Press, 1995), 19-30.

²⁶ Samuel B. Clarke to Joseph Choate, November 17, 1908. Joseph Choate Papers, Library of Congress, Washington, DC.

²⁷ "Hearst Hits Back," *Topeka State Journal* (Topeka, KS), November 3, 1906.

²⁸ Leopold, *Elihu Root*, 19.

²⁹ Noonan, Jr., *Persons and Masks of the Law*, 87.

³⁰ Robert W. Gordon. “The Citizen-Lawyer: A Brief Informal History of a Myth with Some Basis in Reality,” *William and Mary Law Review* 50, no.4 (2009): 1190.

period even explained, “it would be difficult to find in this country a lawyer of standing who has not advised corporations,” since 90 percent of the nation’s business was conducted by them.³¹ Root’s monetary earnings from his private practice provided him with a great deal of professional independence. Henry Stimson, one of Root’s colleagues and close friends, explained, “By the time that American business had become so great as to dominate and compel the specialization of its legal advisers, Mr. Root himself had become so great as to overtower any client, corporate or individual.”³² This provided him with a great deal of separation to take very public and political stands without fear of financial ruin. Unlike Root, many of his contemporaries in law relied solely on the most minimal of legal fees to make even a meager living. Most lawyers claimed that Daniel Webster’s oft uttered quote still rang true that lawyers “work hard, live well, and die poor.”³³ Such economic strains provided a much greater temptation for them to accept possibly unethical, immoral, and even illegal cases. Additionally, his success as a lawyer provided him with social respectability amongst a number of his peers and those officials in power. Although an intangible, Root’s stature provided him with a platform to raise issues of reform. Without such standing, his ability to shape political and social issues would have been severely handicapped, if not impossible.

Despite the growing public perception of corporate lawyers disconnected from professional duty and public responsibility lingered, lawyers such as Root “played an

³¹ Taft, *Occasional Papers*, 13.

³² *Elihu Root, President of the Century Association, 1917-1928* (New York: Century Association, 1937), 21.

³³ Samuel Arthur Bent, *Familiar Short Sayings of Great Men: With Historical and Explanatory Notes* (Boston: Ticknor And Company, 1887), 562.

active part in civic life as promoters of civic improvement.”³⁴ In talking about the duties of lawyers, Root keenly observed:

He is a poor-spirited fellow who conceives that he had no duty but to his clients and sets before himself no object but personal success. To be a lawyer working for fees is not to be any the less a citizen whose unbought [sic] service is due to his community and his country with his best and constant effort. And the lawyer’s profession demands of him something more than the ordinary public service of citizenship. He has a duty to the law. In the cause of peace and order and human rights against all injustice and wrong, he is the advocate of all men, present and to come.³⁵

In fact, in a letter to a friend he disavowed those lawyers who blindly and unethically served their clients, saying he felt “scorn for that kind of practice.”³⁶ In many cases, Root often informed company leaders and potential clients that what they “wanted to do or were inclined to do, they could not do.”³⁷ Put another way, he famously and pungently declared, “About half the practice of a decent lawyer consists of telling would-be clients that they are damned fools and should stop.”³⁸ As one historian appropriately commented, “lawyers need more than the courage to say no to misbehaving clients. They

³⁴ Bent, *Familiar Short Sayings of Great Men*, 1184.

³⁵ Root, "Some Duties of American Lawyers To American Law," 65; John A. Corry, *A Rough Ride to Albany: Teddy Runs for Governor* (Bronx: Fordham University Press, 2000), 148. Corry agreed that Root “believed that a lawyer had a civic duty to involve himself in public affairs.”

³⁶ Jessup, *Elihu Root*, vol. 1, 123; Root to Jessup, May 4, 1930. Philip C. Jessup Papers, Library of Congress, Washington, DC.

³⁷ Clarke to Choate, November 17, 1908.

³⁸ William F. May, *Beleaguered Rulers: The Public Obligation of the Professional* (Louisville, KY: Westminster John Know Press, 2001), 84.

need the virtue of wisdom conjoined with the skill of a teacher if they would wend their way through to just agreements and settlements in complex cases.”³⁹

Root, like his fellow Progressive Era “citizen lawyers,” served as a “wise counselor” who viewed his job as “guiding the client to comply with the underlying spirit or purpose as well as the letter of the laws and regulations to desist from unlawful conduct.”⁴⁰ These types of lawyers also examined “the merits or justice of the claim” and encouraged defendants “towards fair settlements and away from invalid defenses of just claims.”⁴¹ In fact, if one of his clients pushed him on the matter, Root made it known he would no longer represent them.⁴² As part of his job, he advised his clients of the law and their rights within it, no matter if he represented someone in a pro-bono case or in an anti-trust lawsuit. Root never fancied himself as a “corporation lawyer in the sense of being on the payroll of corporations.”⁴³ His highly valued professional independence along with his moral sense of public duty allowed Root the ability to argue for effective reforms against corruption and inefficiency.

Lettering in the Law

Of all the professions available, Root found himself drawn to law at a young age. At the age of fourteen, Nancy Buttrick Root, his mother, and young Elihu traveled to

³⁹ May, *Beleaguered Rulers*, 84.

⁴⁰ Gordon, “The Citizen’s Lawyer,” 1174.

⁴¹ *Ibid*, 1173; Jessup, *Elihu Root*, vol. 1, 187.

⁴² *Ibid*. Gordon states that if a lawyer’s clients pressured them to do things outside of the law in order to represent them, then “citizen lawyers” advised them against their actions and if needed, threatened to withdrawal. Root did exactly that.

⁴³ Warren Zimmerman, *First Great Triumph: How Five Americans Made Their Country a World Power* (New York: Farrar, Straus And Giroux, 2002), 131.

Washington, DC. This trip forever altered his life. He had arrived at the epicenter of American life, “the factory where laws were made.” According to a Root biographer, the nation’s capital “never looked as great to Root as it did then.”⁴⁴ He returned home to Clinton, New York with a new understanding of how his government functioned and an avid interest in the American legal system. His education at Hamilton College, along with his father’s position as a math professor there, brought him into the same social circles with several men of the Oneida County bar connected to the college. Only thirteen miles north of his hometown, Root found employment teaching at the nearby Rome Academy in 1864. His experience at the school reinforced his desire to enter the legal field. While at the school, he attended numerous commencement addresses given by big named New York lawyers of the day, including Horatio Seymour, Joshua Spencer, Hiram Denio, Simon Newton Dexter, Erastus Clark, and Publius Rogers. According to Root, these men as “distinguished lawyers naturally impressed me as a boy, and seeing them inspired me with an ambition to follow a profession that my heroes had adopted.”⁴⁵ He spoke in awe of these “Olympian Gods” and how they “determined my course in life and obliged me to become a lawyer rather than a teacher.”⁴⁶ Though he chose the profession of law, his parents sufficiently instilled in him a devotion to community and principle over the mere acquisition of wealth.

⁴⁴ Elbert Hubbard, *Olympians: Elbert Hubbard's Selected Writings, Part II* (Whitefish, MT: Kessinger Publishing, 1998), 283.

⁴⁵ Mitchell Mannering, "Elihu Root—Statesman," *National Magazine* 23 (Oct. 1914-Mar. 1915): 24.

⁴⁶ Jessup, *Elihu Root* vol. 1, 47-8.

In 1865, the draw of New York City and his passion for law proved too much for young Elihu to resist. He gained acceptance into the New York University Law School, though his family lacked the necessary means to pay his way. At twenty-two, his law school classmates described him as “slim, slender, pale, and athletic” with a “calm, cold, gray eye and the keenness of intellect” to excel in law school.⁴⁷ After growing up the son of a mathematics professor, drawing a meager sum of a \$800 a year for a family of five, young Elihu found teaching honorable, yet economically restrictive. In fact, one newspaper reported, “The Roots were poor.”⁴⁸ To secure additional funds, he educated children at the Fifth Avenue location of the Young Men’s Christian Association (YMCA) in New York. This position provided a paltry, yet sustainable income accompanied by infrequent, small contributions from his parents. Though he never talked much about it, Root faced nights “when his pockets were empty of money—literally” and times “when he was hungry.”⁴⁹ Although Root’s choice for law reflected his economic concerns, his parents’ influence kept him grounded in his connection to community service and high-minded principles.

In an 1867 meeting at the Brooklyn YMCA, Root first enunciated his progressive principles. In a fifteen-minute speech entitled “Christianized Ambition,” Root laid out the importance of service to community over individual selfishness. According to the journalist covering the story, Root explained to his young audience that “ambition was a feature of our times; that it was natural, but, only when Christianized and exercised for

⁴⁷ Hubbard, *Olympians*, 283.

⁴⁸ James B. Morrow, "Life of Elihu Root, Statesman And Peace-Worker," *Washington Herald*, January 11, 1914.

⁴⁹ *Ibid.*

the glory of God.” He concluded the speech by telling his audience, “It is of great importance that wise rulers should guide the State, that honest and learned jurists should control the Courts, that skillful Generals should lead armies, that good and charitable men should wield the mighty powers of wealth.”⁵⁰ Though many might find these words idle and empty, Root’s words represented in a subtle manner a strain of progressivism growing in many circles in the Northeast. In the post-Civil War period, reformers called for honest and efficient leaders who ran government and business. Over time, this strain of ideals expanded into larger reform movements that finally converged into the Progressive Era. As he grew and matured, Root attempted to embody these same principles throughout his life, while trying to navigate his way to a successful legal career.

In summer of 1867, Root received his bachelor’s degree of laws and within weeks gained admission to the New York State Bar. He then obtained placement with one of the state’s leading firms, Mann and Parsons. Though Root found solace in his transition from student to lawyer, his mother worried about her child’s wellbeing and adjustment to “big city” life. In a letter, he attempted to calm his mother’s fears, telling her to relieve herself “of all anxiety for my well being[,] my success[,] or my happiness.” His writing continued, telling her, “I feel like a well mounted firmly seated rider; independent & confident and happy. How soon darkness and pitfalls & devious ways may come, God knows.”⁵¹ He kept to these values and gained attention by his employers and his peers for

⁵⁰ "Regular Monthly Meeting of The Young Men's Christian Association," *Brooklyn Eagle*, February 13, 1867.

⁵¹ Jessup, *Elihu Root*, vol. 1, 47-8.

his sheer ability to listen. As his biographer and contemporary explained, Root discerned much about a client through listening. Jessup contended Root “could listen to a client’s complaints and know how much of it was constitutional or temperamental, and how much was injustice.”⁵²

By 1868, Root left his appointment at Mann and Parsons to form his own profitable firm with a fellow attorney John H. Strahan. At the age of twenty-four, Root earned more than five times his father’s income, but never forgot his parents. Envelopes soon arrived at the home of his parents, paying back the money they lent to Elihu and surpassing any debt he owed to them for many years to come. Despite his initial successes as a lawyer, Root ultimately gained fame in law as assistant defense counsel in 1871 during the prosecution of the infamous William Marcy “Boss” Tweed and two of his associates. Newspaper writers and owners like Hearst overplayed his involvement in that case. He was a struggling young lawyer trying to make a living at the time and took the case. He only served as a junior defense attorney on a legal defense team that consisted of five men. In the trial, Root did little more than “urge that not prejudice or public outcry, but the law, should control the punishment of the offender.”⁵³ His

⁵² Hubbard, *Olympians*, 284.

⁵³ G.V. Thomas, "Elihu Root: The Man," *San Francisco Call*, July 30, 1905. During the trial, Root functioned as one of five attorneys. Some point out the fact that after the trial the judge, Noah Davis, found the three senior attorneys in contempt for their diversionary tactics during the trial. Root and his young counterpart received a verbal reprimand reminded Root and another junior attorney to remember that a client “never can justify nor require bad faith to your conscience, and however good a thing it may be to be known as successful and great lawyers, it is even a better thing to be known as honest men.” Some point to this as the beginning of his unscrupulous career and even contended that Root led this effort of judicial trickery. Interestingly, Judge Davis admitted, “he knew full well who was the author of the suggestion, and added that he had refrained from fining Mr. Root on the ground that he was a young man . . . they were the ones who were

involvement in the case gained him name recognition and a larger clientele base, but it also provided ammunition for a press hungry for selling newspapers. As a result, these overblown claims often obscured his subsequent reform efforts, such as legal access for indigent clients, in the minds of a misguided public.

Legal Reform for the Poor

Throughout much of the nineteenth century, the poor lacked significant access not just to the mechanism of law, but often to justice itself.⁵⁴ Root recognized that major societal changes during America's Gilded Age "greatly increased complications of life." As a result, everyday people lacked access to the "provisions for obtaining justice" and were "no longer sufficient."⁵⁵ "The people who know how," he wrote, "can easily get a very good brand of justice, but the people who don't know how have little reason to suppose that there is any justice here."⁵⁶ Such a feeling left him with the fear that those who never knew justice developed "a very bad idea of our institution."⁵⁷ However, beginning in 1890 several reform-minded attorneys formed the Legal Aid Society of New York (LASNY) as a way to combat the problem of the poor lacking effective protection

really culpable in the matter."

⁵⁴ John C. Satterfield, "The President's Page," *American Bar Association Journal* 47, no. 9 (Sept. 1961): 886.

⁵⁵ Reginald Heber Smith, *Justice and the Poor* (New York: Charles Scribner's Sons, 1919), ix-x.

⁵⁶ Smith, *Justice and the Poor*, ix-x..

⁵⁷ Reginald Heber Smith and John S. Bradway, *Growth of Legal Aid Work in the United States*, vol. 398, *Bulletin of the United States Bureau of Labor Statistics* (Washington, DC: Government Printing Office, 1926), 69.

before the law.”⁵⁸ By 1896, Elihu Root, Theodore Roosevelt, and Joseph Choate joined in the effort, becoming lifetime members and vice presidents of the group, as well as advocates of progressive legal reform for the poor. As part of their mission, the LASNY provided legal counsel “to secure the rights of wage-earners, men, women, and children, without any distinction of nationality, religion, or race.”⁵⁹ Over time, the organization expanded as the need for their services increased.

By 1912, LASNY consisted of eight different branches throughout New York City, handled on average over 34,000 cases per year, and published a number of informative journals and informative guides, including the *Legal Aid Review*, *Log Book for Sailors*, and the *Guide for Immigrants*. As word spread of their success and their mission, other similar groups developed in other states. Soon, these reformers hosted few national conferences made up largely of lawyers from other cities. In these areas, lawyers realized these clients could be served more efficiently by having established law offices for the express purpose of providing legal aid rather than the mere individual efforts of attorneys.

In the fall of 1911, Mark Acheson, Jr., the president of the Pittsburgh Legal Aid Society, organized a national legal aid conference, consisting of sixteen legal aid societies. They convened in New York in order to centralize their efforts to “bring about

⁵⁸ William E. Walz, "Legal Aid Societies," *American Law School Review* 3, no. 8 (November, 1914): 417. The Legal Aid Society of New York was preceded by the German Law Protection Society founded in 1876. Due to the abundant need of their services amongst the poor, the society lacked ability to function as merely German only organization. Thus, they expanded to include a number of other groups that needed legal assistance.

⁵⁹ *Ibid.*

cooperation and increase efficiency in their work, and encourage the formation of new societies.”⁶⁰ At this second such legal aid conference lawyers collaborated to form the National Alliance of Legal Aid Societies (NALAS). The organization endeavored to raise awareness about troubles “known only to the poor” by making sure they received their day in court.⁶¹ At the heart of their efforts, legal aid societies attempted to institute reforms such as obtaining decent in court representation for defendants, streamlining court procedures, and curbing the gross excesses of the age. According to one estimate, over half of the people who required legal help in areas with aid organizations received it.⁶² The approach to legal aid and the depth of a group or individuals commitment to the impoverished differed by region and how they interpreted their role in promoting public service. Most, though not all, legal aid organizations shied away from aiding in criminal, paternity, and personal injury. These groups generally cited a lack of necessary resources and information as to why they avoided these cases. Along with their efforts, university law schools and other legal organizations joined in the movement by often volunteering their services as a way of promoting civic-mindedness in the profession. By 1916, legal aid organizations continued to expand their efforts to ensure legal access both in terms of lawyers participating and money spent by different organizations. However, American involvement in World War I along with the uneven implementation of this “national”

⁶⁰ Smith and Bradway, *Growth of Legal Aid Work*, 67.

⁶¹ Walz, “Legal Aid Societies,” 417. Groups represented major cities at the conference such as: Baltimore, Boston, Colorado Springs, Chicago, Cincinnati, Cleveland, Kansas City, New York City, Philadelphia, Pittsburgh, St. Louis, Westchester County (modern day White Plains, NY and surrounding areas), and others.

⁶² Robert Sauté, *For the Poor and Disenfranchised: An Institutional and Historical Analysis of American Public Interest Law, 1876-1990*. (New Orleans: Quid Pro Books, 2014), 32.

legal endeavor limited the early success of the group. In the years after the war, Root's leadership provided a much-needed spark to the progressive campaign for indigent access to legal services.

In years after World War I, Root commissioned a study on the poor's lack of access to proper representation before the law while serving as a trustee of the Carnegie Corporation of New York. The study, carried out by Reginald Heber Smith a member of the Boston bar, led to the publication of Smith's results entitled *Justice and the Poor* in 1919. Root penned the introduction to this progressive legal study and wrote about the impertinent inequality within the legal process. In the book, Smith highlighted the differences in the degree of justice obtained by the rich and the poor, arguing that justice in America seemed anything but blind. According to him, two paths existed within the American legal system: one that provided justice to those who could afford it and another that denied it to defendants whom lacked the necessary funds. In another speech on the subject, Root stressed that the social or economic position of the wealthy "gave them no right to dictate or rule others" no matter what neighborhood a person hailed from or the "fashionableness of their tailor."⁶³ Though vast differences in material wealth existed during the period, the Constitution secured the right of all peoples to have equality before the law.

Distraught by the findings, Root wholeheartedly agreed with Smith's analysis that lawyers failed to provide justice to those displaced by industrialism and shunted aside by "progress." As a result, he dedicated his efforts to becoming an "outspoken

⁶³ Jessup, *Elihu Root*, vol. 1, 163.

reformer” of the legal aid movement.⁶⁴ To him, the book showed, “we [lawyers] have not been performing that duty very satisfactorily, and that we ought to bestir ourselves to do better.”⁶⁵ Instead, as professionals, lawyers needed to strive much farther than they had in carrying out their public duty. Accordingly, Root declared the, “highest obligation of government is to secure justice for those who, because they are poor and weak and friend-less [sic], find it hard to maintain their own rights.”⁶⁶ The nation spent too much time dwelling on individualist need and remained “slow to appreciate the changes of conditions which to so great an extent have put justice beyond the reach of the poor.”⁶⁷ He ended his approval of the work by announcing a call to action, demanding, “it is time to set our own [legal] house in order.”⁶⁸ Well into the 1920s, Root continued to his fight for the legal representation for the poor.

Along with Justice William Taft, the two men, described as “giants” of the legal aid movement, secured a major change to the Constitution of the American Bar Association in 1921. They elevated the Committee on Legal Work to a standing committee within the organization, giving the issue greater prominence and permanence. Additionally, Root both served on and secured financing for the National Committee on Legal Aid Work, an organization that helped create a much stronger the National

⁶⁴ William T. Gossett, "Making Paper Rights Worth Something," *American Bar Association* (Jul. 1963): 669.

⁶⁵ Smith, *Justice and the Poor*, ix.

⁶⁶ Ibid.

⁶⁷ Ibid., x.

⁶⁸ Smith, *Justice and the Poor*, x.

Association of Legal Aid Organizations (NALAO) in 1923. By that year, the ABA along with the National Legal Aid and Defender Association (NLADA) funded and supported the over sixty-one legal aid offices located throughout the country.⁶⁹ The national organizations continued to stress a lawyer's commitment to community and the "least among them" at the local and state level. All throughout Root labored on countless committees, headed numerous organizations, and devoted much of his efforts toward ensuring the poor gained access to legal representation.

Civic-Minded Public Service

Like many progressive lawyers, Root's envisioned his duty as more than just serving a client; it meant representing the interests of the public. As such, he entered politics to solve the important problems of the day, all the while serving the greater community. In the 1890s, Root served as part of a legal counsel for the New York City government, representing the people of New York. In a particular case known as *O'Brien v. New York City*, Root saved the taxpayers of New York City between \$5,000,000 and \$8,000,000 dollars in the construction of the Croton Aqueduct.

A general contractor named John O'Brien, representing the company of O'Brien and Clark, sued the City of New York, claiming the government owed them \$732,312.93 dollars for labor completed beyond the agreed contract. O'Brien justified the cost by claiming engineers provided misleading information about the project, causing the contracting company to spend more money to remedy the issues they found once construction began. Oddly enough, they even sought payment for having to redo a grout job they admitted was due to faulty labor by their own company.

⁶⁹ Satterfield, "The President's Page," 886.

The city, represented by Root and his team, claimed the contract prohibited the contractor from collecting beyond the agreed upon amount, especially extra costs due to their own shoddy construction. In their ruling, the jury remained satisfied “the construction given by the engineer to the contract was fair,” and if O’Brien worked beyond “he was to fill up at his own expense.”⁷⁰ Additionally, Root found no evidence of corruption or misconduct on behalf of the engineers. After losing the initial trial, O’Brien appealed the ruling to the New York Appeals Court. The judges rejected O’Brien’s claim and upheld the original verdict, citing, “nothing can be recovered under the contract except what was certified by the engineers.” Thus, Root represented the interests of the city just as effectively and with as much passion as those in his private practice.

As Root gained clout within inner circles of New York City, Republican Party leaders regularly turned to him for political counsel and offered him positions within government. He maintained a great interest in the political process, but always shied away from becoming an active politician in the beginning. One of Root’s close friends, the well-known attorney and ambassador during Wilson administration Henry Morgenthau Sr., recounted that Root told him in 1896 that lawyers should “when called upon, render a public service, complete it, and then return to his profession, but be ready for any further calls that may be made upon him.”⁷¹ Throughout his career, Root refused to actively run for office, but would answer calls to government service from those around him on the basis that it represented the duty of citizens within a functioning

⁷⁰ "A Victory For The City," *New York Times*, July 2, 1891.

⁷¹ Henry Morgenthau, *All in a Life-Time* (New York: Doubleday, Page & Company, 1922), 37.

democracy to be involved. He viewed politics as something done on behalf of the public, not for individual benefit. At an 1879 commencement address at his alma mater, Root stressed the importance of civil engagement to the young graduates by stating the “most fatal malady by which a free people can be attacked, is the withdrawal of good citizens from the exercise of the governmental duties and the indifference to political affairs.”⁷² Though he had no interest becoming either a career politician or lifelong bureaucrat, he slowly entered the political realm out of a sense of duty along with his desire to reform what he saw as a broken and corrupt system.

To Root, the core of a person’s civic duty in constitutional government rested on serving the public when called. In a commencement address at Hamilton College, he described what he referred to as a “disease of political degeneracy” that gripped the nation.⁷³ Crooked political bossism, unresponsive governments, and debauched corporate leaders were symptomatic of the ever-increasing greed, corruption, and political apathy. As an individual attempt to try and stem the tide, Root participated in local and state politics. He believed his reform efforts had the greatest effect in creating efficient government at the local and regional levels. In the early 1880s, he joined the Union League of New York and served on the Republican Central Committee. As word spread of his prowess as an attorney and his reputation as an honest broker, Root caught the attention of a fellow New York lawyer turned accidental president, Chester A. Arthur.

In March of 1883, to his complete amazement, Root learned through the newspaper that President Arthur suggested his appointment to the position of US district

⁷² Zimmerman, *First Great Triumph*, 134.

⁷³ Jessup, *Elihu Root*, vol. 1, 116.

attorney for the Southern District of New York. As part of his civic virtue and professionalism, Root accepted the nomination to once again serve the public interest. In the year 1883, his salary as district attorney netted him \$6,000 a year, a pittance in comparison to the reported \$100,000 dollars a year he earned in private practice. He, like other professionals, sought the primary goals of “earning a good living, elevating both the moral and intellectual tone of society, and emulating the status above one on the social ladder.”⁷⁴ As word of his nomination spread, not even the rival Democratic Party in New York found fault with his appointment or confirmation. This lack of partisan argument stood out in era of increasing political divide and showed that his peers judged him to be above politics and reproach for the position. The editor of the *Democrat & Chronicle*, an opposition Rochester newspaper, wrote that Root held the “strictest probity, the highest honor, of liberal education and refined association, and one of the ablest young lawyers in the Metropolis. It was impossible to criticize his nomination, even if one felt disposed so to do.”⁷⁵ So in March of 1883, District Judge Addison Brown administered the oath of office to Root, marking his first ascension to public office. For the next two years, Root represented the state in numerous cases, ranging from customs issues and head tax cases, to bank fraud and international law. As the lead district attorney, Root served as US District Attorney, expanding his knowledge of the law and commitment to rooting out corruption.

⁷⁴ Burton Bledstein, *The Culture of Professionalism: The Middle Class and the Development of Higher Education in America* (New York: W.W. Norton and Co., 1976), 80.

⁷⁵ Jessup, *Elihu Root*, vol. 1, 137.

Uprooting Political Corruption

While serving as US district attorney, Root never hesitated to prosecute corrupt and unscrupulous leaders in who sat in public office or headed private business. From his time representing large companies, Root understood some of the key weaknesses of the office he inherited. Two months into his new job, he asked a judge to remove the New York Shipping Commissioner Charles C. Duncan from his position on charges of corruption and nepotism. Upon examination of Duncan's office accounts, Root noticed large inconsistencies in the amount of money taken in by the office on paper and the actual amount of money on hand. According the *New York Times*, Duncan's office recorded receipts on average of \$20,000 a year, while only \$2,000 to \$3,000 of this amount ever made its way into the US Treasury in ten years. After some further digging, he discovered Duncan's three sons on the office payroll at unusually large salaries. In fact, for the year of 1882 the Shipping Commissioner's office reported receipts totaling \$22,531.50 with payroll expenses accounting for \$19,673.89. The top earners within the office, Duncan and his three sons, received \$13,016.16 of the total.⁷⁶

With this information gathered, Root constructed his case and proceeded toward the removal of this blatantly corrupt official along with his nepotistic children. Root wrote a letter to the court of Judge William C. Wallace explaining the plain nature of how dividing up public fees between family members "would be generally and properly regarded as an abuse, and which would naturally tend to bring [that office] into discredit."⁷⁷ Duncan and his lawyer countered that the investigation represented a

⁷⁶ "Commissioner Duncan's Sons," *New York Times*, June 9, 1883.

⁷⁷ *Ibid.*

politically motivated attack. He stated in a speech before the Brooklyn Union that an unnamed “they” lacked the ability to “attack my honesty and they had to look about for something else.”⁷⁸ As word of the trial spread, Mark Twain, who hated Duncan as a result of their past run-ins, comically praised Root in the *Times*, saying:

Mr. Root doesn't like the way in which the funds of the Shipping Commissioner are disbursed. He thinks it isn't just the thing for gallant Duncan, after gobbling \$5000 for personal salary, to give a half-dollar or so to an errand boy and then cut the surplus into three equal parts and to each of the scions of the house of Duncan give an exact third. A hard man to please is this District Attorney Root.⁷⁹

At the trial, the judge demanded that Duncan answer the prosecution's charges, but Duncan failed to establish anything substantial. The defendant seemed more focused on charging the *New York Times* with libel in the sum of \$100,000 for what he believed the paper's unjust campaign against him and his good name. In particular, he referenced a June 10, 1883 article that charged that Duncan “dishonestly and corruptly” defrauded the US government.⁸⁰ He contended that such treatment constituted a slanderous attack, despite the fact the article's writer referenced interviews and public records to defend his claims throughout the piece. With his corruption trial ongoing, Duncan's lawyers hatched a plan to call for a halt to all other proceedings until the jury rendered a verdict on his libel suit.

In early March 1884, the libel suit against the *New York Times* lasted for a mere five days in a Brooklyn courtroom. The jury finally returned its verdict, a verdict no one expected. The jury found in favor of the plaintiff Duncan, but only for damages to his character that totaled the walloping amount of twelve cents. His defense attorney's plans

⁷⁸ *New York Times*, May 14, 1884.

⁷⁹ "Mr. Mark Twain Excited," *New York Times*, June 10, 1883.

⁸⁰ "He Should Be Removed," *New York Times*, March 9, 1884.

failed in their objective. This lengthy legal diversion, lasting several months, failed to vindicate Duncan's name and probably served to turn public opinion against him even further. District Attorney Root kept his cool during this interlude, limiting his responses to the press on the corruption case rather than the sideshow that unfolded. With the libel case resolved, he pushed forward with his indictment on behalf of the citizens of New York. On May 13, 1884, the court ordered Duncan and the rest of his family members removed from office. Root filed subsequent paperwork before the court in January of 1885 in order to force the defendant to "pay the balance above lawful compensation into the United States Treasury."⁸¹ This trial reaffirmed his role as a protector of the public trust.

As one of the only two US district attorneys in the entire state, he held the responsibility of protecting a large portion of the nearly nine million people of the state not only from the illicit activities of public servants, but also the shady schemes of professional businessmen.⁸² In May of 1884, the New York press reported the surprising bankruptcy and closure of one of its most well-known banking institutions. Rumors and speculation spread throughout the New York financial community as to its cause. Many spoke of toughening times in the financial market as the primary reason for its collapse, while others such as Root investigated the possibility of fraud and scandal.

As a clearer picture emerged, Root focused his prosecutorial efforts on two, well known, and wealthy Wall Street tycoons: James C. Fish and Ferdinand Ward. He soon learned that Fish, the sitting president of the Marine National Bank, and one of his

⁸¹ "Duncan Must Explain," *New York Times*, January 18, 1885.

⁸² Albert Perry Brigham, "The Population of New York State." *Geographic Review* 2, no. 3 (Sept. 1916): 207.

associates, Ferdinand Ward, attempted to defraud thousands of dollars from one of America's most well-known post-war families. These two men formed a wildly successful partnership centered on financial investment and stock market speculation. By 1880, Fish and Ward shared not only sizable fortunes, but a certain reputation for their acumen in American finance. Within this venture, Fish, the elder by twenty years, usually worked behind the scenes, using his skills as bank president to oversee various aspects of the financial process. The much younger Ward handled the task of winning over the confidence and more importantly the large funds, of would-be investors.

Touted by some on Wall Street as the "young Napoleon of finance," Ward caught the attention of former president and Civil War general Ulysses S. Grant. In 1879, this son of a Baptist preacher quickly charmed Grant out of a \$50,000 investment with the assurance of a substantial return, while the general and his family traveled the world. When the Grant arrived back from his trip, he met with Ward to find out the state of his investment. Ward, with a smile, then presented the former president with a check for \$250,000, informing him of the major success of the investment. This served as the real bait to lure in the president.

The monetary amount on the check represented investment monies Ward raised from other clients, not any true net gain of the company's investment in the stock market.⁸³ He paid off the "earnings" of earlier clients with the investment of new ones. This process of known as hypothecation used loan money from one investor to pay another who they owed, closely mirroring a financial racket later known as the "Ponzi

⁸³ Scott B. MacDonald and Jane E. Hughes, *Separating Fools from Their Money: A History of American Financial Scandals* (New Brunswick, NJ: Transaction Publishers, 2007), 65.

scheme.” Interestingly, Ward applied this scam almost fifty years before the nation ever heard of Charles Ponzi’s swindle.⁸⁴ Unethical as it sounds by today’s standards, Wards utilized what was then a legal process. However, he engaged in hypothecation in an illegal manner. According to the law, an investor pledged their money with an understanding that it supported no other loan.⁸⁵ In reality, Ward utilized investor seed money to pledge a number of the same securities to support more than one bank loan. Such a behavior was well beyond what investors knew and the law allowed.

Ward uncannily measured up his clients and preyed on their weaknesses. By giving Grant such a large return in their first interaction, he expertly counted on the former president to reinvest the majority or entirety of the sum made in order to make even more. Ward lucked out that just as he entered the trading business in 1880, the stock market had rebounded from a previous down year.⁸⁶ Unaware of the true nature of his fortune, former President Grant only played into Ward’s hand. During that time, Ward lost none of his other investors’ money and could add Grant’s name to a list of growing satisfied customers. This technique masterfully spread the reputation of Ward into even higher social and political circles throughout New York City. Grant even foolishly authorized Ward to use his name to advertise the business, unaware of the unethical and

⁸⁴ For further discussion, see Mitchell Zuckoff, *Ponzi’s Scheme: The True Story of a Financial Legend* (New York: Random House, 2005).

⁸⁵ William S. McFeely, *Grant* (New York: W.W. Norton & Company, 1982), 491.

⁸⁶ MacDonald and Hughes, *Separating Fools from Their Money*, 64.

illegal parts of the practice.⁸⁷ He also garnered more of Grant's trust by offering him a chance to create an investment firm.

The firm of Grant and Ward was capitalized at the fairly sizable sum of \$300,000. The company's membership consisted of the former president and Fish as silent partners, while Ulysses "Buck" Grant, Jr. and Ward tended to its operation.⁸⁸ Sadly, the president's son lacked significant interest and the necessary experience to carry out his task. Thus, Ward singularly controlled the daily decision-making and financial aspects of the firm. He and Fish worked to ensure investors gained a return on their investments. Though initially successful to the tune of \$2.5 million, Ward and Fish encountered trouble as their operations expanded and the financial market tightened. The money they paid out eventually began to overtake the money they took in, causing them to look to other sources. Fish embezzled the majority of the money they needed from his own bank, citing them as "loans" to be paid back by Grant and Ward.⁸⁹ They utilized the high interest money from the bank to invest in Wall Street with the hope of paying off their debts with the proceeds of the investment. In only a short time, this false construction of economic success tumbled down atop them and their investors.

In early 1884, the stock market dipped downward causing mild concern to financial watchers. To the firm of Grant and Ward, the downturn in the stock market created chaos and panic. To counter the situation, Ward and Fish moved to acquire even

⁸⁷ MacDonald and Hughes, *Separating Fools from Their Money*, 65.

⁸⁸ Doug Wead, *All the Presidents' Children: Triumph and Tragedy in the Lives of America's First Families* (New York: Atria Books, 2003), 74.

⁸⁹ Geoffrey C. Ward, *A Disposition to Be Rich: Ferdinand Ward, the Greatest Swindler of the Gilded Age* (New York: Vintage Books, 2012), 242.

more “loan” money from the bank to cover its losses. Throughout this long period of extending “loans” to the firm, the bank leveraged its finances by holding only \$400,000 in capital while the value of its liabilities stood at \$6.7 million. Without the economic safety-valve of the bank, the firm of Grant and Ward quickly collapsed in May of 1884 with the bank not too far behind. The Grant family lost a large portion of its wealth, while the actions of Ward Fish triggered chaos on Wall Street, leading to the rather localized Panic of 1884.⁹⁰

As numbers of people reeled from the financial crisis, Elihu Root focused his efforts first on the Fish, the former president of the now defunct Marine National Bank. Meticulous by nature, Root spent six weeks putting together the huge mass of evidence, including checks, securities, and ledgers, into some sort of order.⁹¹ He vigorously prosecuted the defendant, taking two weeks to lay his case against Fish. By the end of March, Root rested the government’s case, announcing to juries that if it was up to him, Root would have prosecuted the bank’s ex-directors right alongside its former president.⁹² In April, the jury found Fish guilty of fraud and embezzlement.

Fish foolishly maintained his innocence, calling Ward, “one of the greatest schemers the world has ever produced.” Though Fish blamed Ward for the entire scheme, a writer for the *Nation* pointed out that Fish neglected to mention that Ward “passed over to him as ‘dividends’ or ‘profits’ from 40 to 50 per cent, of every handful which he took

⁹⁰ Elmus Wicker, *Banking Panics of the Gilded Age* (New York: Cambridge University Press, 2000), 35.

⁹¹ Ward, *A Disposition to Be Rich*, 242.

⁹² *Ibid.*, 244.

from the vaults.”⁹³ As the sentencing portion of the trial began, Fish’s attorneys attempted to delay it until June. They believed by allowing some time to pass that public outrage would lessen and so would Fish’s sentence. Root refused to allow it and argued the motion impeded justice, especially in a trial where the jury already decided on the verdict. The court rejected any such postponement, and quickly condemned Fish to ten years in prison.

Root’s office then set its sights on Ferdinand Ward. He filed six indictments against him, but Ward already faced charges of fraud connected to the same scheme in a lower New York court. Though he feared there might not be enough witnesses, Fish quickly turned on his former business partner and served as a key witness against him. Root carefully watched the progress of the trial, which ended in the jury also sentencing Ward to ten years imprisonment with him serving six and a half years. The desired result achieved, Root emerged in legal circles as a valiant defender of the public interest and fair dealer within the courts.

So in spite of the contemporary and historical portrayals of Root as a slave to the legal needs of big corporations, his time as district attorney revealed a man dedicated to finding justice and upholding law, no matter the defendant in the case. Also, instead of accepting the status quo of inefficiency of New York’s district court, he mapped out new strategies to streamline its efficiency and give it order, adding to the hallmarks associated with reformers and progressives of the period. In fact even almost a century later, the historical committee referred to him as “the most famous man to serve” in that position.⁹⁴

⁹³ Wendell P. Garrison, ed., “The Week,” *Nation* 40, no. 1034 (Apr. 23, 1885): 338.

⁹⁴ Historical Committee, *The First 100 Years*, 83.

As Root celebrated the outcome of Fish's and Ward's trials in early 1884, he also faced significant changes in the political landscape.

In early June 1884, the Republican Party held its national convention in Chicago's famed Exposition Hall. Root attended as one of 1600 delegates, but did so clearly to support the incumbent president, Chester Arthur. Arthur faced stiff resistance by his fellow Republican challenger, James G. Blaine. A native Pennsylvanian, Blaine had served most of his adult life in politics, including hold cabinet positions under both Garfield and Arthur. Despite his wealth of experience and years of political service, stories emerged of Blaine as a man deeply embroiled in scandal and associated with corruption. Root and other "Mugwump" reformers within of the Republican Party dedicated themselves to purging any hint of dishonesty and disgrace.⁹⁵

Despite the stringent opposition of Root and other so-called "Mugwump" reformers, Blaine narrowly secured the Republican nomination. As the result of this split between old, hardline Republicans and their reformer counterparts, Blaine faced defeat at the hands of the Democratic challenger, Grover Cleveland. In January of 1885, Grover Cleveland took office as the first Democratic president since the Civil War. For reasons that remain unclear Root decided to resign his position as US district attorney. Possibly Root grew frustrated with his inability to enact meaningful reform within district

⁹⁵ The Mugwumps were Gilded Ages moral reformers concerned with reinvigorating virtue in personal and civic life. College educated, they tended to be part of the Republic party's reform wing and identified with republican civic virtue and classically liberal thought. Root, though known as a Republican blueblood, shared the values of old Mugwump families. For further discussion, please see David M. Tucker, *Mugwumps: Public Moralists of the Gilded Age* (Columbia: University of Missouri Press, 1998); Gerald W. McFarland, *Mugwumps, Morals, and Politics, 1884-1920* (Amherst: University of Massachusetts Press, 1975).

attorney's office. When discussing Cleveland's personality, Root said the president was "absolutely immovable" in his conviction once he settled upon them, "whether one agrees with his views or not."⁹⁶ Regardless, Root journeyed to Washington, DC to meet with President Cleveland during the middle of his first term to resign from the post in such a way to "cause him [Cleveland] the least embarrassment possible."⁹⁷ Cleveland affably accepted his resignation. Root then turned his attention to cleaning up machine politics that had so dominated New York City and other large urban areas during this time.

Man Against the Machine

Upon his return to New York in 1886, Root and the other reformist elements of the Republican Party attempted to wrest power away from the bosses and make the party a more wholesome, representative body of the city.⁹⁸ Since the middle of the nineteenth century, political bosses controlled New York local and state politics with an iron fist. One of Root's colleagues and fellow attorney, A.W. Tenney, lamented, "Fraud and corruption walk the land unabashed and unrebuked. Political jugglery is fast taking the place of political integrity. Rights and privileges that have been purchased by blood and made sacred by tears, are offered for sale by political tradesmen like peas in the market or meat in the shambled."⁹⁹ By this time, Root had developed a significant reputation within political circles as a reformer. One of his friends attested that whenever "any fighting on

⁹⁶ Root, *Miscellaneous Addresses* (Cambridge: Harvard University Press, 1917), 106-07.

⁹⁷ Jessup, *Elihu Root*, vol. 1, 143.

⁹⁸ *Ibid.*, 173.

⁹⁹ "Laying Its Cornerstone," *New York Times*, October 6, 1889.

behalf of clean politics and municipal reform was to be done, the name of Elihu Root was always to the fore.” Despite his zeal, any challenge to upend the power of machine politics faced steep opposition from the entrenched political machinery of both parties.

Many Republicans lost faith in the ability of their party to clean up the decade’s long corruption and bolted from the party in reaction to Blaine’s nomination in the 1884 presidential campaign. New Yorkers overwhelmingly voted for the Democratic candidate and native-born New Yorker, Grover Cleveland.¹⁰⁰ Instead of going along with the political tide, Root stood on the sidelines of the national election, choosing to focus his energies on local and state races. He remained convinced that life still lingered within his party if only the more corrupt elements could be driven from it. The way to restoring the Republican Party of New York involved energizing the people to support its policies by providing them with evidence of such a change, rather than supporting the same failed and fallible Republican leaders.

As part of his good-government mentality, Root grew increasingly distraught with those in his party who merely went along in their support of corrupt officials and policies. In fact, he shocked a crowd of his own partisans during a meeting of the staunchly Republican Commonwealth Club. Root snapped at the group, though none by name, for what amounted to insolence and snobbery. He outlined the manner of their outreach to fellow New Yorkers and Americans at large and believed it should mirror “the humblest follower of Henry George.”¹⁰¹ In another letter he complained about many of these

¹⁰⁰ Lewis A. Grossman, “James Coolidge Carter and Mugwump Jurisprudence,” *Law and History Review* 20, no. 3 (Autumn 2002): 581.

¹⁰¹ A political economist and societal critic, Henry George, wrote about the nature

prominent “brown-stone” Republicans, referring to the characteristically ornate, New York stone homes that many of the elite Republicans inhabited. Though Root himself lived in one of these homes, he used the phrase to evoke the entitled and detached attitudes of his colleagues. Upset with their continuing inaction to heed his warnings, Root wrote to his close friend and fellow lawyer, Whitelaw Reid, that this moribund wing of Republicans represented a “rather worthless specimen” in a changing political world.¹⁰²

In 1886, Root’s involvement in the reshaping of the party pushed him to secure the chairmanship of the Republican County Committee. From this position of power, he confronted the huge problem of electoral fraud occurring throughout the city, much of it within his own party. Political machines held a tight grip on the local politics of both the parties. In order to cement their position as the uncontested leaders of the city and the state, political machines constructed various illegal methods for maintaining power. One reformer sadly noted, “He who can carry a primary or control a ward no matter what the means employed, seems more to be honored than he that planteth a church or taketh a

of poverty in his 1879 book *Progress and Poverty*. Though he began as a solid supporter of the Republican Party during the Civil War, George quickly determined the post-war Republican Party infested with corruption and greed. He saw their alignment with big business as an enigma, but soon understood the relationship to be dangerous to the working class and the working poor of the nation. This led him to leave the party and join the Democratic Party. In his book, George specifically criticized the concentration of unearned wealth as the key factor in creating poverty. Large corporations and individual “robber barons” controlled not only large amounts of wealth, but also land. As a result of their net ownership in these areas, they remained able to assign low wages to workers, which contributed to a cycle of poverty. George found specific examples of these ideas to back his notions during tours of New York in the 1870s and finally moved to the city in 1880. For a more detailed explanation, see Henry George. *Progress and Poverty*. (New York: D. Appleton and Company, 1886).

¹⁰² Whitelaw Reid to Root, December 8, 1886, Elihu Root Papers, Library of Congress, Washington, DC.

city.”¹⁰³ One scheme involved bribing individuals to impersonate a legal voter found on the ballot roll to cast fraudulent votes for party bosses rather than the opposition. Another known as “colonization” or “pipe-laying” used people from other states to come to the polling place, assume false names, and provide false addresses to the city’s registration officers.¹⁰⁴ By far, the most prevalent method involved the misprinting of ballots—either by switching out legal ballots from the opposition party with ballots of their own or by the transposition of party candidates on their manufactured ballots.¹⁰⁵

The most direct form of corruption relied on the party’s payment of cash rewards to those who would hand out ballots to people who either were ineligible voters (newly arrived immigrants) or to others who engaged in the practice of “vote-buying.” Machine operatives, who engaged in the latter practice, “dealt” or “traded” for the votes of poor paupers and vagabonds by giving them a small amount of money, a minor amount of alcohol, or fulfilling some personal promise. Root speculated that this practice accounted for large numbers of voting irregularities, stating that “fifteen thousand names were registered in tramp lodging houses” in 1887.¹⁰⁶ Out of the total votes cast, Root suggested, “it is safe to say that fourteen thousand of these were registered for the

¹⁰³ “Laying Its Cornerstone,” October 6, 1889.

¹⁰⁴ James A. Kehl, *Boss Rule in the Gilded Age: Matt Quay of Pennsylvania* (Pittsburgh: University of Pennsylvania, 1981), 104.

¹⁰⁵ Peter H. Argersinger, *Structure, Process, and Party: Essays in American Political History*. (New York: M.E. Sharpe, Inc., 1992), 49; *Ibid.*, “New Perspectives on Voter Fraud in the Gilded Age,” *Political Science Quarterly* 100, no. 4 (Winter 1985): 673-82.

¹⁰⁶ Abram C. Bernheim, “The Ballot In New York,” *Political Science Quarterly* 4, no. 1 (Mar. 1889): 135.

purpose of selling their votes.”¹⁰⁷ In order to avoid any troubles at the poll for such a practice, the individuals involved in this practice reached their agreement prior to the polling place. The ballot provider then openly handed the purchased voter his card, the voter cast his vote, and the two men walked away only to consummate their deal when they fell out of sight of election officials.

In an 1889 letter to the Brooklyn Citizens League, Root outlined how to curb voter fraud in the city. His suggestion mirrored the recent Australian progressive reform of “secret ballot.” His proposal required each voter receive “full sets of tickets for all the candidates” printed at cost by the government. Such a shift eliminated the need for party operatives to hand out ballots. It also allowed for split-ticket voting and lessened voter intimidation at the polls.¹⁰⁸ Instead of the ballot distributor following the voter to the polls, the voter should be “required to vote in such a manner that no one but himself could know what ballot he voted.”¹⁰⁹ During the convention, Root along with some other delegates signed a measure outlining their position on the secret ballot issue. In order to gain broader support, secret ballot supporters added allowances for voters to select a person without official nomination, a place for write-in candidates, and for assistance for

¹⁰⁷ Bernheim, “The Ballot In New York,” 135..

¹⁰⁸ McFarland, *Mugwumps, Morals, and Politics*, 75.

¹⁰⁹ Root to the Brooklyn Citizens League, January 19, 1868, Elihu Root Papers, Library of Congress, Washington, DC; Bernheim, “The Ballot In New York,” 137.

physically disabled or illiterate people.¹¹⁰ The secret ballot initiative helped to prevent future voter fraud, but Root also wanted to stamp out any vestige of it.

As a result, Root supported and spoke out in favor of new legislation in Albany proposing to give cash rewards to those who secured the conviction of unregistered and illegal voters. These so-called “fraud funds” along with other small steps would help extinguish bribery at or near the polling place “as no one would pay money on the word of a man who would sell his vote.”¹¹¹ Though Root advocated these plans early and often, even the power of his reputation failed to overcome the monetary and power of the New York political machine that relied on such schemes to stay in power. Somewhat disappointed and mainly overwhelmed by the position, Root declined reappointment to his committee chairmanship in 1887. This move in no way slowed his efforts in chipping away at the political machine apparatus.

Root nonetheless kept in the fray. He participated in public campaigns to force the Tammany machine to remove corrupt judges under their pay, pry away their tight grasp on the city police department, and install a merit system as part of civil service reform. On occasion, Root supported politicians from the opposition Democratic Party, when the Republican candidate lacked the necessary skill or moral character for the important responsibility of public office. In 1887, the local Republican Party convention discussed the possibility of nominating two Democrats to the ticket. Instantly, hardline Republicans throughout the room hissed and booed the idea. In the district attorney race, Root and

¹¹⁰ William H. Steele and Charles Elliott Finch, eds., *Revised Record of the Constitutional Convention of the State of New York*, vol. 2 (Albany: The Argus Company, Printers, 1900), 386.

¹¹¹ Bernheim, “The Ballot In New York,” 137.

other reform-minded republicans desired DeLancey Nicoll, a Democrat, to gain the nomination based not on his party, but on his well-known record of opposing and prosecuting corruption during his time as assistant district attorney.

To calm the partisan storm, Root took to the podium and attempted to persuade his fellow Republicans to move away from supporting or opposing a politician merely for his party designation. As the crowd's roar faded into whispers, he then moved to the nomination and endorsement of Nicoll. He explained that the admiration he held for Nicoll arose from "the enemies he has made," referring to the corrupt individuals and politicians who "have been faithless to their trusts, faithless to the people, and faithless to themselves."¹¹² Political bosses, he referred to as "scoundrels," and their faithful supporters, termed the "bands of thieves," pushed good-hearted reformers such as Nicoll out of the party.

Instead of letting the talent of such a man wither and die, Root argued that his party should openly accept him into the fold despite party label. He then reiterated the basis of his struggle as a "fight for reform, for good government, for the right, and not for the wrong. I am enlisted in that fight to the death."¹¹³ In an effort to signal the new, cleaner direction of the party, Root ended his time at the podium by asking God to "grant that the Republican Party will always be the enemy of such men as he [Nicoll] has made his enemies."¹¹⁴ More committed to legal principles than to mere political party, Root supported ardent reformers and campaigned against corruption and the misuse of public

¹¹² "De Lancey Nicoll Chosen," *New York Times*, October 26, 1887.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

trust in local and state government. Another brother-in-arms within the Republican reform movement, George Bliss, asked Root to take part in the Committee of Thirty that he chaired. This committee attempted to reorganize the power structure of the Republican Party.

For too long, Republican political boss Thomas Platt had dominated the party apparatus throughout the state. Bliss, Root, and the other members wanted to place the power back in the hands of the citizenry and remove what stood as the status quo of party corruption. They called for the decentralization of the party throughout the state, leaving the decision and direction of the party in the hands of local leaders. The “assembly plan,” as it came to be known, marked one of the many struggles Root waged against the Platt machine. Such large political realignments moved slowly if at all, but Root understood that rooting out party dishonesty took time and patience. Root continued his steadfast criticism of shadier elements of the party and his support of measures taking on the seemingly herculean task of eliminating corruption within the political networks of New York.

Root and Judicial Reform

In the “Era of Judicial Nationalism” that lasted from 1875 to 1891, the federal court system faced a “litigation crisis” comparable to modern courts today. With the growth of big business, corporate litigation flooded the federal court system. Leaders of corporations, holding companies, and trusts sought restitution in the court system set up for antebellum litigation flows under pre-industrial laws. As the economic stakes in these cases increased, so did the efforts on the part of the lawyers representing them. Lawyers throughout the nation, including Root, recognized the legal system to be in a

transformative state. Over time, laws grew more complicated as a result of industrialization; so too did the legal process grow more complicated and less efficient.¹¹⁵ The length of the arguments before the courts escalated along with the increase in delay tactics and the costs of litigation. Partly due to this legal strategy and partly as a result of the considerable changes within society, cases typically moved incredibly slowly. As a result, the jump in the caseload and added legal complications caused excessive delays and unrealistic court costs, often limiting access to justice.¹¹⁶

During Root's time as district attorney in the 1880s, the US District Court in southern New York at the time suffered massive dock backlogs, cases sat stagnant, evidence ended up lost, and key witnesses disappeared. Called by fellow judges a "leader of the reform wing of the Republican Party," Root attempted to institute a fast-track system for cases by requiring those filing cases in his office to provide complete data to them.¹¹⁷ He additionally pressed for the expansion of court staff and the addition of a second district court judge in order to meet the ever-increasing demand. Between 1887 and 1891, Congress enacted a number of changes, including the Customs Administrative Act, to increase the overall function and efficiency of the court. These changes eased the congestion of the federal courts, but massive problems still remained for state courts, especially in Root's home state of New York.

¹¹⁵ Justin Crowe, *Building the Judiciary: Law, Courts, and the Politics of Institutional Development* (Princeton: Princeton University Press, 2012), 194.

¹¹⁶ American Arbitration Association, *ADR and the Law*, 22nd ed. (New York: Juris Publishing, 2005), 119.

¹¹⁷ United States 2nd Circuit Court of Appeals Historical Committee, *The First 100 Years (1789-1889): the United States Attorneys for the Southern District of New York* (New York: The Committee, 1987), 83.

While society struggled to confront the new challenges and problems of industrialization, immigration, urbanization, and modernization, judicial institutions lagged significantly behind, and they now labored to catch up. The court systems in New York, as in other big cities, reacted slowly to the new realities of the decade they faced. The great speed of the industrial revolution caught them off guard. State and local judges struggled with massive backlogs and growing caseloads along with unending appeals and poorly designated jurisdictions.

In 1894, Root was selected as delegate-at-large to the New York Constitutional Convention. Though he left a lasting impact on all of the proceedings, he exerted the majority of his efforts on the Judiciary Committee as the chair of the committee. He later said the appointment to such a position shocked him as he “didn’t dream of being elected or he wouldn’t have thought of running.”¹¹⁸ Spearheading the committee, he directed its efforts toward two key flaws within the court system: delays in bringing cases to trial and achieving disposition in appeals cases. On August 20, 1894, Root finally presented to the rest of the delegation the findings of his committee. He generally summarized the solution to the problem before the delegates. To alleviate the backlog, Root proposed bringing about an “economy of judicial force” by making sufficient modification to the courts for them to run more efficiently.¹¹⁹ As head of the committee, he endeavored to bring the rule of law closer to the public by promoting a revitalized and responsive court system.

Cities such as New York City, Brooklyn, and Buffalo bulged with new residents and bloated legal institutions. The lines of jurisdiction in lower level courts overlapped

¹¹⁸ Dexter Marshal, "About Elihu Root," *The Day*, November 2, 1898.

¹¹⁹ Steele and Finch, *Revised Record of the Constitutional Convention*, 891.

and crisscrossed each other, making any clear-cut boundaries between these courts impossible to determine. Root's committee proposed to reduce backlogs by reorganizing lower courts in order to make the system more efficient and accessible.¹²⁰ The committee consolidated the Supreme Court and the Superior City Courts in these major cities. As it stood, the system promoted the unnecessary repetition of function and the waste of resources. The committee argued for the transfer of cases from more crowded courts to those, which handled a much smaller caseload, along with a consolidation of human and material resources. Long delays could be alleviated and courtrooms opened up if judges and clerks dealt with a smaller number of cases. This served to maximize efficiency within the system. According to Root, the committee members thought "there will be a very decided economy of judicial force arising from the consolidation of these courts."¹²¹ The committee still struggled to search for ways to streamline the court system.

Aside efforts at consolidating the courts, the committee called for the abolition of unnecessary and confusing courts. Root's committee proposed shutting down the Courts of Oyer and Terminer, circuit courts, and courts of sessions. Those courts, he claimed represented nothing but a court in form and name only and seemed to be "wholly unnecessary and useless."¹²² The Supreme Court absorbed the duties of the Courts of Oyer and Terminer and circuit courts, while the county courts took on the duties of the courts of sessions. Not only did these changes simplify the judicial hierarchy, Root and others argued they provided a "distinct advantage in a popular government that the

¹²⁰ Steele and Finch, *Revised Record of the Constitutional Convention*, 892.

¹²¹ *Ibid.*

¹²² Steele and Finch, *Revised Record of the Constitutional Convention*, 900.

people shall understand the administration of the law.”¹²³ Most importantly, the measures allowed everyday citizens to better understand the function and form of their court system. Beyond the conservation of physical and economic resources, the committee called for an increase in courtroom personnel.

In order to ensure a speedy trial, the Judicial Committee recommended increasing the number of court officials. Originally, the state legislature had proposed the idea as a constitutional amendment. In order to ensure the reform occurred, regardless of the amendment vote, the committee added the measure into the new constitution so that it would be voted on as part of a whole series of changes. The legislature’s proposed amendment called for additional judges, two in the first department and two in the second department of the Supreme Court. The committee went even further to request for another judge to be added to each of the judicial districts. Root claimed the change “will fully supply the need” in lower courts along with “making up for a single loss of working force” in the higher courts.¹²⁴ Additionally, the committee called for placing two additional members on the New York Court of Appeals. By beefing up the number of court personnel in the legal system, Root and other committee member felt satisfied the measure would “to some degree increase the working power of the court.”¹²⁵ Though this solved the immediate problem in the short term, Root also understood the need for further reform to prevent a reoccurrence of the same issues just a few months or years later.

¹²³ Steele and Finch, *Revised Record of the Constitutional Convention*, 900.

¹²⁴ *Ibid.*, 892.

¹²⁵ *Ibid.*, 897.

The committee identified the New York Court of Appeals as a key part of excessive delays. As a result, they called for limiting the scope of cases heard by the Court of Appeals and creating the Appellate Division of the Supreme Court to handle wide-ranging legal issues. Almost all litigants who lost their case in the lower courts, regardless of reason or the type of case it was, automatically appealed their case to the New York Court of Appeals as the court of last resort. As a result of the amount of legal business discharged throughout the state, Root conceded that “it is impossible for any one court to review all the decisions of courts of first instance.”¹²⁶ In fact, he went so far as to say if Court of Appeals created two, three, or even more of these courts, they still lacked the time and resources to review them all effectively and arrive at meaningful decisions. Creating more appeals courts just added to the problem by inhibiting “one supreme authority” to supervise the decisions of lower courts and to finally determine once and for all the correct interpretation of the law.

To create less confusion and greater efficiency, the committee proposed creating four courts, collectively called Appellate Division of the Supreme Court, to take the place of nine different courts and operating as the appeals court of first instance. Root argued the appellate court provided “stability, permanence, and independence” to the state’s court system.¹²⁷ The proposed court consisted of five judges who served a fixed term appointment. This court embodied all of the moralistic and progressive principles in its composition and makeup. The judges “selected from a great and intelligent population, constituted by the conjoint action of the elective principle . . . and the appointive power

¹²⁶ Steele and Finch, *Revised Record of the Constitutional Convention*, 893.

¹²⁷ *Ibid.*, 895.

exercised by the Governor,” created a court “as respectable, as able, as efficient as any court of last resort in any State of the Union.”¹²⁸ The judges ruled on a much wider range of appeals and in many types of cases served as the court of final resort. As a result, the appellate court relieved a great deal of pressure off of the New York Court of Appeals.

The committee struggled with the issue of litigants instantly appealing a lower court’s decision regardless of the reasoning. Such a problem contributed to a lack of respect for lower court decisions and the backup of the appeals court. Defeated litigants often used the appeal process as a way to continually rehash the same case with the same evidence that usually ended in the same outcome. Root lamented that “a great class of cases which finds its way into the Court of Appeals where virtually there is a review of the question of fact for the second time.”¹²⁹ He maintained no reason existed in “allowing parties to go on and contest, over and over again, the existence of a fact so conclusively passed upon as that.”¹³⁰ The committee desired to limit the New York Court of Appeals to hear cases only dealing with questions of law and only those in which the appellate court failed to achieve a unanimous ruling. Instead of limiting litigants’ rights, the process really promoted efficiency while ensuring that their constitutional rights to a fair trial and redress remained not just intact, but strengthened. Root found solace in cases where a jury of defendants’ peers along with appellate judges reached the same conclusion: “we say that the State has done its whole duty to the litigants in that case.”¹³¹

¹²⁸ Steele and Finch, *Revised Record of the Constitutional Convention*, 896.

¹²⁹ *Ibid.*, 897.

¹³⁰ *Ibid.*, 897.

¹³¹ *Ibid.*

These proposals, taken together, represented essential changes needed to revamp and modernize New York's legal system. The conclusions reached by the committee stood as "the proper course to remedy the evil" facing the legal structure. Root even informed the chairman of the convention that any attempt at "destroying" any one of the proposals "would bring down the whole edifice" of the state's legal system.¹³² But never one to stifle legitimate and necessary discussion, he informed the committee of the several alternatives and warned the delegates of possible problems associated with those proposals as well.

Though Root entertained most of the committee's suggestions to streamline the court for public use, he adamantly rejected those that limited legal access for the citizenry. For example, the committee discussed limiting the jurisdiction of the Court of Appeals by establishing monetary limitations. Root called the suggestions "decidedly objectionable" out of his belief this court of last resort "ought to be all the people's court . . . the court of the poor man . . . as well as the court of his wealthier fellow-citizen." Shockingly, after his statement the normally quiet and reserved convention erupted in thunderous applause. Instead of placing any monetary limitations, Root announced the committee's proposal called for the removal of the existing monetary limits so that "no such limit shall ever be imposed."¹³³ The convention hall once again erupted. Root and his fellow committee members wanted to ensure the poor gained access to the same legal process as their wealthy counterparts. In other ways, the committee looked to ensure equal access to the law.

¹³² Steele and Finch, *Revised Record of the Constitutional Convention*, 898.

¹³³ *Ibid.*

Despite the committee's move to consolidate the courts, Root called for a prohibition against allowing the legislature to enlarge the jurisdiction of lower courts. He feared the expansion of their jurisdiction helped create rivals to the higher courts and threatened access to the courts by the poor. In explaining his thoughts, Root argued, "small causes are just as important to those who have them as large causes are to wealthier men."¹³⁴ By expanding a court's jurisdiction to take on expensive cases, he indicated the small court "will never attend to the little causes . . . and merely add another court to those which try larger ones."¹³⁵ The great majority of cases in lower courts consisted of those with small monetary causes. As a result, Root asserted those cases needed to be tended to in just an effective and efficient manner as those "million dollar causes."¹³⁶

Some members on the committee, in the name of efficiency, pushed to change how juries arrived at their decisions. These men suggested that juries needed only to reach their decisions by simple majority rather than unanimous verdict. Further, they suggested that if a jury returned with a "hung" verdict, the decision could be rendered by a judge or agreed to by the legal counsels in order to save time. Root thoroughly spurned these plans. He, as with many of his age, sanctified undisputed jury decisions as a way to guarantee the rights of the defendant in a case. He underscored this important feature of the American legal framework, declaring that it served the "plain people—who vote, and who underlie the whole structure of our government, into immediate participation in the

¹³⁴ Steele and Finch, *Revised Record of the Constitutional Convention*, 901.

¹³⁵ *Ibid.*, 902.

¹³⁶ *Ibid.*.

administration of law.” He further explained that the jury stood as a bulwark to protect “against power, against wealth, and against the judge on the bench.”¹³⁷ On this issue, Root won the battle and the committee scrapped the jury plan. With the exception of this plan, all other physical changes to the legal system gained acceptance and operated until the next state constitutional convention held in 1915. While Root and the committee failed to correct every ailment of the New York court system, they implemented forward-looking policies that sought to modernize legal institutions to become more responsive to the needs of a changing public during such a transformative period.

Curbing Corporate Influence in Elections

Despite many of Root’s reform-minded policies gaining acceptance at the constitutional convention, there were some fellow New York politicians not ready to go the same distance. Beyond the mere composition of legal institutions facing the convention, Root focused his reform efforts on the power of corporations in elections. As one of his fellow reformers explained, “A large bank account has more to do with the selection of candidates for almost every position than experience, drill, culture, or brains.”¹³⁸ Just as outright election fraud and lowbrow bribery placed the political process in jeopardy, he viewed the use of corporate funds in political campaigns as yet another and even possibly greater threat to the integrity of the democratic system. He described the very practice as the “great crying evil” of American politics that served to shake the

¹³⁷ Root, *Addresses on Government and Citizenship* (Cambridge: Harvard University Press, 1916), 122-23.

¹³⁸ *New York Times*, October 6, 1889.

confidence of the “plain people of small means” more than anything he recalled since the beginning of the Republic.¹³⁹

The act of buying off politicians via political contribution caused the very corruption Root abhorred the most; that carried out by the political machine. Party machines engaged in what he said amounted to “party warfare” on behalf of their contributors rather than the people they served. He found this inconsistent with democratic principles.¹⁴⁰ His efforts focused on preventing the “great railroad companies, the great insurance companies, the great telephone companies, the great aggregations of wealth, from using their corporate funds, directly or indirectly, to send members of the Legislature to these halls in order to vote for their protection and the advancement of their interests as against those of the public.”¹⁴¹ These words caught some members of the convention off-guard, especially those not familiar with Root or his conviction. They found interest in the statement of a man who they only heard described in the newspapers as merely a “tool” of major corporations now speaking in favor of a constitutional amendment to limit their political power; what one Root author referred to as he “biting the corporate hand that fed him.”¹⁴² Root’s commitment to reform, especially on this issue, seemed relentless.

¹³⁹ *Revised Record of the Constitutional Convention of the State of New York, May 8, 1894, to September 29, 1894*, vol. 3 (Albany: The Argus Company Printers, 1900), 635.

¹⁴⁰ *Constitutional Convention*, 895; Root, *Addresses on Government and Citizenship*, 142.

¹⁴¹ *Ibid.*

¹⁴² Zimmerman, *First Great Triumph*, 139.

Before the 1894 convention, Root voiced the very real concern that large contributions by corporations to candidates severely muddied the ethical boundaries of the political process. To the astonishment of the delegates, he attacked this widely recognized systemic problem that everyone else seemed to ignore. During his speech, Root decried the process and declared “something ought to be done to put a check to the giving of \$50,000 or \$100,000 by a great corporation, upon the understanding that a debt is created from a political party to it, a debt to be recognized and repaid.”¹⁴³ Root recommended this type of arrangement be treated the same as the crime of bribery. He even suggested the penalty for violating this amendment result in the revocation of a company’s charter, effectively meaning the government would shut it down. Just the mere mention of such an action by the government, even in defense of the citizens of New York, soon encountered stiff blowback from those most sensitive to the needs of large corporations.¹⁴⁴

Delegates fired back with a storm of questions in defense of the status quo. The comments ranged from the types of campaign contributions Root intended to prohibit, what groups would be excused from the proposed prohibition, and why any such action was needed in the first place. Fellow Republican delegate, Benjamin S. Dean, lacked interest in any such reform. He frantically asked what would become of the voters hurt by this prohibition; voters such as John D. Rockefeller and his fellow robber barons. Root responded that the individual men could contribute their own personal money however they wished, but could not use the funds of the business for political purposes. He then

¹⁴³ *Constitutional Convention*, 895.

¹⁴⁴ *Ibid.*, 897.

redirected the discussion back to his key point that this amendment would serve as “protection to corporations and to candidates against the demands upon them, and a protection to the people against the payment of consideration by contributions by them, to the injury of the representation of the people.”¹⁴⁵ Only one Democratic delegate John Bowers, stood alongside Root in support of the amendment. He highlighted the fact that the state legislature “never said anything about buying a convention after it is in session, and that is often where the mischief is done, and quite as often done as it is in buying delegates themselves.” He concluded that Root’s suggestions rested on solid findings and he effectively answered “every objection that could be raised against it.”¹⁴⁶ The arguments concerning the campaign reform measure continued to abound, but Root proved able to move the amendment out of committee, and no further.

Root remained unable to sway the majority of the convention’s Democrats and even his fellow Republicans to embrace the reform. Dean, along with other delegates, voted down Root’s effort to enact the first campaign reform legislation in the nation. In explaining his vote against Root’s proposal and others framed at targeting electoral corruption Dean explained to the convention, “We are making history For those gentlemen who believe in this proposition, I have the most profound respect, but for those cuckoos who mildly murmur when the Mugwumps speak, who blindly follow where folly leads, I can only entertain that pity which must find its consummation in contempt.”¹⁴⁷ Despite the failure of the amendment, reformers continued to press the

¹⁴⁵ *Constitutional Convention*, 897.

¹⁴⁶ *Ibid*, 898-99.

¹⁴⁷ "It Was No End of a Tangle," *New York Times*, September 8, 1894.

importance of corporate campaign finance regulation in the years to come. Root continued to support this effort he believed so vital to the healthy functioning of a democracy. Finally in 1909, the New York state legislature passed a campaign finance reform law that virtually mirrored the one championed by Root over a decade earlier.

These major reforms only stand out as a small number he called for during the 1894 New York state constitutional convention. He spoke out for a vast varied number of changes to the law, including a ban on prison contract labor, the prohibition of gambling, the exclusion of lawmakers accepting corporate gifts, the restriction of public monies funding sectarian schools, and laws that sought to lengthen the time in which immigrants waited to vote. Most of the measures Root championed fell on the deaf ears of the majority of his Republican and many of his Democratic colleagues. These men viewed this as a mere exercise in party politics, rather than their duty to best serve the citizens of New York on the whole. A Connecticut reporter, Dexter Marshall, commented, “Mr. Root has been admittedly one of the leaders of the reform element of the Republican Party.”¹⁴⁸ Despite the failure of the amendment, reformers continued to press the importance of corporate campaign finance regulation in the years to come. Root continued to support this effort he believed so vital to the healthy functioning of a democracy. Finally in 1909, the New York state legislature passed a campaign finance reform law that virtually mirrored the one championed by Root over a decade earlier. The convention after debating a great number of issues finally came to a close. The newly revised, though still severely lacking, New York state constitution passed at the polls in November 1894 with 410,669 in favor to 327,402 opposed. His work in constitutional

¹⁴⁸ “Elihu Root,” *New York Times*, July 30, 1899.

convention added to Root's reformist image, but his assistance in helping a young up and coming progressive politician get to the governor's mansion that really placed him on the reformist radar.

Two of a Kind: Root and Roosevelt

The brief War of 1898 turned Theodore Roosevelt into a national celebrity and an attractive political figure, though he required Root's legal skills to keep a seemingly minor issue from derailing his rise to political power. Upon his return to New York, journalists and political operatives soon circulated of the possibility of nominating TR as Republican candidate for the New York governorship. In September of 1898, as the Republican Convention readied to open in Saratoga, a story of possible scandal hit the front page of the papers. The New York constitution required that a gubernatorial candidate must be a resident of the state for five years prior to the election. Newspaper reporters quickly unearthed a signed affidavit by Roosevelt's own hand nine months previously declaring, "I have been and am now a resident of Washington [DC]." ¹⁴⁹ The controversy continued as it was discovered that Roosevelt declared his residency in the nation's capital in order to avoid paying state taxes on his Sagamore Hill home in Oyster Bay, though he had been voting in New York elections for several years. Though this might seem trifle, it riled up some within the Republican ranks and possibly disqualified him from a position he so desired.

Fearing for his political life, Roosevelt turned to the only man who carried the influence necessary to pull him out of this unscathed, Elihu Root. Lacking a great amount of time, Roosevelt found a letter from earlier that March to his cousin John that just

¹⁴⁹ "Roosevelt's Eligibility," *New York Times*, September 24, 1898.

might save his nomination. In it, Roosevelt admits, “I don’t want to lose my vote this fall and therefore I will just pay the penalty and pay those taxes in New York I don’t want to sneak out of anything.”¹⁵⁰ With this small bit of evidence in hand, Root spoke passionately in defense of TR before Republican Party delegates at the state convention in Saratoga that September. Root utilized skills he learned arguing legal cases, along with his clever wit to win over the crowd. With such a scant amount of evidence, even the lawyer within Root must have seemed surprised to win over the roomful of delegates; but win he did. When reading over a letter between Roosevelt and Douglas Robinson about having to pay taxes well beyond his income, Root paused and then unleashed a defense nicely wrapped in patriotism. The taxes exceeded his income because Roosevelt “was spending money to raise the troop of cavalry with which he fought at San Juan,” after resigning his position as Assistant Secretary of the Navy to become a volunteer lieutenant colonel of the cavalry. In all the chaos, Roosevelt merely forgot and in no way meant to abandon “the State of his nativity, his ambition, and his pride.”¹⁵¹ After Root successfully wrapped the cause and the candidate in the flag, even the most vehement opponent to Roosevelt’s nomination admitted, “the fight was over.”¹⁵² Roosevelt went on to win the Republican nomination for governor and the subsequent election, but such a feat was only possible due to the face-saving actions of Root. This represented the first in a series of occasions when TR required Root’s calm and cool intercession on his behalf.

¹⁵⁰ “A Brave Soldier Pays Tax,” *Rochester NY Democrat*, October 8, 1898.

¹⁵¹ John A. Corry, *A Rough Ride to Albany: Teddy Roosevelt Runs for Governor* (Bronx: Fordham University Press, 2000), 164. For a more thorough discussion on Root’s role in Roosevelt’s gubernatorial campaign, please see Corry, 149-65.

¹⁵² *Ibid.*

For the remainder of his political career, Root served TR's key advisor, providing him with some much-needed political counsel.

Though the two men outwardly seemed dissimilar in age and disposition, they balanced the differences and worked well together. If one of the men lacked a capacity, quality, or attribute, then assuredly it played to the other's strengths. Root never directly challenged Roosevelt directly about their differences of opinion, but he often employed his playful sense of humor to make his point without arousing his wrath. In the first month of Roosevelt's governorship, Root clipped out a now-unknown newspaper article about Roosevelt and enclosed a handwritten note. Wanting to toy with his friend, he addressed the plain one-liner to TR only as "Sir," and it simply read, "In view of the enclosed article I must decline your further acquaintance."¹⁵³ Roosevelt's secretary opened the letter and contrary to Root's intention, she took his renunciation of friendship literally. TR wrote back to Root the next day, explaining, "I like jests; but if you could have seen the effect produced in my office by your letter yesterday you would see that they were appropriately labeled hereafter!"¹⁵⁴ The relationship provided a necessary

¹⁵³ Root to Theodore Roosevelt, January 26, 1899, Theodore Roosevelt Papers, Library of Congress, Washington, DC. My research has narrowed the apparently lost newspaper article to two possibilities. The most plausible seems to be a January 13 article in the *New York Times* in which Governor Roosevelt fires off to General Miles about the quality of beef rations in the US Army. The comments made include humorous and odd sounding comments from a sitting governor. In the letter, he stated, "At the best, it was tasteless; at the worst, it was nauseating." Roosevelt then commented, "Unless very hungry the men would not touch it, and even when suffering from lack of food they never ate a fifth of it." The only other possibility is a January 20 article in the *New York Times* about Roosevelt being promoted from Colonel to Brigadier General. This seems less likely as this was merely a news story and the note by Root suggested that the article to which he was referring to was in editorial form.

¹⁵⁴ Roosevelt to Elihu Root, January 26, 1899, Theodore Roosevelt Papers, Library of Congress, Washington, DC.

balance that aided in their ability to work toward common aims effectively, while the humor shared between the two forged a deep bond. Together they pursued a number of reforms, including efforts at cleaning up the police department.

Policing Corruption: Law Enforcement Reform

As part of the progressive undercurrent, Root along with countless other good government reformers detested the crooked law enforcement agencies throughout New York. For decades prior to the turn of the century, the police chief of New York City, William Devery, oversaw a notoriously corrupt and politically controlled police force under the control of Tammany Hall. The police force seemed to serve the interests of the political machine rather than the needs of the community at large.¹⁵⁵ In fact, critics maintained that the chief oversaw and financially benefitted from the city's illegal gambling underworld. Given the allegations pursued Reverend Charles Parkhurst's well known "sin tour," and his reform group the Society for the Prevention of Crime, a Republican-controlled state legislature in 1894 proposed a committee, known as the Lexow Committee, to investigate the police and their practices.¹⁵⁶ Despite the veto of \$25,000 in funds by Democratic New York governor Roswell Flower, the New York City Chamber of Commerce funded the Lexow investigation. After interviewing 678 witnesses, including over one hundred officers, the committee found ample evidence of police involvement in schemes such as bribery, fraud, extortion, and counterfeiting. The police

¹⁵⁵ Robert A. Harvie and Larry V. Bishop, "Police Reform in Montana, 1890-1918," *Montana: The Magazine of Western History* 33, no. 2 (Spring 1983): 47. For more information on the reform crusades of Reverend Parkhurst, see Richard Zacks, *Island of Vice: Theodore Roosevelt's Doomed Quest to Clean Up Sin-Loving New York* (New York: Anchor Press, 2012), 1-24.

¹⁵⁶ Joseph F. Spillane and David B. Wolcott, *A History of Modern American Criminal Justice* (Los Angeles: Sage Publications, Inc., 2003), 22.

department raked in an estimate four to five million dollars as result of their illegal endeavors.¹⁵⁷ At the committee's recommendation, state leaders reorganized the police department by passing the "Bipartisan Police Bill," placing the department under the leadership of the Police Board consisting of two Democrats and two Republicans. Roosevelt and Root shared reservations about the ability of the bill to make the necessary changes to crack the "cohesion of public plunder."¹⁵⁸ Though the bill proposed to limit political influence and corruption, the change met with limited success.

Roosevelt, who previously served as New York police commissioner in 1895, attempted to rid the department of corrupt officers and practices. At the time, police officers conducted local elections and many including Root believed they served to help rig elections for those in Tammany Hall rather than assuring a fair voting outcome. So, as long as corrupt leaders and their associates remained in control of the police and the police performed the election duties, the type of reform necessary to clean up the police department remained out of reach. Despite his best effort to clean the department from the bottom up, he ultimately lacked the influence necessary to implement structural reform of the police department. Though not able to effect enough change as a police commissioner, he found much more power after winning the governorship of New York.

So with Roosevelt in the governor's mansion by 1899, Root pursued progressive reforms designed to rid the state of a notoriously corrupt police system. He along with

¹⁵⁷ Rebecca Menes, "Limiting the Reach of the Grabbing Hand: Graft and Growth in American Cities, 1880 to 1930," in Edward L. Glaeser and Claudia Goldin, eds., *Corruption and Reform: Lessons from America's Economic History* (Chicago: University of Chicago Press, 2006), 79.

¹⁵⁸ Richard Zacks, *Island of Vice: Theodore Roosevelt's Doomed Quest to Clean Up Sin-Loving New York* (New York: Anchor Books, 2012), 58.

other progressive reformers called for better “police efficiency,” stricter accountability, and greater professionalization.¹⁵⁹ Roosevelt created another investigative commission and their findings echoed the Lexow Committee. Root and Governor Roosevelt called for the creation of a single police chief to oversee policing in the newly consolidated five boroughs of New York City. Instead of a large and ineffective “bi-partisan” police commission, he and other reformers in the movement favored “bureaucratic autonomy” to allow agencies such as the police department to “be free to engage in their duties without the burden of political allegiances.”¹⁶⁰ Along with a fellow reformer Seth Low and Governor Roosevelt, Root surmised that without these barriers, the police chief could then mold their force into a as “a positive force for social reform.”¹⁶¹ Additionally, he saw it as much easier to remove one official, if corrupt or inefficient, than an entrenched politically motivated group. Beyond centralizing the leadership of the New York City Police Department, Root and Roosevelt wanted to separate the functions of the police from the election process.

Throughout the Gilded Age, the New York Police Department played a major role in city elections as extensions of Tammany Hall’s power and influence. The department prepared all election ballots, enforced election laws, and even counted the votes. As such, it exercised a great amount of influence on local elections, especially under the control of

¹⁵⁹ Harvie and Bishop, “Police Reform in Montana,” 47.

¹⁶⁰ Bernadette Jones Palombo, *Academic Professionalism in Law Enforcement* (New York: Garland Publishing, 1995), 25.

¹⁶¹ Ibid; Harvie and Bishop, “Police Reform in Montana,” 48; William T. Gormley, Jr. *Taming the Bureaucracy: Muscles, Prayers, and Other Strategies* (Princeton: Princeton University Press, 1989), 7-8.

a political boss. A few years earlier, Roosevelt explained that under such a system the police's "sole responsibility was to guarantee an honest election."¹⁶² If they failed to prevent voter fraud or violence, the officers responsible needed to face the necessary punishment, along with those who ordered it done. If Roosevelt and Root wanted to change the police's role in elections, they needed adequate evidence in order to apply the proper amount of public pressure.

In 1899, Governor Roosevelt supported the creation of a government commission to investigate police corruption. Despite its broad focus, the Mazet Commission focused a significant portion of their efforts on the police department's role in instigating voter fraud and intimidation. Like other progressives, Root and Roosevelt wanted the problem studied effectively in order to then propose solutions that fit the problems. For his part, Chief Devery, a crooked Tammany lackey, refused to cooperate with the investigation, even encouraging his 7,600-man police force to obstruct the investigation.¹⁶³ Despite the police chief's best efforts at stalling, the Mazet Commission completed its task and compiled its report. The commission's findings echoed much of the same results of wholesale police corruption found by the Lexow Commission. As it related to the police's role in voter fraud, the commission recommended the punishment for "violations against the elective franchise more severe."¹⁶⁴ Armed with the results of the Mazet

¹⁶² "Municipal Administration: the New York Police Force," *Atlantic Monthly* 80, no. 497 (Sept. 1897): 298.

¹⁶³ Zacks, *Island of Vice*, 358.

¹⁶⁴ "Mazet Committee Report," *New York Times*, January 11, 1900.

Commission, Root and Roosevelt readied for a fight to reform the police's role in the voting process.

In February 1899, Root helped Roosevelt as one of the main architects of a police reform bill to curb the police's role in elections, thus reducing the power of Tammany Hall in fixing results. Specifically, he called for the creation of a "bureau of elections" in order to remove the process from the hands of morally precarious law enforcement personnel. The *Nation* described Root's measure as "by all odds the best measure of the kind that has been drawn in many years."¹⁶⁵ In the Raines-Mazet Bill, the New York state legislature included Root's recommendation to create a Board of Elections to administer elections in New York City as a way to reduce and hopefully destroy police instigated voter fraud. Finally, in 1901 the New York state legislature passed the law, essentially in the form Root proposed, against the indignant opposition and veto of Mayor Van Wyck. Though often credited to Roosevelt, Root drew up significant portions of the police reform bill. Even Roosevelt admitted, "the more I think over your [Root's] police law, the more pleased I am and the greater my sense of obligation to you." Root's efforts secured a new form of police administration along with a whole-hearted attempt to root out corruption.

The newly appointed police chief, Colonel Michael C. Murphy, quickly established his position as independent of political influence. On February 23, 1901, Murphy reassured the public in an interview, declaring, "While I am here there will be no authority but me. No pledges were obtained of me before I took this office."¹⁶⁶ He went

¹⁶⁵ Edwin L. Godkin, ed., *Nation* 68, no 1752 (Feb. 16, 1899), 119.

¹⁶⁶ "Col. Murphy New Head of Police Force," *New York Times*, February 23, 1901.

on to make it clear that under his tenure there would be no favoritism by declaring his intention to “enforce the law without favor or fear.”¹⁶⁷ He ended this press gathering by clearly indicating he had no “conference in regard to my policy or status, or in relation to my office, in any way with any Republican interest.”¹⁶⁸ Root and Roosevelt formulated these progressive attempts to clean up the police force. Admittedly, not all of their reforms or the reforms of others completely eliminated corruption from the department totally. Politicians lacked the power to completely break machines, the police often resented the reforms, and politics remained intertwined with policing.¹⁶⁹ Regardless, both Root and Roosevelt endeavored to make changes necessary for the orderly enforcement of law in the city. Roosevelt and Root’s reform successes earned them reputations as good-government men and efficient political leaders. The efforts of the two men also threatened the New York political bosses’ control of the state. For these two reasons, neither Root nor Roosevelt was destined to stay in New York for long.

Conclusion

As a child, Root envied and looked up to lawyers as the “giants of his profession.” By the time he started to serve as an attorney the public image of lawyers changed drastically. The Industrial Revolution modernized society, formalized the corporation, and created the corporate lawyer. As corporations gained indiscriminate power and economic inequality soared, the public targeted these lawyers as the accessories in what

¹⁶⁷ "Col. Murphy New Head of Police Force," February 23, 1901.

¹⁶⁸ Ibid.

¹⁶⁹ Robert M. Fogelson, *Big-City Police* (Cambridge: Harvard University, 1977).

they saw as a great immoral crime. Once he entered the public eye during the Tweed case, the news media branded him as a shill for corporate America, especially the attacks leveled from the newspaper giant William Randolph Hearst. If the traditional stereotypes of lawyers failed to convince average people of Root's supposed indiscretion, the negative media succeeded in convincing them that he placed profit and power above principle and philanthropy. Obviously, Root served as counsel for some powerful clients such as J. P. Morgan, William C. Whitney, Thomas F. Ryan, and others. These facts stand beyond question.

This monolithic generalization created a skewed image of Root and discounted the complexity of his legal practice. Despite such a portrayal, Root labored in a number of progressive endeavors. He engaged in efforts to expand legal protections for the poor, defended the public interest as US District Attorney for New York, vigorously tried to rid the business community and government of corruption, fought for reforms to prevent voter fraud, attempted to curtail the corporate influence in elections, and removed partisanship from the police force. Not every attempt succeeded, but the very fact that he publically struggled show his commitment to progressive principles. The lessons he learned in these struggles aided his later reform efforts. Though he continued to serve several clients as a lawyer, he career continued to blossom in the service of his most important client, the public.

Despite the characterization of him as staunch conservative, Root's actions showed his underlying commitment to reform and his attempt to weave progressive notions into the legal and political fabric of New York. Regardless of the fact that several of Root's proposed reforms failed, he emerged out of the New York Constitutional

Convention as a consensus builder amongst competing political parties and a man dedicated to doing the people's work, rather than mere posturing. Many leading New Yorkers, and even those outside of the state, now noticed Root's skill as an adept mediator, skilled orator, and dedicated collaborator. By the end of the 1890s, news of Root's talents and the need of his service spread all the way to the White House.

CHAPTER II MILITARY PROGRESSIVISM: THE ROOT REFORMS

“Of course I had then, on the instant, to determine what kind of a lawyer I wished to be, and there was but one answer to make, and so I went to perform a lawyer's duty upon the call of the greatest of all our clients, the Government of our country.”

Elihu Root

By the end of the 1890s, a sense of nationalism and optimism permeated throughout the nation. Americans witnessed the massive expansion of their economy along with the build-up of their nation's military forces and capabilities. Within the Republican congressional leaders championed the growing tide of aggressive nationalism, channeling it for their own expansionist urges as well as its political popularity. As a result jingoistic politicians, along with a small but powerful corporate elite, set their sights America's next frontier, the former colonies of Spain and far-flung island in the Pacific. The resulting policy of imperial expansion put a new spin on a very old colonial game and led to America's involvement in the War of 1898. To provide legitimacy to the process of building empire, US government leaders increasingly turned to the legal profession.

Lawyers, well versed in international law, took on the task of validating the procedure of empire building. As one historian pointed out, international lawyers supported and encouraged the American government in the “planning and execution of it

imperialistic enterprises in the Western hemisphere.”¹ A lawyer’s expertise in treaty negotiation and international law provided a legal framework for American officials to justify the government’s imperial endeavors to rival expansionist governments and dominated peoples alike. The growing field of international law not only took on more importance for the expansion of American business, this specialization aided in the validation of American intervention and the control of lands far outside of the United States. Government leaders wanted insight from top legal minds in the country, which included Elihu Root. As a result of Root’s career trajectory and spotless reputation, political leaders and eventually presidential administrations, sought his counsel.

As his involvement in politics grew, Root left a discernable trail of progressive reform as his commitment to those ideas continued. When he accepted the post of as the secretary of war in 1899, he inherited an exceedingly inefficient, politically corrupt, and outdated military regime. Though he led the department responsible for overseeing US military operations, Root neither served in the armed forces nor favored war.² Regardless, he effectively served as a major progressive reformer within the War Department. Just as he had served previous clients, Root later said of his appointment, “I made the Army my client.”³ Over a period of five years, he instituted a series of landmark changes later

¹ Francis Anthony Boyle, *Foundation of World Order: The Legalist Approach to International Relations, 1898-1922* (Durham, NC: Duke University Press, 1999), 16.

² Philip Jessup, *Elihu Root* vol. 1 (New York: Dodd, Mead, and Co., 1937), 36; Warren Zimmerman, *First Great Triumph: How Five Americans Made Their Country a World Power* (New York: Farrar, Straus, and Giroux, 2002), 126. Despite his attempt to enroll at age seventeen, the military rejected Root due to the frailty of his body.

³ “Heroes: Elder Statesman,” *Time Magazine* 38, no. 7 (Feb. 15, 1937): 43; “Malcolm Bingay: A Wish That Elihu Root Were Alive,” *Nebraska State Journal*, September 19, 1948.

termed the “Root Reforms.” Like his fellow progressives, Root synthesized larger domestic reform campaigns for good government with institutional military changes implemented abroad. As a man who tended to look at the “big picture,” Root approached reform from an institutional and systematic approach. He then relied on military experts and the use of “military science” to implement these reforms effectively. In the end, the “Root Reforms” rejected military appointments based on political connection in favor of meritocracy, repudiated rampant individualism with a sense of nationalism through military preparedness, and replaced outdated military knowledge with the “military science” of specialization.

Called to Service

From the political circles of New York to the nation’s capital, Root’s name had been discussed as a talented lawyer and the type of negotiator who might prevent full-on war with Spain. President McKinley, who at that time had never formally met Root, requested to meet with him in Philadelphia in March 1897. At the meeting, McKinley signaled his desire to keep the United States out of a war with Spain if possible. The president supposed that Root possessed the diplomatic skill needed to prevent an unnecessary conflict between the nations. McKinley first asked Root to take up the role of American minister to Spain. As Root contemplated the offer, the president attempted to sweeten the deal by adding that the mission would be upgraded to the position of “Embassy.”⁴ Root assured him the status attained in the mission mattered none in his

⁴ Root to Philip C. Jessup, September 20, 1937, Philip Jessup Papers, Library of Congress, Washington, DC.

decision. Since he lacked the ability to speak Spanish, Root painfully conceded he could not take the job and do it at a level such an important situation required.

Unlike his jingoistic counterparts in the Republican Party, Root held out for peace and even expressed hesitancy about American involvement in Cuba even as tensions between the US and Spain continued to rise. On April 2, Root confided his views to the secretary of the interior and close friend, Cornelius Bliss, about what seemed to be an impending conflict between the two nations. He wrote in the letter that unlike the jingo wing of the Republican Party, he “deplored war” and desired “it might not come.”⁵ Root contemplated the stakes of intervention and concluded, “I prefer that we should not do it; I don’t think we are bound to do it; I would prevent it if I could.”⁶ If the US military intervened in Cuba, he anticipated the international community would portray the American government as “impertinent meddlers.”⁷ Root feared that the portrayal of the US as a meddlesome bully might inadvertently provide Spain with international moral support thereby derailing the Cuban’s efforts at independence. He additionally described the justness of the Cuban revolution to Bliss by comparing it to America’s own revolution, explaining the Cubans had “a hundred times the cause that we had in 1776 or the English had in 1688.”⁸ Root conceded the American public, in their collective reaction, seemed ready and willing to make the sacrifices necessary for war. He reminded

⁵ Root to Cornelius Bliss, April 2, 1898, Elihu Root Papers, Library of Congress, Washington, DC.

⁶ Ibid.

⁷ Ibid.

⁸ Root to Cornelius Bliss, April 2, 1898.

Bliss although the passions for intervention by the American public looked to overwhelm the situation, the final decision rested in the hands of President McKinley. Like Root, the president had tried to prevent a conflict with Spain. Bliss, rather impressed by his Root's synthesis of ideas shared the letter with several top Washington Republicans, including the young and fiery Assistant Secretary of the Navy Theodore Roosevelt. All party leaders met approvingly with the letter's sentiments and concerns.

Despite the efforts of "jingo" politicians, sensationalist journalists, and a malleable public, Root cautioned against a buildup to war and held out hope for peace against staggering odds. Unable to stem the call for war by the press and the public, President McKinley presented his war message to Congress on April 11, 1898. Three days later, members of New York's Union League Club (ULC) met to discuss the very real possibility of war with Spain over Cuba while they awaited formal congressional action.⁹ As president of the club, Root presided over the speeches that evening and pushed for a peaceful and diplomatic resolution to the situation with Spain, if such a possibility remained. Despite the mixed feelings within the group, the Union League released a statement to the press, pledging its support to McKinley's "leadership, in peace

⁹ Henry Whitney Bellows, *Historical Sketch of the Union League Club of New York: Its Origin, Organization, and Work, 1863-1879*. (New York: Club House, 1879), 191-195; Thomas L. Jones, "The Union League Club and New York's First Black Regiments in the Civil War," *New York History* 87, no. 3 (Summer 2006): 312-46. Formed in 1863, the group declared their support and rallied their efforts toward the Union cause. They oversaw the payment of black troops and their families, pressed for civil service reform beginning in 1864, and fought against the control of political machines. During and after the Civil War, the leaders of the ULC focused their efforts on reform. In the fourth article of their association, the club membership swore their duty to "resist and expose corruption, and promote reform in our national, state and municipal affairs." Interestingly, one of the founders of the club was Theodore Roosevelt, Sr.

while it may be and in war if it need be.”¹⁰ Despite Root’s desire to avoid war, Congress shattered any chance at peace, when the US formally declared war against Spain on April 25. Within a matter of days, the US military mobilized for what would be a brief fourteen- week set of sporadic clashes between American troops and the remnants of a heavily damaged Spanish military and crumbling empire. Though the actual military campaigns in Cuba ended rather quickly, the war against Spain officially came to a close with the signing of the Treaty of Paris, 1898. Though he counseled against war, it was the War of 1898 that catapulted Root into the national spotlight, along with one of his dear friends.

The exodus of Root and Roosevelt into national politics occurred oddly enough with the approval of the same man and for much of the same reasons. Both men had taken part in various reformist campaigns within the state to counter corruption and clean up politics at all levels. Their collective efforts gained the praise of many New Yorkers, while placing them directly at odds with the leaders of Tammany Hall and the very political machines they sought to destroy. Leader of the New York political machine, and veritable “king maker,” Senator Thomas Platt agreed to the appointments of both men to national positions, not to reward them, but as a way to rid himself of two key reformers that threatened his power and control over the state. He first helped secure Roosevelt’s appointment as the assistant secretary of the navy in 1897, and his later successful attempt of getting TR’s name on the Republican ticket as vice-presidential running mate to McKinley in the election of 1900. Historians have well documented the reasons behind Platt’s support for Roosevelt’s nomination, but none yet have made this same connection

¹⁰ "Union League Club Acts," *New York Times*, August 15, 1898.

to Root's appointment as the secretary of war out of the same frustrations.¹¹ Referring to Root as his "consistent opponent," Platt alluded to his view of Root as a man "I won't go across the street to help . . . and I won't get out of my chair to hurt."¹² A *New York Times* article quoted a Republican insider who described Root as "not the sort of party man the Senator would pick if he had the choice entirely in his own hands."¹³ Platt's action of helping to secure Root's appointment to a federal position meant one less good government reformer or "goo-goo" to challenge his machine's hold on state power.

By July of 1899, Platt's opportunity to rid himself of Root now presented itself as tensions with the Filipinos mounted. With the exception of the Philippines, fighting in the former Spanish colonies had long ceased. Even in the Philippines, the very nature of the conflict had changed. The US Army no longer clashed with Spanish forces in order to liberate Filipinos, but the military now fought the very Filipinos they had sought to free. After promising the Filipinos their independence, the McKinley administration and many in Congress reneged on that pledge and instead annexed the Pacific island chain instead. As news of this change spread to the islands, Philippine leader and former aid to American forces, Emilio Aguinaldo, raised Filipino nationalist forces against their new occupiers, the US Army. As the McKinley government scrambled to deal with the

¹¹ Kathleen Dalton, *Theodore Roosevelt: A Strenuous Life* (New York: Vintage Books, 2002), 191; John Garraty, *Theodore Roosevelt: American Rough Rider* (New York: Sterling Pub., 2007), 62; Betsy Harvey Kraft, *Theodore Roosevelt: Champion of the American Spirit* (New York: Clarion Books, 2003), 74-5; Nathan Miller, *Theodore Roosevelt: A Life* (New York: HarperCollins, 1992) 334.

¹² Thomas Collier Platt, *The Autobiography of Thomas Collier Platt*, ed. Louis J. Lang (New York: B.W. Dodge & Company, 1910), 403-05.

¹³ "Believe It Will Be Root," *New York Times*, July 22, 1899.

guerilla fighting tactics of the Filipino freedom fighters and readied Cuba and Puerto Rico for massive governmental changes, Elihu Root had arrived at his summer cottage in the Hamptons. Though he no doubt hoped to relax after a long year, there would be no summer calm. On July 21, Lemuel Quigg, one of Senator Platt's lead henchmen and New York Republican county committee chair, telegraphed Root, urging him to call on the nearest telephone since the cottages in the area still lacked telephones.

Quigg's phone call finally propelled the now fifty-four-year-old lawyer onto the national stage. On behalf of President McKinley, he asked Root to accept the cabinet position of secretary of war. Root quickly answered, "Thank the President for me, but say that it is quite absurd, I know nothing about war . . . nothing about the army."¹⁴ Partly expecting such a response from the reserved Root, Quigg explained that McKinley needed a lawyer to help reconstruct and transition the governments of the former Spanish colonies toward independence. He then insistently replied, "You are the lawyer he [McKinley] wants."¹⁵ At this point, the president through Quigg called Root's bluff against taking the position. Quigg played on Root's sense of national duty and civic responsibility to serve his country. Root later recalled that men of his profession needed to perform their "duty upon the call of the greatest of all our clients, the Government of our country."¹⁶ After consulting with his wife a short time later that day, Root cabled his

¹⁴ Elihu Root, *Addresses on Government and Citizenship* (Cambridge: Harvard University Press, 1916), 503-04.

¹⁵ Ibid.

¹⁶ Elihu Root, *The Military and Colonial Policy of the United States* (Cambridge: Harvard University Press, 1916), xiv.

acceptance to the president in Washington. In a letter to his friend Theodore Roosevelt, Root wrote jokingly that “Mrs. Root will never forgive McKinley” for making his offer.¹⁷

Outwardly, he celebrated this new calling by informing his two young sons while sailing that afternoon, but inwardly he harbored doubts. He not only questioned his own abilities as the secretary of war, but the seemingly massive task such a job represented. He wrote Roosevelt in late July 1899 about his unease, explaining the “difficulties which now confront the new secretary, particularly in the government of colonial possessions.”¹⁸ Root worried that such wide ranging problems “cannot be successfully solved during any one administration.”¹⁹ He also admitted to his friend George Sharp that he felt “like a cat just about to walk along a wall with broken bottles on the top.”²⁰ His work involved overturning almost four years of incompetent leadership and ineptitude by his predecessor Gen. Russell Alger, a veteran of the Civil War.

Addressing Alger’s Incompetence

The department suffered greatly from Alger’s handling of the War of 1898. Horror stories quickly emerged of unqualified officers progressing to top ranks, a bloated command structure, inefficient military planning, and blatant corruption. The McKinley administration acted quickly to counter the negative press by finding someone to replace him. According to press reports, Alger found out about his replacement only after reading

¹⁷ Root to Theodore Roosevelt, July 27, 1899, Philip Jessup Papers, Library of Congress, Washington, DC.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Root to George H. Sharp, July 26, 1899, Philip Jessup Papers, Library of Congress, Washington, DC.

it, just like everyone else, in the newspaper. The *Reading Eagle* newspaper reprinted a letter from Alger himself confirming the report. Upon hearing of his proposed replacement, Alger urged Root to “make the sacrifice and accept the position.”²¹ He claimed that with Root’s legal knowledge and health, “you can serve your country in a way given to few men.”²² As word spread about the selection of Root, the majority of New York newspaper headlines presented him as the perfect choice to undertake such an office. A *New York Times* reporter celebrated the announcement glowingly by calling on those who he termed “the doubtful and the despairing” in regard to Alger to realize Root’s appointment as “evidence that darkness has not permanently settled over the land.”²³ Despite his own numerous misgivings, Root eagerly jumped into his new position as secretary of war, attempting to fix a department termed by one reporter as a “defective machine.”²⁴ Working from within the McKinley Administration provided Root with a platform to engage his progressive reform agenda.

After being sworn in as secretary on the morning of August 1, 1899, Root went about his new duties. He spent the day meeting with department heads and military officials to bring him up to speed on the major issues facing the department. On that first day, Root logged an impressive fifteen-hour day, according to a *New York World* correspondent who followed him with the tenacity of a bloodhound and dutifully logged

²¹ “Elihu Root, of NY, New War Secretary,” *The Reading Eagle* (Reading, PA), July 22, 1899.

²² Ibid.

²³ “The President and Public Opinion,” *New York Times*, July 25, 1899.

²⁴ Henry Loomis Nelson, “Secretary of War Root and His Task,” *Harper’s Weekly* 1899 (Sept. 1902): 857.

his every action. In this new post, Root invested the same energy, intensity, and attention to detail he had as a lawyer. In fact, he bucked the more casual attitude of Washington officials toward work by arriving to work at nine o'clock in the morning, typically staying in his office to work through lunch, and ending his day by six o'clock in the evening at the earliest. The new secretary expected the same timeliness and dedication from his office staff and aides. His other colleagues in the capital and their clerks, some with big titles and major responsibilities, typically arrived to work by eleven o'clock in morning or later, took three to four hour lunch outings, and left for home well before five o'clock in the evening. A letter from Clarence Edwards, head of the Bureau of Insular Affairs, to Gen. Leonard Wood bears out Root's commitment to his job. Edwards explained the new secretary "has been going it night and day . . . was up until four o'clock two mornings to finish his annual report, and the work, now that Congress is in session, is frightful."²⁵ He grew concerned that such a rapid pace could cause a man of his years to fray, but Root pushed onward. Even surgery to remove a benign breast tumor only kept him out of the office for only a few days.²⁶ Root's work ethic countered the prevailing Washington social culture that typically called for men of status to display it by leading lives of leisure. After settling into his position, Root went right to work looking to reform the War Department.

Even as the US waged war against Philippine nationalists abroad, the new secretary of war readied to launch the first salvo in his battle to reform the long ingrained institutional defects within his department. Root explained to a reporter shortly after

²⁵ Jessup, *Elihu Root*, vol. 1, 224.

²⁶ "Secretary Root's Condition," *New York Times*, September 15, 1900.

receiving his appointment that he intended to place “motive power behind the old organization,” and teach “old officers and an old system the value of time.”²⁷ Just as he had in New York, Root, now as war secretary, threw his weight behind major progressive reforms within the civil service. In those earlier years, Root witnessed how nepotism and patronage played a key role in derailing good governance and increasing the power of political machines. In fact, the very public, who were supposed to be served by appointed officials, viewed the two policies as ineffective, corrupt, and disreputable. Thus, civic leaders and their institutions lacked the public’s trust to carry out their public duties. Supportive of civil service reform going back to 1894, Root informed his colleagues he was no longer willing to “stand . . . upon any lower ground” than having public servants who were qualified for their positions.²⁸ In essence, the War Department, prior to Root’s appointment, deteriorated into an outdated and corrupted machine. He admitted to facing the uphill difficulties of combatting “old fashions, old prejudices, old jealousies, [and] an old system,” along with the much larger issue of having to confront a Congress with “begging members and its brokers in patronage.”²⁹ Henry Loomis Nelson, a reporter with *Harper’s Weekly*, explained that the tasks encountered by the new secretary required a “resolved purpose to take away usurped authority, and to restore subordination where time has developed usurpation and insubordination; a desire to sink the staff and to elevate the line; [and] a determination to make efficiency count.”³⁰ Root, as a progressive

²⁷ Nelson, “Secretary of War Root and His Task,” 857.

²⁸ Root, *Addresses on Government and Citizenship*, 145.

²⁹ Nelson, “Secretary of War Root and His Task,” 858.

³⁰ *Ibid.*, 860.

reformer and never one to shrink from a challenge, attempted to bring order, consistency, and integrity to the department he served and the men who served under his leadership.

The Merit of Men

After taking the position, letters soon flooded Root's office, requesting appointments to various positions under the umbrella of the War Department based on political and personal connections rather than the applicant's abilities or skill set. Though continuing the practice of patronage would have definitely increased Root's fortunes politically, he believed doing so amounted to a violation of his duty and a failure to fix what most viewed as a broken system. Root quickly articulated his stance regarding the department's policy toward appointments and promotions in military rank. He categorically insisted, "Political influences can not have the slightest bearing upon the selection, nor can personal preference and affection."³¹ Root's personal secretary, who served in the department for three years, maintained that the only time he saw his boss enraged occurred when a powerful senator continually insisted an unqualified officer receive promotion. Not caving to political pressure, Root emphatically rejected the request.³² In September of 1899, he wrote to Senator Joseph Hawley informing him "no appointments have been made other than justified by the efficient record of the appointee."³³ As to his commitment to the practice, Root explained to a colleague, "I

³¹ Root to Alex C. Soper, January 17, 1902. Elihu Root Papers. Library of Congress. Washington, DC.

³² M.O. Chance to Jessup, January 23, 1902. Philip Jessup Papers. Library of Congress. Washington, DC.

³³ Root to Senator Joseph Hawley, September 13, 1899, Elihu Root Paper. Library of Congress. Washington, DC.

have adhered rigidly to this rule.” He consistently towed the line regardless of who supported the appointment or the job it entailed. Root admitted that he had refused “innumerable applications from men of the highest consequence and power, both in the Government and in politics, on the statement that I would not under any circumstances break over the rule.”³⁴ In May, Senator Joseph Quarles of Wisconsin pushed for the appointment of a young man from the regular army from the volunteers. Root respectfully denied the request based “upon the reports of his superior officers.”³⁵ The young man’s commanders reported to Root that “neither his efficiency nor his habits are such as to make it proper that he should be appointed.”³⁶ The war secretary still sought recommendations from friends and those within the military establishment, but this by no means finalized or unfairly influenced a selection. He even turned down individuals endorsed by some of his closest colleagues, including Theodore Roosevelt and Thomas Fortune Ryan. Friends and political acquaintances found out quickly that business as usual as it related to political appointments no longer applied.

Root’s philosophy of considering appointees based on merit, rather than political or social connections, applied not just the military. This process informed his selections to civilian positions in his department as well. Even in the hiring of his private secretary, Root emphasized that being qualified for the job mattered above all else. During the interview for the position, a young and nervous interviewee named Merritt Chance

³⁴ Root to Colonel Franklin Bartlett, October 24, 1899. Elihu Root Papers. Library of Congress. Washington, DC.

³⁵ Root to Senator John Spooner, May 17, 1901. Elihu Root Papers. Library of Congress. Washington, DC.

³⁶ Root to Senator John Spooner, May 17, 1901.

fearfully confessed to Root that he was a Democrat, thinking such a disclosure ended his chances for the job. Not a partisan, Root calmly reminded him, “I’m looking for a secretary, not a politician.”³⁷ Chance received the based job on qualifications alone and served as Root’s personal secretary during his entire time as head of the War Department. Even members of Root’s own family received no quarter in this regard. In late October 1899, Root fired off a response to a relative, a Mr. Charles Kimball, explaining, “The fact that your daughter is my cousin would make it impossible for me to appoint her.”³⁸ Root then discussed the impossibility of evaluating relatives impartially on their own merits. He closed the letter by reiterating to Mr. Kimball how selecting family members for appointed positions created an “impression of favoritism and unfairness,” and he would “not be willing, under any circumstances, to make such an appointment.”³⁹ Politicians, friends, and even Root’s own family found no favoritism in appointment process, but the War Department had much larger problems to confront.

Managing Military Administration

The War Department faced significant challenges relating to its logistical and leadership capabilities, providing Root with an opportunity to implement progressive reform. His predecessor, Secretary Alger, ran the department with an “inefficient administrative organization” that resulted in a number of scandals and revelations during

³⁷ M.O. Chance to Jessup, January 23, 1902.

³⁸ Root to Charles J. Kimball, October 27, 1899. Elihu Root Papers. Library of Congress. Washington, DC.

³⁹ Ibid.

the postwar period.⁴⁰ Due to the widespread criticism of government's handling of the war, President McKinley formed the War Investigating Commission in September of 1898. More commonly known as the Dodge Commission, the commissioners were tasked with investigating the widespread breakdowns that had occurred in September of 1898. McKinley claimed the "people of the country are entitled to know whether or not the citizens who so promptly responded to the call of duty have been neglected or misused or mistreated by the Government."⁴¹ In the Cuban campaign alone the commission discovered a lack of coordination between the departments under the Alger's leadership, a failure to effectively supply troops with decent food and sanitation, and the ineffective logistical deployment of troops. Without a military background, Root heavily relied on two key sources to find solutions to these major organizational defects.

First, Root educated himself about military administration. He specifically focused on how European governments had reformed their respective armed forces when faced with similar dilemmas. Like progressives of the period, Root looked to innovations already underway in Europe to correct the defects within the structure of the US military rather than relying on untested experiments. Since the United States just recently emerged on the world scene as an economic, military, and geopolitical power in last couple of decades of the nineteenth century, American leaders and the public now confronted many of the same problems European nations struggled with much earlier

⁴⁰ James Terry White, ed., *The National Cyclopaedia of American Biography*, vol. 14 (New York: James T. White, 1910), 12.

⁴¹ U.S. Senate. 56th Congress, 1st Session. *Report of the Commission Appointed by the President to Investigate the Conduct of the War Department in the War with Spain*, vol. 1, S. Doc. 221 (Washington, DC: US Government Printing Office, 1900), 6.

while US rose out of the ashes of the Civil War. As historian Daniel Rodgers noted, Europe became a virtual laboratory for what he termed them “transatlantic brokers.” These so-called brokers wanted to see a wide range of possible solutions to political and societal ills in the US by looking for ready-made answers in Europe. For nearly three decades previously, European leaders had tried to combat the similar negative effects of industrialization, modern capitalism, and technological change within their continent.⁴²

As part of a broader push for modernization and reform, European militaries and their command structures emphasized the emerging concept of “military science.” One of the major developments included European militaries and their command structures being subjected to modern analysis, appearing as the relatively new study of “military science.” This new subject involved the use of the scientific method, studies, research, and data to test the efficiency of a nation’s military and its structure in order to adequately prepare against a possible or probable foe. A part of the progressive ethos, the practitioners of “military science,” like those in other long-established educational disciplines claimed, “modern life was so complex that it could be comprehended only by breaking it down into manageable segments, each to be mastered by persons with specialized knowledge

⁴² For a further reading, see Rodgers, Daniel T. *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge: Belknap Press of Harvard University Press, 1998). Although Rodgers mentions the role of transatlantic progressivism more in terms of social reforms, his analogy applies to the notion of a reform movement, but at all levels. If one thing is universally agreed on in regard to Progressivism, it is the notion that reforms occurred at all levels of government and society. Despite the lack of previous connections to transnational progressivism within some of the highest levels of the federal government, I feel the leaders like Root and others understood quite easily the need to look outwardly to deal with problems beyond the realm of his expertise and drawing on the knowledge of other nation’s experiences.

and skill.”⁴³ Root realized that utilizing this “transatlantic cable” of military scientific knowledge flowing back and forth provided a key, tested, and proven resource for analyzing recent developments in military policy, rather than constructing a modern military philosophy from scratch.

Secretary of War Root scoured through a number of books on military strategy, but eventually relied heavily on two as a guide post for his reforms: *The Brain of the Army* and *The Armies of Europe & Asia*. The first book, written by a British trained lawyer, military journalist, and Oxford military historian Spenser Wilkinson, provided Root with a background of the modern German military organization in laymen terms he well understood.⁴⁴ Gen. William Ludlow, appointed by Root to study the reorganization of the US Army command structure, received the book from Wilkinson. After digesting the conceptual aspects of the work, Root sent General Ludlow to Berlin to verify the claims of the book and view the military institutions in practice. Based on the report Ludlow submitted upon his return, the War Department moved ahead with implementing a number of its key ideas, especially the creation of a general staff. Years later, Root wrote to Wilkinson in a letter to explain the “great part your little book” played in the creation of “an institution of that kind already in existence when sudden emergency

⁴³ John Bunker, *The Progressive Era, 1893-1914* (Madison, WI: Worzalla Publishing Company, 1998), 314.

⁴⁴ Spenser Wilkinson, *The Brain of the Army: A Popular Account of the German General Staff* (Westminster, UK: Archibald Constable & Co, 1895), 5. The author even wrote in his preface of the newer 1895 edition he “thought it might be useful to the [British] Royal Commission and to the public to have a true account of that institution [Prussian General Staff], written in plain English, so that any one [sic] could understand it.”

came.”⁴⁵ The “emergency” Root foreshadowed the need for military preparedness during America’s buildup and eventual involvement in World War I.

The other work, *The Armies of Europe & Asia*, inspired much of the “Root reforms” within the War Department. Written by Maj. Gen. Emory Upton, the book provided a systematic look at the military command structure and practices of ten nations. In 1875, General William Tecumseh Sherman ordered Upton and a small group of army officers to travel the globe for two years in order to study the administrative practices of Austria, China, England, France, Germany, Japan, India, Italy, Persia, and Russia. In April of 1877, Upton wrote to his friend and West Point classmate Colonel Henry DuPont that he intended his report “to expose the vices of our system, instead of simply describing the organizations abroad.”⁴⁶ In the eventual report, Upton praised the command structure and efficiency of the Prussian military model as exercised during their recent successful campaigns, including the Austro-Prussian War of 1866 and the Franco-Prussian War of 1870. He held no illusions that the US military could or should “Germanize” completely, but “we can apply the principles of common sense, and by devising a plan in time of peace save the Government, in the event of war, much of the blood and treasure it has expended in former contests.”⁴⁷ Upton’s suggestions followed closely the general staff concept championed by Wilkinson, but went even further. He

⁴⁵ Spenser Wilkinson, *Thirty-five Years, 1874-1909* (London: Constable, 1933), 260-61. See also Weigley, *History of the United States Army* (1984), 315-17.

⁴⁶ Peter S. Michie, *The Life and Letters of Emory Upton: Colonel of the Fourth Regiment of Artillery, and Brevet Major-General, U.S. Army* (New York: Appleton And Company, 1885), 418.

⁴⁷ *Ibid.*, 419.

insisted in the expansion and reorganization of the regular army and the enlargement of volunteer units under regular officer command. Also, Upton suggested that military officer staffs regularly rotate from the office to the field, in order to limit disconnect and promote camaraderie between the two groups. He also argued for creating advanced officer training schools, basing officer promotions on merit and education, and ending seniority rule by creating “up or out” promotions. After reading Upton’s book, a young officer in the War Department recommended it to his boss, the secretary of war. Root gladly borrowed the copy the young officer happened upon at a second-hand bookshop.

Intellectually curious, Root went beyond merely reading Upton’s recommendations and used them as a guide to institute his progressive agenda. He then picked up and read a biography about Upton to place the man and his ideas into the proper context. Root never formally met with Upton because the general tragically committed suicide back in 1881 after battling chronic migraine headaches for years, possibly caused by a brain tumor.⁴⁸ Due to Upton’s sudden death, the final manuscript for his upcoming book, *The Military Policy of the United States*, remained unfinished for almost three decades. This book, published posthumously in 1904 by the War Department at Root’s request, continued Upton’s fight for military reform by looking at the US military’s performance in past wars in order to outline the longstanding defects in command structure and his solutions for the problem. In a later letter to his biographer, Root reiterated the importance of Upton’s recommendations in providing him with “the detail on which I could base recommendations and overcame my ignorance as a

⁴⁸ Michie, *The Life and Letters of Emory Upton*, 419; Stephen Ambrose. *Upton and the Army*. (Baton Rouge: Louisiana State Press, 1993), 96.

civilian.”⁴⁹ Thankful for the intellectual contributions of Upton, Secretary Root penned the preface of his new book, outlining his unyielding commitment to the US military and the debt of gratitude owed to him for the reforms he suggested. Though not originated by him, Root deserved credit for implementing ideas that had sat dormant for almost thirty years.

Secondly, Root relied on the talent and services within his department, both known and yet to be discovered, to help him effectively understand the problems and craft progressive solutions. In overall military policy, the Assistant Adj. Gen. William Harding Carter served as Root’s key advisor. Carter, a forty-six year old veteran of the Indian Wars, served as a major in the War Department’s staff since 1897. Unfortunately during Alger’s term as war secretary, Carter’s creative and administrative talents remained untapped. He witnessed the unorganized and chaotic nature of the military during the War of 1898, and seemed “surprised that so much was accomplished under a system so defective.”⁵⁰ Carter pushed for change under Alger, but the department remained slow to react and seemed oblivious to major blunders, despite his own best efforts.

With the arrival of Root as the new secretary, Carter found a favorable ally to advance and implement much-needed military reform. Both men shared a commitment to the progressive impulse toward reforming, streamlining, and professionalizing the United States military establishment. As Carter’s biographer points out, Root’s appointment

⁴⁹ Jessup, *Elihu Root*, vol. 1, 242-43.

⁵⁰ Ronald Machoian, *William Harding Carter and the American Army: A Soldiers Army* (Norman: University of Oklahoma Press, 2006), 104.

turned out to be “an act that bode well for Carter’s personal career as well as his progressive agenda.”⁵¹ Carter wrote a significant number of journal articles that stressed the need to reform and create what he later termed the “New Army.” In a *North American Review* article in 1918, he explained that in the “New Army” the “interests of individuals count for nothing except as they merge in the common purpose to win victory.”⁵² Beyond creating a more democratized military, Carter envisaged military science as “an all-absorbing, special profession, requiring much education and preliminary training in order to master all the technical details appertaining to it.”⁵³ Carter reinforced this assessment through a very progressive lens, contending that a solution to any problem of the modern world “is only a question of concentration of energy upon a given subject, at a particular time, with the best means available.”⁵⁴ Root and Carter worked with other reformers within the War Department, such as Adj. Gen. Henry Corbin and Charles Magoon. Together, these men combined their optimistic outlook with a progressive commitment to rationally dealing with complex problems through meticulous study and long-term planning.

In 1899 the American military campaign against the Filipino nationalists escalated, while Root remained focused on bringing this conflict come to an end as

⁵¹ Ronald Machoian, *William Harding Carter and the American Army: A Soldiers Army*, 106-07.

⁵² William Harding Carter, "Army Reformers," *The North American Review* 208, no. 755 (Oct. 1918): 557.

⁵³ William Harding Carter, "The Evolution of A General Staff," *Journal of the Military Service Institution of the United States* 33, no. 125 (Sept.-Oct. 1903): 205.

⁵⁴ William Harding Carter, *The American Army* (Indianapolis: The Bobbs-Merrill Company Publishers, 1915), 4.

quickly as possible. The lead US military governor for the Philippines, Maj. Gen. Elwell Otis, carried a reputation as a stubborn, bewhiskered old man who remained unable to break the Filipinos' resistance. For over a year prior to Root's arrival, Otis begged the War Department for more troops to no avail. With Root in charge of the department, Otis finally received the additional men he needed. In addition, Secretary Root, with the backing of President McKinley, asked Congress to fund and send an additional 35,000 volunteer troops to be deployed to the islands. The Act of March 2, 1899, raised troop levels in the Philippines to a combined volunteer and regular force of 65,000.⁵⁵ This increase represented the largest American military force assembled since the Civil War.

If the additional troops were to be successful, they needed the brightest most efficient men to lead them into battle. Just like any other appointment in the War Department, Root wanted it based on the progressive idea of merit and not solely on seniority. Thus, Root instructed the commander of the Army, Maj. Gen. Nelson Miles, to create a pool of possible candidates taken from the regular army ranks to lead these new volunteer forces. He strongly suggested that Miles keep his assignment a secret. Root feared that publicity from a more public search might cause applications to flood his office, slowing the process down to a crawl. Miles, a fervent devotee to the military tradition, sent Root a list of possible men based on seniority alone.

Root fumed with anger over the way Gen. Miles compiled the list he had requested. He quickly saw the type of ingrained and reactionary resistance he soon faced

⁵⁵ Elihu Root, *Elihu Root Collection of United States Documents relating to the Philippine Islands*, vol. 2 (Washington, DC: Government Printing Office, 1899), 120.

to his progressive reforms.⁵⁶ The men Miles suggested in his list lacked the vigor, energy, and youth required to lead their men through the excruciatingly hot and humid tropical jungles on the trail of Emilio Aguinaldo and the other Filipino “rebels.” To make matters worse, Root read newspaper headlines claiming to have unearthed Miles’s list of possible appointees. Very quickly, Root tracked the media leak back to Miles, who caused the media blitz. Though Root took no formal disciplinary action against Miles, the incident forever destroyed his trust in the general. This event marked the beginning of the two men’s oft-troubled and, at times, hostile relationship.⁵⁷ At one point, Root confided to McKinley that Miles continually created problems by trying “to promote his own views and undo my plans.” Root compared the volatile combination of his personality mixed with Miles as having the same effect as “mixing Seidlitz powder.”⁵⁸ His problems with Miles revealed the level of resistance could expect within the military establishment. If he encountered such resistance over the selection of leadership for volunteer regiments, Root could only imagine the type of hurdles he would face when restructuring large parts of the military establishment. Miles remained a thorn in the side of Root’s reforms until

⁵⁶ Robert Wooster, *Nelson A. Miles and the Twilight of the Frontier Army* (Lincoln: University of Nebraska Press, 1995), 242. Wooster rightly suggests that Miles “made no secret of his opposition to the Root reforms.”

⁵⁷ Root to Philip Jessup, January 23, 1934. Philip Jessup Papers. Library of Congress. Washington, DC.

⁵⁸ Root to William McKinley, September 4, 1901, William McKinley Papers, Library of Congress, Washington, DC. The reference to Seidlitz powder was a common elixir of the period made up of tartaric acid, sodium bicarbonate, and Rochelle salt used to counter constipation of the bowels. Upon mixing the powders with water, the mixture bubbled and effervesced. In the wrong hands, this treatment had horrible side effects and if the components were mixed improperly, it could be fatal. This “bubbling effect” synonymous to creating problems and conflict is what Root is referring to in his letter to President McKinley.

1903 when the general reached the mandatory retirement age of sixty-four. As Miles passed into retirement, Root deliberately downplayed the event. He remained publicly silent about Miles' departure, even refusing to praise him for past services. Major General Miles marked the last of the entrenched "military-politicians" and permanent staff officers within the "old order" of the War Department. In fact by 1918, the leaders of the military establishment "represented the harvest of the Root education system."⁵⁹ The new system focused primarily on merit, ability, and performance rather than seniority as the sole measure for advancement. With a more realistic understanding of the resistance he was to face, Root now endeavored to overhaul the structural defects of the military and within the War Department.

The Long Game of Military Reform

To reform the military apparatus on a systemic level, Root understood the need to start slowly and gain support for individual ideas. Although Carter deeply desired to create a general staff for the US Army as quickly as possible, Root attempted to avoid unnecessary political disputes by securing more palatable changes before tackling tradition and courting controversy. He broadly outlined and hinted at many of the challenges faced by the military in his first "Annual Report as the Secretary of War," in 1899. He then listed his reform ideas at the end of the work. Although he preferred to avoid international conflict and wars if at all possible, the nature of Root's post required that his reforms serve military purposes and function. First, he understood the purpose of any army centered on its necessity and use in wartime scenarios. A nation never created an army without the intention of using it. Thus, this modern reality necessitated a larger

⁵⁹ Edward M. Coffman, *The War to End All Wars: the American Military Experience in World War I* (Lexington: University of Kentucky Press, 1998), 12.

permanent military force that stood at the ready. Root's military reforms started what came to be known as the progressive era "military preparedness movement."⁶⁰ Just as with other aspects of the progressive movement, he emphasized the need for study and planning. Progressive reformers of period continually emphasized the need for long-term planning. In the civilian world this agenda included urban planning, family planning, planned use forestry, industrial planning, and others. Secondly, and in line with the first proposition, Root remained convinced that fighting in any military conflict involving the US Army would not wholly consist of regulars. Indeed, regular forces needed to be supplemented with regiments of volunteers and National Guard units that could be called upon on an "as needed" basis.⁶¹ By doing this, Root supported a more democratized military force made up of professionals and volunteers, yet another progressive hallmark of reform. Even Roosevelt prophesized that "the military tent . . . will rank next to public school among the great agents of democratization." During the years leading up to World War I, this idea became part of the "preparedness movement."

With these concepts serving as the framework of a twentieth century American military, Root then built the structure around these ideas. As noted by scholars of the period, the US military heard and heeded the "internal and external demands for

⁶⁰ John Patrick Finnegan, *Military Preparedness in the Progressive Era, 1911-1917* (Madison: University of Wisconsin, 1969), iv; Michael David Pearlman, "To Make Democracy Safe For The World: A Social History of the Origins, Development, And Aftermath of the World War I Military Preparedness Movement in America." PhD diss., University of Illinois (Urbana), 1977.

⁶¹ United States War Department, *Annual Report of the Secretary of War, 1899* (Washington, DC: US Government Printing Office, 1900).

increased professionalism, efficiency, and modernization.”⁶² Reformers within the War Department then identified four key issues that needed attention: forming actionable contingency plans in case of conflict with any enemy, efficiently securing provisions of needed supplies and war materials, basing promotions on merit rather than flat seniority, and practicing effective, large-scale field maneuvers to better prepare for actual battle scenarios.⁶³ All of these issues stressed the progressive themes of military preparedness, order, efficiency, and meritocracy. After releasing the findings and suggestions of the War Department’s first annual report, Root received an outpouring of support for his proposed changes from those outside of the military, including influential members of Congress, some members of the press, and even his old friend Theodore Roosevelt.

By 1900, Root cautiously went about gaining the sheer number of supporters necessary for the actual implementation of his actual reforms. This meant he needed to effectively communicate to Congress and educate its members about the problems the department faced so they could then vote in favor of his reforms. This education process represented one of the ways that progressive reformers utilized to commence meaningful movement on particular issues. According to progressive thinking, educating people provided them the proper tools to fix societal problems. Said another way, the process enlightened and empowered regular people to take control over changing societal forces. Root appeared before countless congressional committees in order to graciously and, in most cases, slowly cultivate members toward his vision of reorganizing the US Army.

⁶² Richard Shawn Faulkner, "The School of Hard Knocks: Combat Leadership in the American Expeditionary Forces," PhD diss., Kansas State University, 2008, 42.

⁶³ War Department, *Annual Report of the Secretary of War*; Jessup, *Elihu Root*, vol. 1, 253.

Root explained the process of working with Congress as “a simple one, but it takes some time.”⁶⁴ He identified the keys to success in persuading Congress relied on a person’s ability to “first convince them that he has more knowledge of the subject than they have, and next that he is sincere.”⁶⁵ Armed with the necessary information from a friendly source, Root trusted that Congress would take appropriate actions for the nation’s benefit. To apply more pressure on Congress to act, Root reached out to modern media that then carried weight in military and political circles.

In a thorough manner, Root approached trusted members of the press and influential editors of military journals, he desired to include in the transformation process. In this particular instance, he reached out to seven military journal editors throughout the nation, including the William C. Church, the publisher of the respected *Army and Navy Journal*. Root then sent the men the rough draft of his Army Reorganization Bill, asking for suggestions and more importantly their public support of his plan. He admitted in letters to Church of the aforementioned journal and the others, “there are undoubtedly matters of detail in the bill which can be improved, and that it would be of great advantage.”⁶⁶ Root rightly expected some resistance to some of the details of his plan, but overall the journal editors commended his rough draft as a work in progress and at the very least, a step in the right direction. Within the military establishment, the majority of

⁶⁴ Root to Henry L. Higginson, October 8, 1906. Philip Jessup Papers. Library of Congress.

⁶⁵ Ibid.

⁶⁶ Root to Colonel William A. Church, February 24, 1900. Elihu Root Papers. Library of Congress. Washington, DC.

officers rallied behind Root's call for increasing the size of the permanent military and only a few opposed his reorganization measures.

Still opposed to Root, retired Gen. Nelson Miles utilized what political clout he still possessed to try and derail the bill. He even convinced senators to add extraneous amendments not even considered by the Military Committee or included in its unanimous report. The Senate proposed significant changes to the bill, and in some cases modified it beyond its original form. As an example of weighing down the bill, Congress inserted an amendment that called for prohibiting the sale of beer and wine on military posts. Many members of Congress responded to the growing call for the prohibition of alcohol nationwide by utilizing this "Canteen debate," as it was known, as an opportunity to showcase their temperance movement bona fides.⁶⁷ The debate over the sale and consumption of alcohol on military posts served as another example of groups conflicting over the progressive era ideas of professionalization and prohibition.

Root, congressional leaders, and the American public disagreed about whether prohibition, within the military or in society at large represented a "progressive" step forward. Again, not all progressives championed the same issues and not all reformers looked at this issue through the same moral lens. The divide on the issue rested heavily on class, ethnicity, religion, and socioeconomic class. Senator Richard Pettigrew of South Dakota, a Populist and later Progressive Party supporter, characterized army posts which sold liquor as "nurseries of drunkenness and kindergartens of profligacy."⁶⁸ Such

⁶⁷ For a short discussion of the issue, see Amy Mittelman. *Brewing Battles: A History of American Beer*. (New York: Algora Publishing, 2008), 68-70.

⁶⁸ "No Beer For Nation's Defenders," *New York Times*, January 10, 1901.

divisions reinforced the conclusion that there existed “no perfect congruence of the progressive movement and the prohibition movement.” In the end, prohibition for a variety of reasons “touched a different level of passion and conviction in each individual.”⁶⁹ Though the overall goal of progressivism to reform society for the better remained at the center of the movement, progressives lacked a single voice or common mindset when it came to a multitude of social and political issues.⁷⁰ The debate over the consumption of alcohol by a professional military force dated as far back to 1890, though Congress had typically struck down any action on the issue at the last minute.

Weighing the Canteen Ban

Root, although a reformer and progressive on many issues, neither supported the idea of national prohibition nor the drying out of the military. He quickly realized in the current debate within the Senate that a mix of Democrats and Republicans constituted a sizable opposition to the Army Reorganization Bill. He hoped this senatorial odd couple was not willing to demolish the entire bill over canteen ban issue. Root claimed that an

⁶⁹ Norman Clark, *The Dry Years: Prohibition and Social Change in Washington* (Seattle: University of Washington Press, 1965), 126.

⁷⁰ See Lewis Gould, *Progressives and Prohibitionists: Texas Democrats in the Wilson Era*. (Austin: Texas State Historical Association, 1992); Jack S. Blocker, Jr., *American Temperance Movements: Cycles of Reform* (Boston: Twayne Publishers, 1989); Paul Isaac, *Prohibition in Politics: Turbulent Decades in Tennessee, 1885-1920* (Knoxville: University of Tennessee Press, 1965); Robert A. Hohner. “The Prohibitionists: Who Were They?” *The South Atlantic Quarterly*, 68 (Autumn, 1969): 491-505; Joseph Gusfield, *Symbolic Crusade* (Urbana: University of Illinois Press, 1963); John Burnham, “New Perspectives on the Prohibition ‘Experiment’ of the 1920s,” *Journal of Southern History*, 2 (Fall 1968): 51-68. There was significant disagreement amongst scholars during the mid-1960s and prior as to whether or not the prohibitionist surge was even part of the progressive movement. As historian Lewis Gould so well noted, “The fit was never perfect, but there seemed more to be gained from looking at prohibition as a branch of reform than from dismissing the idea out of hand.”

act seriously injured the “discipline, health and morals of the army.”⁷¹ He predicted the fallout from the ban would effectively “retard enlistments, and promote drunkenness, disease, and desertion.” Over Root’s protests, Congress, in a bipartisan effort, added the canteen ban as an amendment to the Army Reorganization Bill. In spite of the amendment, the Army Reorganization Act of 1901 still passed that February. Root understood, however, that without compromising on the canteen issue, military reorganization of any kind remained out of the question. He resolved to argue for the future repeal against the canteen law, but accepted that this bill being passed remained better than no bill at all. All of Root’s efforts at winning over the Congress and the press culminated in what can be best described as a little victory, but a victory nonetheless. Within a matter of months, the problems Root had predicted soon materialized.”⁷²

A *New York Times* article written only four months after the adoption of the new rule described the chaos caused at Fort Snelling in outside of St. Paul, Minnesota. The local reporter explained the massive rise in arrests due to the men searching for their spirit of choice at various off-base locales and returning heavily intoxicated. An officer interviewed for the story worried that if the army “put all offenders in the guardhouse [it] would leave hardly enough soldiers outside to guard them.”⁷³ An anonymous commander cited in the piece described the canteen ban as the “worst change we have had to contend

⁷¹ Root to William McKinley, February 2, 1901. William McKinley Papers. Library of Congress. Washington, DC.

⁷² Root to William McKinley, February 2, 1901. William McKinley Papers. Library of Congress. Washington, DC.

⁷³ "Officers Want Army Canteen," *New York Times*, May 20, 1901.

with since I entered the army.”⁷⁴ The journalist then explained the bill, in fact, increased desertions and swelled the number of soldiers facing court martial at Fort Snelling from three the year before to five within the first four months of the ban.⁷⁵ By 1902, Root released his annual report to Congress and outlined the negative effects of the canteen ban. He explained to Congress that he wanted to give the law “a fair trial” and based his criticisms about the issues on the previous year’s results. According to the War Department’s findings, the results confirmed the ban led “enlisted men to go out of the post, to frequent vile resorts which cluster in the neighborhood, to drink bad whiskey to excess, and to associate intimately with abandoned men and more abandoned women.”⁷⁶ He submitted the results of these reports to Congress, somewhat futilely, with the hope they might repeal the ineffective and harmful ban. The so-called “Canteen Act of 1901” remained in force on military posts until its repeal in 1953, some twenty years after the end of national prohibition.

Root’s Reorganization

After significant consultation and compromise, Congress passed the Army Reorganization Act or, as it was officially known, the Act of February 2, 1901. Although the act did little in the way of accomplishing all of Root’s overall reforms, the bill enlarged the standing army of the United States to around 90,000. Root justified the action by arguing that a modern army needed to meet the realities of a modern nation. No

⁷⁴ "Officers Want Army Canteen," May 20, 1901.

⁷⁵ Ibid.

⁷⁶ US Department of War, *Annual Reports of the War Department*, vol. 1 (Washington, DC: Government Printing Office, 1903), 52.

longer did the US military focus its duties on maintaining defensive frontier outposts, but now it needed to be a flexible and multifaceted force. As the Ugovernment and economy expanded so too did its desire for international stability. The bill also moved in the direction of ending permanent appointments to bureau positions within the War Department, but fell somewhat short of Root's goal. The new law included the practice of limiting line officers to no more than four years of service. This rule applied only to new appointees. Department officials "grandfathered" previously appointed officers into their positions, allowing them to serve out their tenure as permanent staff. On writer noted that under Root's plan "it will be impossible for the barnacles to attach themselves to the bureaus, or to become politicians in place of soldiers."⁷⁷ Thus, Root ultimately achieved his goal of ending these "lifetime" positions, but not without a significant struggle from old appointees and politicians resistant to change.

Additionally, Root's reorganization act took the progressive step of creating a permanent Nurse Corps under the Medical Department of the Army. Despite the failure of previous efforts by nurses to lobby Congress, Root's War Department supported the efforts of these women to professionalize as part of the "formal and legal recognition of nurses within the Army Medical Department."⁷⁸ Although not commissioned as outright officers, the new legislation allowed for the appointment of nurses to the regular army. The new regulations allowed for the renewal of the appointments based on the nurse's

⁷⁷ "Reorganizing the Army," *New York Times*, February 23, 1900.

⁷⁸ "Army Nurse Corps History," US Army Medical Department, accessed January 9, 2015, <http://www.history.amedd.army.mil>.

“satisfactory record of efficiency and conduct.”⁷⁹ the three-year renewable appointments provided what one scholar called a “bright spot” as women moved toward a more permanent and professional future serving the US military.⁸⁰ Secretary Root also appointed a woman, Dita H. Kinney, to the brand new position of Superintendent of the Army Nurse Corps at the army hospital at Fort Bayard, New Mexico.⁸¹ In a formal ceremony with President Roosevelt in 1902, Root said the Nurse Corps, represented by the ladies gathered in their uniforms, “always inspired respect.”⁸² Realistically, women still faced significant hurdles in the military such as not being commissioned officers in 1920, but Root’s efforts displayed his penchant for reform on behalf of women. Though he opposed women voting, he never opposed all efforts to modernize and democratize the role of women in society.

His next efforts at reform tackled another important pillar of progressivism. Prior to 1900, no systematic military education existed on any large scale throughout the nation and according to War Department reports, less than one third of officers in the US Army received any formal military education. Root found this lack of opportunity appalling, but

⁷⁹ Julia C. Stimson, *The Army Nurse Corps*, vol. 13 part 2, *The Medical Department of the United States Army in World War II* (Washington: Government Printing Office, 1927), 289.

⁸⁰ Barton C. Hacker, “Reformers, Nurses, and Ladies in Uniform: The Changing Status of Military Women,” in *A Companion to Women’s Military History*, Barton C. Hacker and Margaret Vining, eds. (Leiden: Brill Publishers, 2012), 160.

⁸¹ For a complete discussion of the formation of the Nurse Corps, under Ms. Kinney, especially during the period under discussion, see Mary T. Sarnecky. *A History of the U.S. Army Nurse Corps*. (Philadelphia: University of Pennsylvania Press, 1999) 42-79.

⁸² “Official Reports of Societies,” *American Journal of Nursing* 3, no. 5 (Feb. 1903): 385.

also highly inefficient for a modern military given the emergence of the new field of “military science.” As a result, he implemented significant and progressive changes to military education as a way to modernize the military while providing the men with opportunities for advancement. Root utilized the comparison that if college graduates “resort to perfect themselves in every profession and in every branch of applied science,” so then should the military “apply with equal force to education the science of war.”⁸³ This view of military training as science represented a departure from the days of barely controlled chaos on the battlefield. The military, its assignments, and its weapons technology evolved, moving from the simple to the complex. Thus, Root argued the changes of these more individual components “must be accompanied by a more perfect system, a more careful selection of agents, and a broader training of men upon whom fall the responsibilities of control.”⁸⁴ He understood that on the battlefield, sometimes experience beat out book smarts. However, Root also suggested that at various points in history a lack of knowledge often served as “the excuse for indolence and indifference” and helped to “destroy practical efficiency.”⁸⁵ The well-balanced officer consisted of someone with both practical and tactical knowledge, making that person a “stronger practical man and the better soldier.”⁸⁶ Thus, Root embraced a progressive framework that stressed systematic military education, making it a truly progressive endeavor.

⁸³ Elihu Root, *The Military and Colonial Policy of the United States* (Cambridge: Harvard University Press, 1916), 123.

⁸⁴ *Ibid.*, 124-25.

⁸⁵ *Ibid.*, 123.

⁸⁶ *Ibid.*

Root's educational process consisted of the progressive bottom-up, merit-based promotion approach. He reaffirmed his commitment to an educational organization that "sifted out from the great mass of officers by the demonstration of superior intelligence and devotion to their profession the Commander-in-Chief will naturally turn for details to important service and promotion to higher rank."⁸⁷ Every military post of any size throughout the nation developed a post school along with a curriculum, and required every junior officer to take part. An officer who showed promise at one of these post or garrison schools then took a series of examinations. If the candidate passed, the officer entered one of the five special service schools: the Artillery School at Fort Monroe, the Engineer School of Application at the Washington Barracks, the School of Submarine Defense at Fort Totten, the School of Application for Cavalry and Field Artillery at Fort Riley, and the Army Medical School in Washington, DC. Prior to the War of 1898, military leaders allowed these service specialty schools to languish. Root's persistence for change revitalized the buildings while his continuous insistence that US military officers benefit from the very best education in the newest areas of "military science" restored the important purpose they served. Additionally, Root and other reformers in the War Department renovated one of the military schools already in existence. They transformed the former infantry and cavalry school in Fort Leavenworth, Kansas, into the General Service and Staff College. Carter and Root stressed the need to further develop officer education beyond the traditional garrison and service schools.

Ultimately, Root hoped to establish an Army War College. In November of 1900, he ordered the establishment of a commission, known as the "Ludlow Board," for the

⁸⁷ Elihu Root, *The Military and Colonial Policy of the United States*, 123.

purposes of taking “preliminary measures towards the organization of a War College for the Army, including . . . its future conduct and guidance.”⁸⁸ Brig. Gen. William Ludlow chaired the four-man board that included Lt. Col. William H. Carter, Col. Henry C. Hasbrouck, and Lt. Col. Joseph P. Sanger. All of these men either directly knew Emory Upton as in the case of Hasbrouck and Sanger, or loudly championed his calls for military reform. By selecting this group, Root knew the committee’s recommendations would bring about the necessary reforms for the long-term benefit of the US Army.

Months earlier, Root had dispatched Ludlow and Sanger to England and Germany to study those nation’s respective military systems and organizations. Though he gained a positive general impression during his investigation, Sanger doubted the usefulness of directly replicating a military reorganization at least as it concerned the British military system. In a letter to Root, Sanger predicted that military defeats and difficulties associated with the Second Boer War “will lead to considerable modification of the British military administration.”⁸⁹ Given this development, Sanger and Ludlow focused

⁸⁸ William Harding Carter, *Creation of the American General Staff* (Washington, DC: Government Printing Office, 1924), 178.

⁸⁹ Joseph Sanger to Root, October 18, 1900. Elihu Root Papers. Library of Congress. Washington, DC; Henry C. Corbin to the Collector of the Port of New York, October 9, 1900. Elihu Root Papers. Library of Congress. Washington, DC. The “South African campaign” referred to by Sanger was the disastrous Anglo-Boer War that began in 1899 and ended in 1902. The objectives of the war on the British side included the conversion of the area known today as South Africa into British colonies and the extension of their colonial holdings in Africa. The Boers put up a massive resistance to this occupying force, culminating with a series of rather large victories against the British. The early failures of the British campaign caused many within their military apparatus to reconsider the organization, tactics, and strategy of their military force. As such, Sanger communicated to Root and others on the board that such a study of the British military organization at the moment of his visit would yield limited results since there seemed to a massive reorganization underway.

their investigation more on the Prussian or German system. After returning from Europe, the Ludlow Commission convened to release its final report. In February of 1900, Root met with the board and once again stressed the importance and function of the Army War College. He emphasized the purpose of the college as being to “further the instruction of the Army, to develop and organize, in accordance with a coherent and unified system, the existing means of professional education and training.”⁹⁰ The idea of using education as a way to elevate promising officers into positions for which they qualified for stood at the heart of progressive thought. Root’s biographer argued he acted out of the same desire that corporations stressed efficiency and consolidation.⁹¹ However, corporations of the period lacked any desire to pool its labor force members into programs that broadened their basic job knowledge, sought skilled and promising workers from the bottom, or offered to elevate employees to higher positions based on merit. The talents of skilled workers often went ignored and any desire to educate and promote them beyond failed to materialize. As business historians Louis Galambos and Joseph Pratt discovered, big corporations as well as small businesses largely neglected “making use of the innovative skills of its labor force on the shop and factory floor . . . reducing the worker’s role to that

⁹⁰ “The Proposed War College,” *Public Opinion* 28, no. 9 (March 1, 1900): 261.

⁹¹ Jessup, *Elihu Root*, vol. 1, 254. In this selection, Jessup points to the inefficiency of the military in planning and leadership. He then wrote, “The army seemed to him [Root] very much like a corporation run without a general manager or board of directions by the superintendents of the various departments of the business.” He then argues that this strengthened Root’s resolve for bringing about order and enlightenment to the US Army via his reforms to various military schools including the War College.

of an adjunct to a dominant machine process.”⁹² So, while the rough outlines of military reorganization seemed similar to that going on in business, they differed greatly in purpose, outcome, degree, and even type. Even among the like-minded reformers within the War Department, struggles over the organization and implementation of this new school developed.

Despite the Root’s commitment to the idea and the committee’s agreement on the need to create an effective officer training institution, these men often disagreed about just what such a college should or would look like. Colonel Carter emerged as a strong voice within the commission and pushed to include his “Uptonian” vision of creating a general staff, at least temporarily, under the auspices of the War College.⁹³ By the end of October, the Ludlow Board submitted its final report and Root secured the necessary funds from Congress to create the Army War College and renovate the service specialty schools. Following that move, Root issued General Order 155 in late November 1901 that authorized the creation of the garrison schools, service schools, and the formation of the Army War College. Despite a great deal of congressional support for the more familiar schools, many congressional leaders remained suspicious of attaching the General Staff to the Army War College since the US military apparatus had no such predecessor institution. Though something of the sort seemed necessary, there were those in Congress who questioned the adoption of a borrowed Prussian general staff system. Root, in attempting to allay their fears, reinforced somewhat humbly the general staff and the

⁹² Louis Galambos and Joseph Pratt, *The Rise of the Corporate Commonwealth: United States Business and Public Policy in the 20th Century* (New York: Basicbooks, 1988), 78.

⁹³ “Uptonian” refers to the military reform ideals of Emory Upton.

college was merely “a growth and not a new departure.”⁹⁴ Root smartly convinced Carter to roll the general staff concept into framework of the Army War College for a time until they could confidently secure the creation of the General Staff system as they envisioned. Using this approach, Root avoided any confrontation with Congress. Just two years later in 1903, Congress passed the General Staff Act that finally stood separately from the Army War College. The new act abolished the separate office of General Commanding of the Army and provided an Army Chief of Staff to the president. This new chief of staff not only supervised troops, but more importantly oversaw the staff and supply departments. The adoption of this new position provided a much-needed synergy between the different military and government bureaucracies within the War Department.

Aside from navigating the mere political difficulties associated with the General Staff and the Army War College proposals, Carter and Root also confronted the problem of finding the necessary facilities for the college. The secretary had been given only \$20,000 to overhaul a vast array of military structures and create the War College. Immediate construction of a brand new building remained out of the question, while other military facilities lacked the capacity to take on such an endeavor. As such, the war college idea remained largely unfulfilled until 1904 and even then could only accept nine men with the available buildings at the Washington Barracks. Eventually, a new building for the Army War College was constructed and opened, but not until 1908. Even though the college started slowly, it set the American military system down a much different, and arguably a much more efficient, path in the educational process of American officers. Military leaders and politicians alike raised arguments about the college’s ultimate

⁹⁴ Jessup, *Elihu Root*, vol. 1, 259.

practices, and it certainly lacked educational perfection. Unfortunate compromises to the plans for the college were adopted. At the very least, however, the war college served its purpose by providing a space for the exchange of ideas to up-and-coming officers who entered its doors. Later, part of its function evolved into a research think-tank of sorts that analyzed, discussed, and implemented strategies designed to relieve structural or strategic problems the US Army faced.

Root and Carter's work on the General Staff and the Army War College captured concepts that reflected progressive thought. Root and Carter provided equal praise for the other as neither man ever searched out any distinction for the creation and implementation of such a policy. In his 1903 annual report, Root declared that any gain realized by the new system "will have been largely due to him [Carter]," while Carter pointed to Root's "kindly, but firm, insistence upon a reform of our military system" as the key for its success.⁹⁵ When builders finally completed the Army War College in November of 1908, Root, who by then was the secretary of state, spoke at its dedication. His message emphasized and embraced the world's growing desire for peace and its slow but steady condemnation of war. Beyond this, he explained to the cadets of the college that they needed to be citizens, not merely soldiers. Root spoke of the ability for "army life" to "narrow your views."⁹⁶ He urged the young men to "broaden your sympathies

⁹⁵ US War Department, *Five Years of the War Department Following the War with Spain, 1899-1903* (Washington, DC: Government Printing Office, 1904), 333; Carter, *Creation of the American General Staff*, 3.

⁹⁶ Elihu Root, *The Army War College, Address And Reports*, in *The Military and Colonial Policy of the United States*, ed. Robert Bacon and James Brown Scott (Cambridge: Harvard University Press, 1916), 121-29.

by mingling with those outside of the service and learning from them.”⁹⁷ Although he succeeded in creating a functional command structure within the General Staff and a talented officer corps as a result of the US Army War College, he closed his speech to the audience of politicians and military personnel by reinforcing that the overall purpose of the US Army should be “never one of aggression, but devoted to the interests of justice and peace.”⁹⁸

The Military’s Other Branches

The last of the “Root Reforms” focused on America’s National Guard and reserve troops. With the nation at war with Spain just a few years earlier and the ongoing fight in the Philippines, political and military leaders alike grew concerned with the ability of the nation to defend itself while regular forces were off fighting in foreign lands. In addition, they confronted the problem of men getting bogged down in combat zones for too long without sufficient replacements. Secretary Root explained that prior to his arrival at the War Department, none of the government officials “could tell what was the legal status of that force, or what it could or should be asked to do.”⁹⁹ This uncertainty had the effect of creating confusion that “seriously hampered the action of the federal authorities” in effectively trying to conduct military operations.¹⁰⁰ At the time Root took the secretary position, the National Guard or militia system in the United States still operated under the

⁹⁷ Root, *The Army War College, Address And Reports*, 121-29.

⁹⁸ Ibid.

⁹⁹ William Cary Sanger, *The Reserve and Auxiliary Forces of England and the Militia of Switzerland* (Washington, DC: Government Printing Office, 1903), 6.

¹⁰⁰ Ibid.

legal guidelines dating back to the passing of the Militia Act of 1792. This antiquated law remained virtually unchanged for 110 years, despite calls for reform by previous presidential administrations. During the War of 1898, the weaknesses associated with such an outdated piece of legislation became readily apparent. In fact, the situation during the war deteriorated so badly that often the volunteers left their respective states without proper shoes, wore civilian clothes on duty rather than regulation military uniforms, and some even carried “sticks and clubs, while waiting for their uniforms and arms.”¹⁰¹ All of this occurred within zones of war not too far removed from the battlefields, recklessly placing American troops in harm’s way.

In 1900, with help of his old friend, New York Governor Theodore Roosevelt, Root dispatched the forty-seven year old colonel of the New York National Guard, William Sanger, to Europe to “secure a homogenous reserve.”¹⁰² Sanger, a fellow northern New Yorker, shared much of Root’s ideas as to what a modern volunteer force required in this new century. As with similar trips abroad, the purpose of Sanger’s visit to Europe centered on studying the new ideas, methods, and procedures of other nations adopted in relation to their reserve or auxiliary forces.

Root again relied on the “transatlantic cable” of knowledge shared with Europe to reform America’s outdated and inefficient military reserve system. Sanger traveled to England to better understand the British system. There he attended the military maneuvers and exercises of auxiliary forces, including the London Scottish Regiment

¹⁰¹ Sanger, *The Reserve and Auxiliary Forces of England and the Militia of Switzerland*, 7.

¹⁰² *Ibid.*, iii.

under the command of Col. Eustace Balfour. Sanger also discussed the issue of how to effectively finance volunteer forces with the commander of the Dumbarton Regiment and Parliament member, Col. John Denny. At Root's request, Sanger met with one of Britain's top military experts, Spenser Wilkinson. Together, Sanger and Wilkinson discussed the changes made within the British militia system and how to fully reform America's National Guard. As to the latter, Sanger admitted he greatly "profited by his [Wilkinson's] knowledge and experience."¹⁰³ In his report to the War Department, Sanger noted his observances of the volunteer "militia" of England, described the history of the British militia, and discussed the current trends within Britain's reserve forces. He outlined the strengths and weaknesses of the British auxiliary system in the current fight against the Boers. Sanger claimed that many of the problems in the conflict ultimately rested with the faulty system within which British volunteer forces operated. He tended to place less emphasis on replicating specific British practices in the US and more on embracing the ideals behind the institution. Sanger reminded Root in his report that, "What England may do, while of interest to us, is not of so much importance as the question what we are going to do about our State forces."¹⁰⁴ Like Root, Sanger tended to be an organizational thinker, focusing on the military structures and their affects on combat troops. Based on what he witnessed in England, Sanger recommended a reserve force separate from the main army apparatus. This unit needed a more dynamic command and control structure to provide greater military stability and efficiency.

¹⁰³ Sanger, *The Reserve and Auxiliary Forces of England and the Militia of Switzerland*, iv.

¹⁰⁴ *Ibid.*, 57.

While in Switzerland, Sanger conducted his observation of the Swiss militia system and determined that the US military by comparison severely lacked “military preparedness.” The Franco-Prussian War of 1870 forced the Swiss government to reform and rethink its military policies and structure. Throughout his report to Root, Sanger constantly reinforced the idea that despite American military involvement in numerous conflicts, US military leaders “rarely made any of the changes which actual warfare has proved to be necessary.”¹⁰⁵ Sanger explained to Root that the “most surprising feature” of the Swiss military system was their military efficiency. As a result of the Swiss government’s efforts at preparation, Swiss military leaders “worked out all the details necessary to enable the militia to take the field at an hour’s notice, equipped and ready for the defense of the fatherland.”¹⁰⁶ Alternatively in the United States, military leaders accepted that a slow response to the outbreak of war was the unavoidable result of the slow moving nature of democratic process and independent state governments. The realist in Sanger remained convinced “there is little chance that American will ever follow this example,” but he called for an effort to be closer “to a proper state of readiness for action in the future.”¹⁰⁷ Unless the military embraced the progressive ideas of education, coordination, and military preparation, the flaws of the military so visible during the War of 1898 threatened to surface again and again.

¹⁰⁵ Sanger, *The Reserve and Auxiliary Forces of England and the Militia of Switzerland*, 70.

¹⁰⁶ *Ibid.*, 69.

¹⁰⁷ *Ibid.*, 85.

Further, Sanger's report outlined the progressive ideas absent from the militia structure and the need to adopt the beneficial military aspects of the nations he studied. The most obvious recommendation urged the creation of a modern reserve military force or National Guard, under federal government control. The rational next step necessitated a decisive way of forming and constructing such a volunteer force. Here, Sanger provided no intricate details of how to specifically form this, but preferred to give Congress a number of different military structural system examples as a rough guide. In terms of officer selection, however, he agreed with Root in the dire need for merit-based promotions. "The truth should be recognized by the American people," Sanger wrote, "it is absolutely necessary that merit and efficiency should be the basis of selection and promotion."¹⁰⁸ If such a policy within his proposed modern National Guard stood any chance of being successful, Sanger argued for its adoption during peacetime as "it is hardly to be expected that in time of war the whole temper of the nation should change."¹⁰⁹ He warned that the US would either continue down a path surrounded by a "mist of intentional forgetfulness," or the country could move forward along the "stepping stones of success, in accordance with the true principles of American institutions."¹¹⁰ To both Root and Sanger, only a national military with a more scientific and educated general staff, promoted by principle rather than political connection, could lead its men effectively and successfully in times of battle.

¹⁰⁸ Sanger, *The Reserve and Auxiliary Forces of England and the Militia of Switzerland*, 93.

¹⁰⁹ *Ibid.*, 92.

¹¹⁰ *Ibid.*, 93.

Secretary Root heartily embraced the recommendations of Sanger's report following his return from Europe. As it had been in his previous reforms, Root's next major obstacle involved the Congress. On January of 1902, Root, with the help of his trusted friend and reformer William Carter, drafted a bill based on Sanger's conclusions. The bill recognized the National Guard as the organized militia of the United States. Additionally, the law organized and outfitted guard units under army regulations, specified a number of drills per year, and required inspection by the War Department. To incentivize state participants, Root provided the various state guard units with arms, equipment, and training funds from the War Department. Always careful to avoid political resistance where possible, he consulted with and secured the approval of various congressional and military leaders, including the namesake of the bill, Gen. Charles Dick of Ohio. Dick served as president of the National Guard Association and chairman of the House Committee on Militia. Guard association representatives voted overwhelmingly in favor of the bill, as did other state militia groups across the nation. Once again, Root reached out to editors of the major newspapers, asking for their ideas and support of the "Dick Militia Bill." He also wrote and received letters from militia and regular officers, appreciating their support for the bill. Though arguments emerged over certain aspects of the bill and whether or not it went far enough, Root urged that the "all important thing was to get into the law the few propositions on which general agreement could be reached and thus take a few steps in advance."¹¹¹ Though most people responded favorably to the bill, passage was far from guaranteed.

¹¹¹ Root to Colonel J.C. Boyd, April 12, 1902. Elihu Root Papers. Library of Congress. Washington, DC.

Despite the progressive elements of the militia bill, Root faced significant opposition. Labor leaders such as Samuel Gompers rallied his American Federation of Labor against the militia bill on grounds that the government might use such a force as an instrument of oppression to repress worker's rights and violently break up strikes. Both the Grover Cleveland and William Henry Harrison administrations called out military troops to violently quell labor sent troops to quell worker strikes. If possible, Root wanted to handle labor dispute through legal and diplomatic channels rather than outright violence. As his biographer pointed out, Root's actions throughout his career showed "no indication that he was antagonistic to organized labor."¹¹² To further strengthen his claims, Gompers also included recent media reports of torture committed by US troops during the Philippine fight for independence. Root, in his own words, clearly laid out his position of utilizing the National Guard and the military in general:

The true purpose of an army is to fight with the people of other nations, and the less our own people are subjected to military control and coercion, the better. If our citizens are unwilling to behave themselves in any direction it is much better that they should be compelled to do so by civil peace officers than by soldiers.¹¹³

Even Root's approach to labor disputes remained moderate and tempered as will be seen in a discussion in a later chapter of the 1902 Anthracite Coal Strike. So despite the fears of militarism held by labor unions and the political wrangling in Congress, General Dick and other supporters of the bill helped push it through the Senate as the "Dick Militia Bill" in late January 1903.

¹¹² Jessup, *Elihu Root*, vol. 1, 271.

¹¹³ Root to Colonel Edgar T. Ensign, October 4, 1902. Elihu Root Papers. Library of Congress. Washington, DC.

News of the bill's triumph invited a great deal of praise for Root by the media. *North American Review* contributor James Parker claimed the feeling toward Root's law was "one of enthusiastic approval." He further argued that a truly national militia "will strengthen and protect the Republic," making it worthy of the "support of patriotic men."¹¹⁴ Parker optimistically ended his article by asserting that the passage of Root's bill "enables us now, for the first time, to evolve a competent system of defence [sic]."¹¹⁵ As a leading historian of the National Guard, Jerry Cooper referred to the 1903 act as "the most important national legislation in militia history."¹¹⁶ On behalf of the Dick Bill, Root studied the military advancements of other European nations, created an orderly and efficient national militia system, and formally incorporated the National Guard into the US military.

Conclusion

As the US expanded its military reach at the end of the nineteenth century, the federal government relied more and more on experts in the field of international law. Recognizing Root's sterling reputation and successful record, President McKinley tapped the New Yorker as his new secretary of war in 1899. Upon entering the office, Root confronted a military system that had become exceedingly inefficient, increasingly political and corrupt, and overwhelmingly outdated. Though he served neither in the military nor in battle, Root proved adept at establishing himself as a progressive

¹¹⁴ James Parker, "The Militia Act of 1903," *The North American Review* 177, no. 561 (Aug. 1903): 21.

¹¹⁵ *Ibid.*, 286.

¹¹⁶ Jerry Cooper, *The Rise of the National Guard: The Evolution of the American Militia* (Lincoln: University of Nebraska Press, 1997), 111.

reformer. He quickly set about studying the maladies of the system, seeking the opinions of military reform experts and those military personnel within his department with new ideas who had been silenced and underutilized by the “old” regime.

Root along with his reformist allies struggled to implement what later became known as the “Root Reforms.” He placed young and impressive military personnel on an upward trajectory based on merit and achievement, rather than political pressure and personal connection. Additionally, Root pushed military leaders to embrace the ideas of military preparedness based on comparative studies and international fact-finding missions commissioned by the War Department. Lastly, he stressed the importance military science, a military education system, and a practical military structure by successfully pushing for the creation of specialty training schools for the army, an operative General Staff system, and a capable National Guard. One reporter commented that Root’s efforts left the US Army “an immensely more efficient fighting machine than he found it and deserves the thanks of his countrymen.”¹¹⁷

Though Root occupied much of his time with this internal shuffle during his years as secretary of war, he faced issues that drew his attention well beyond American borders. As part of his job, Root concurrently confronted the task of attempting to form an effective Cuban government all the while trying to bring the Philippine-American War to an end. These massively important tasks, taken all together, proved to be a daunting challenge and put his reputation as progressive-minded secretary of war on the line.

¹¹⁷ “Reorganization of the Army,” February 23, 1900.

CHAPTER III

GETTING AT THE ROOT OF HIS FOREIGN POLICY: THE CUBA EXPERIMENT

“When I consider the myriads of human beings who have lived in subjection to the rule of force, ignorant of any other lot, knowing life only as the beast of the field knows it...I cannot believe that, for the external forces of civilization to replace the brutal and oppressive government...by ordered liberty and individual freedom and a rule that shall start and lead them along the path of political and social progress, is a violation of the principle of Jefferson, or false to the highest dictates of liberty and humanity.”

Elihu Root

October 24, 1900 Address at Canton, OH

As secretary of war, Elihu Root navigated American foreign policy into murky intellectual waters in such far-flung regions as Cuba, the Philippines, and Puerto Rico following the War of 1898. Often in discussions about the goals of American engagement abroad, Root’s more boisterous Republican colleagues drowned out his more muted views. These party leaders included a self-avowed jingo in Theodore Roosevelt and a Congress beset with the imperial designs of Orville Platte, Albert Beveridge, and Henry Cabot Lodge. Though not wholly opposed to empire building, Root along with progressives such as Robert “Fighting Bob” LaFollette viewed it as merely an expansion of domestic progressivism. Termed by one scholar a “grudging imperialist,” Root envisioned imperial expansion as a means of moral, social, economic, and political uplift, rather than merely pilfering the resources of other nations.¹ As historian David Healy

¹ Walter Zimmerman, “Jingoes, Goo-Goos, and the Rise of America’s Empire,” *Wilson Quarterly* 22, no. 2 (Spring 1998): 53; Pdraic Colum Kennedy, “La Follette’s Foreign Policy: From Imperialism to Anti-Imperialism,” *Wisconsin Magazine of History* 46, no. 4 (Summer 1963): 287.

explained, Root recognized the great significance in the “coexistence of the enlightened and backward, and believed that the former must be responsible for the latter.”² So for those historians who depict Root as someone who blindly followed the American imperialist agenda, such a view fails to capture the nuance by which he sought to bring stability, order, and peace to specific nations and the world at large.³ Motivation for empire building ranged from national aggrandizement to sincere altruism and often, the two “coexisted quite comfortably with one another.” Such a construct allowed individuals like Root to fuse his support for imperialism with idealism.⁴ He, like many Victorians of his age, accepted that imperialism carried a connotation of progress toward the “improvement of the human condition, and ultimately of man himself.”⁵ Though Root’s position as secretary of war seemed contrary to idea of promoting the rule of law and peace, he always attempted to avoid armed conflict, military interventionism, and international instability if at all possible.

² David Healy, *US Expansionism: The Imperialist Urge in the 1890s* (Madison: University of Wisconsin Press, 1970), 144.

³ Courtney Johnson, “Understanding the American Empire: Colonialism, Latin Americanism, and Profession Social Science, 1898-1920,” in *Colonial Crucible: Empire in the Making of the Modern American State*, Alfred W. McCoy and Francisco Scarano, eds., (Madison: University of Wisconsin Press, 2009), 173; Donald Gibson, *Wealth, Power, and the Crisis of Laissez Faire Capitalism* (New York: Palgrave Macmillan, 2011), 81. Johnson maintained, “In the story of twentieth-century American imperialism, Elihu Root, perhaps more than any other figure of comparable significance, has been overlooked.” Gibson referred to Root as “one of the central public figures in the development of an imperialist foreign policy” and a “champion of the imperialist tradition.”

⁴ Joseph A. Fry, “Imperialism, American Style, 1890-1916,” in *American Foreign Relations Reconsidered: 1890-1993*, Gordon Martel, ed. (London: Routledge, 1994): 66.

⁵ Healy, *US Expansionism*, 12.

Historians and scholars of the period consistently defined historical views on empire in a simplistic and bifurcated model. According to this view, people of the period either fell into category of what Austrian-born political scientist Joseph Schumpeter called the “atavistic imperialists” or what English economist John Hobson termed the “antagonistic anti-imperialist.”⁶ This approach has yielded little as to a deeper understanding of the period and those who shaped it. Even historical works about “imperialists” and “anti-imperialists” pointed out the confusion of what the terms mean, the generalization by which individuals get lumped into their respective category, and the lack of any clear definition as to the underlying common motivations that explain their association.⁷

The supporters of American empire-building generally viewed their efforts not only as some “manifest destiny,” but as a way to export the valuable “commodities” that America offered in terms of economic, political, legal, educational, religious, racial, and moral ideals. Though they disagreed on a variety domestic issues and causes, expansionists looked optimistically upon the intentions of American imperial

⁶ For further discussion, see Joseph Schumpeter, *Imperialism and Social Classes* (New York: Augustus M. Kelley, Inc., 1951); J.A. Hobson, *Imperialism: A Study*. (New York: James Pott and Company, 1902). In his seminal work, Schumpeter characterizes imperialism in its purest form an objectless, irrational expansionism carried by either a warrior class or society that made war to justify its very existence. On the contrary Hobson argued that imperialism damaged democracy, subjected foreign peoples unnecessarily, and negatively hurt the economy.

⁷ For a discussion on the issues of imperialist and anti-imperialist, see Michael Patrick Culinane, *Liberty and American Anti-Imperialism: 1898-1909* (New York: Palgrave Macmillan, 2012); Matthew Frye Jacobson, *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917* (New York: Will And Fang, 2000); Joseph A. Fry, “Imperialism, American Style, 1890-1916,” in *American Foreign Relations Reconsidered: 1890-1993*, Gordon Martel, ed. (London: Routledge, 1994): 52-70.

advancement.⁸ Thus, the imperialistic policies of politicians and national leaders often dovetailed nicely with an interesting array of businessmen, professionals, industrial workers, and farmers, making for some strange political bedfellows on this issue. Each of these groups individually defined what imperialism meant both to and for them. Often these varying justifications and definitions of what imperialism ultimately meant overshadowed a multitude of self-interests that drove the policy. As noted by Joseph Fry, imperialists cited a number of different goals that spurred their behavior, including economic expansion, strategic security, democratic reform, cultural uplift, and religious conversion.⁹ Such a situation meant that imperialism could not be boiled to one overarching cause, but such flexibility also allowed for a great number to rally around the concept without having to agree on a common motive.

Alternatively, significant portions of the American public railed against the practice of imperialism, but remained just as intellectually disjointed as their opposition. Small but very vocal, a few groups and leaders emerged willing to stand up for what they believed imperialism to be, outright exploitation. These voices developed in a variety of places and indicted empire-building for a variety of reasons: economic, diplomatic, racial, moral, constitutional, political, and historical. Like their imperialist counterparts, anti-imperialists included in their ranks individuals seemingly at odds with one another in

⁸ Andrew Preston, *Sword of the Spirit, Shield of Faith: Religion in War and Diplomacy* (New York: Alfred P. Knopf, 2012), 159. According to Preston, a great number of Americans during the period “did not see a conflict between benevolence and empire; they did not see the term ‘progressive imperialist’ as inherently contradictory.” Such foreign endeavors squared quite nicely with other progressive ideals of uplift domestically, serving as a mere extension of those ideas.

⁹ Fry, “Imperialism, American style, 1890-1916,” 66.

other facets of life. Examples included the labor union leader Samuel Gompers, the tycoon industrialist Andrew Carnegie, the reformer Jane Addams, well-known philosophers Thomas Dewey and William James, former presidents Grover Cleveland and Benjamin Harrison, and politicians that ran the spectrum from American Socialist Party leader Eugene Debs, to leaders of the mainstream party establishment such as Republican Senator George Hoar of Massachusetts and Democratic presidential hopeful William Jennings Bryan.¹⁰ Though these voices projected a common stance as being against the practice of imperialism, this mixed and mingled cluster of interests often argued against the outgrowth of American empire based on reasons as contentious, jumbled, and sometimes as at odds, as the grouping itself. Other issues also complicate assessments of the period.

Over the years, studies of the period often described progressivism as merely a domestic phenomenon and that the nation's boundaries somehow prevented the spread of the movement's ideals.¹¹ Early historians explained imperialism as seemingly unrelated

¹⁰ Jacobson, *Barbarian Virtues*, 229. Jacobson argues the anti-imperialist movement "inherited long-standing feuds of Anglophiles with immigrants, capital with labor, radicals with conservatives, goldbugs with silverites, and African Americans with white Southern aristocrats."

¹¹ Much of the studies about imperialism over the last several decades have ignored, downplayed, or failed to go far enough in describing the relationship between international expansion and the progressive movement. Only in the last few years have historians such as Alan Dawley broke ground in the field of "international progressivism" or "progressive internationalism." He commented in his most recent book the "fact that internal and external matters were so deeply entwined did not make life easier for the progressives, or their historians." He argued that if "social reform and foreign policy were important to one another, then they must be included, one with the other, inside the same frame of analysis. For a further discussion, please see Alan Dawley, *Changing the World: American Progressives in War and Revolution* (Princeton: Princeton University Press, 2003).

and antithetical to the ideals of progressivism as American empire continued to expand to the far-flung island outposts in the Caribbean and South Pacific.¹² Throughout the period, these two concepts, imperialism and progressivism, synthesized which allowed them to exist neither strictly synonymous with one another nor mutually exclusive of one another. As with the study of intellectual undercurrents in other historical eras, these approaches overlapped and commingled within the minds of various groups, individuals, and policy makers. At times, these concepts complimented to one another, while in other situations they stood as contradictory in the minds of those defining it. In his work, Gerald Markowitz asserted that most progressives “saw reform at home and an imperial policy abroad as complimentary.” Even more telling, he noticed that “most rejected militarism and many opposed the use of force” to impart American ideals and institutions.¹³ Historian H.W. Brands also indicated that the rise of imperialism and progressivism around the same time “was not coincidental.” More interestingly, he considered that empire-building in the twentieth century “was progressivism writ large.”¹⁴ As difficult as progressivism was to define as a domestic movement, it stood alongside imperialism

¹² Gerald Markowitz, "Progressivism And Imperialism: A Return To First Principles," *Historian* 37, no. 2 (Feb. 1975): 257. He stated, “The two objectives were defined as complementary, if not symbiotic, in nature. Reformers acted upon the assumption that America’s growth and development could only proceed hand-in-hand with the regeneration of the world along the lines of America’s “democratic capitalism.” For a further discussion of early historical understanding of the relationship between empire and progressivism, see William Leuchtenburg. “The Progressive Movement and American Foreign Policy, 1898-1916.” *The Mississippi Valley Historical Review* 39, no. 3 (Dec. 1952), 483-504.

¹³ Ibid.

¹⁴ H.W. Brands, *Bound to Empire: The United States and the Philippines* (New York: Oxford University Press, 1992), 61.

beyond American borders. Elihu Root viewed the extension of US power abroad as a way to accomplish progressive ends in both Cuba and the Philippines. At the War Department, he inherited a messy *fait accompli* in both regions from his predecessor, but Root attempted to navigate those areas toward peace and progress. Representatives from Spain and the US negotiated the Treaty of Paris, 1898, well before Root assumed the office of secretary of war in 1900 and without his input. For better or worse, Root now operated under a document that legally dictated that the US government accept responsibility for its actions.

Realizing “Cuba Libre” after the War of 1898

Although the War of 1898 with Spain finally ended via armistice in August of 1898, treaty negotiations with the Spanish government dragged on well into December. Spanish diplomats quickly accepted US control of Guam and Puerto Rico and the occupation of Cuba until its own government took over as required under the Teller Amendment. American and Spanish representatives, however, differed greatly over the fate of the Philippines. Spanish officials attempted to retain control of the Philippines based on the technicality that fighting had ended prior to a clear US military victory. American delegates in Paris resolved this difference in interpretation by ultimately offering the Spanish government \$20 million if they surrendered legal control to the Philippines. Shortly after tendering the Treaty of Paris 1898, President McKinley and his fellow Republicans in Congress decided to annex the Philippines rather than give it the independence as promised in the Teller Amendment. The Treaty of Paris, 1898, conveyed responsibility to American leaders for preparing Cubans for independence and administering the Philippines government.

In the autumn of 1898, American military forces and bureaucrats took charge of government operations on the island of Cuba. The island and its inhabitants, devastated by a decade of depression, physically demolished by a revolution, and dashed by disease and filthy conditions, presented a great challenge for American leaders. The daunting task of reconstructing the island and its institutions had no precedent. Beyond reconstructing their own nation after the Civil War, American officials had little experience in nation building, especially outside its borders. During the chaotic years of fighting for their independence, the Cuban population declined by 12 percent due to the estimated four hundred thousand deaths and the island lost approximately two-thirds of its wealth.¹⁵ American officials reported a chaotic situation on the ground as “ordinary social restraints had been destroyed, the cities were crowded with thousands of refugees and *reconcentrados*, who were exasperated by suffering and the death of their families and friends.”¹⁶ Spanish authorities, in their rush to leave the islands, looted and gutted the island of “everything that could be removed.”¹⁷ The destruction of property, animals, plumbing equipment, and electrical fixtures further exacerbated the dire conditions on the islands. The actions of the outgoing Spanish caused a great possibility for the massive outbreak of water-borne illness as the “water troughs [were] filled with manure.”¹⁸ Root

¹⁵ James H. Hitchman, "The American Touch in Imperial Administration: Leonard Wood In Cuba, 1898-1902," *The Americas* 24, no. 4 (Apr. 1968): 395.

¹⁶ Elihu Root, *The Military and Colonial Policy of the United States* (Cambridge: Harvard University Press, 1916), 12.

¹⁷ Charles E. Chapman, *A History of the Cuban Republic: A Study in Hispanic American Politics* (New York: The Macmillan Company, 1927), 644; Willis F. Johnson, *The History of Cuba*, vol. 4. (New York: B.F. Buck & Company, 1920), 133.

¹⁸ Richard Gott, *Cuba: A New History* (New Haven: Yale University Press, 2004),

later described the sanitary conditions on the island “to be as bad as it is possible to conceive.”¹⁹ Beyond just the basic necessities, the Spanish looted public funds, and government facilities ceased to function. American military leaders in Cuba noted in a report that “a large number of the people were found to be starving.”²⁰ Food shortages along with the scourges of yellow fever, malaria, dysentery, typhoid, and smallpox devastated the islands both during and after the war. These illnesses devastated native Cubans, along with Spanish and American troops. The death toll in the town of Santiago alone rose to about two hundred people a day out of a population of fewer than 50,000. Also, the Spanish had arrested large amounts of supposed Cuban “political prisoners” and allowed them to languish in squalid jail facilities. In 1904, Root described to an American audience that “hundreds of prisoners in the jails of Cuba who had been imprisoned for years without trial.”²¹ As an example, Root detailed how the Spanish government had jailed one of these “wretches” for eleven years while he “theoretically” awaited trial.²² Even the awful conditions faced by political prisoners paled in comparison to the cruelty exhibited by Spanish military commanders. General Valeriano Weyler, nicknamed the “Butcher,” initiated the policy of *reconcentrado* against Cuban civilians that killed an

104; Hugh Thomas, *Cuba, or The Pursuit of Freedom*. (New York: Da Capo Press, 1998), 238.

¹⁹ Root, *The Military and Colonial Policy of the United States*, 12.

²⁰ US War Department, "Report of Maj. Gen. J.R. Brooke On Civil Affairs In Cuba," in *Annual Reports of the War Department for the Fiscal Year ended June 20, 1899* (Washington, DC: Government Printing Office, 1900), 8.

²¹ Elihu Root, "Duties of American Lawyers To American Law," *The Yale Law Journal* 14, no. 2 (Dec. 1904): 71.

²² Root, "Duties of American Lawyers To American Law," 71.

estimated 225,000 Cubans in a systematic and genocidal fashion prior to American intervention. Despite the desperate and bleak circumstances of Cuba and its people, the American government bore the responsibility of getting the island back on its feet.

Following the war, President McKinley appointed Maj. Gen. John R. Brooke, a career soldier and Civil War veteran, as the division commander and first military governor of the island. In November of 1899, he instituted a number of changes that quickly aroused opposition from both the Cubans and his own officers. First, Brooke instituted more centralized control over relief efforts and funds that created major inefficiencies in the distribution of both. Some of his regional commanders claimed this interfered with their independent reconstruction efforts specific to the needs of their region. Brooke lacked the trust of a majority of the Cuban people, especially in Santiago, and the support of his military commanders.

Another unpopular policy involved the way in which Brooke dismantled the Cuban army. Some soldiers resisted until he authorized the distribution of what totaled to be \$3 million dollars for the men to give up their arms and stand down. As the Cubans' reluctance ceased, the numbers of men claiming veteran status ballooned. In an unpopular move, Brooke cut the sum paid to each Cuban from one hundred dollars to seventy-five dollars once they surrendered their weapons.²³ As the process to secure these funds evolved into a long and drawn out process, the Cuban population grew to resent Brooke and his methods. Adding to the Cuban population's suspicion and distaste for the

²³ Louis J. Perez, "Supervision of A Protectorate: The United States Army And The Cuban Army, 1898, 1908," *The Hispanic American Historical Review* 52, no. 2 (May 1972): 254; US War Department, "Report of Maj. Gen. J.R. Brooke," 8. In total, Brooke and his military government dispersed monies to almost 40,000 Cuban Army troops.

governor, Brooke enacted a number of rather unpopular and counterproductive “moral” reforms, including the closure of businesses on Sundays, the abolishment of gambling, and the confiscation of all machetes.²⁴

McKinley and his cabinet’s lack of leadership in relation to Cuba, in part, contributed to Brooke’s ineffectiveness. Even the president admitted that “we [his administration] have had no policy in regard to Cuba or our relations therewith, for the simple reason that we have had no time to formulate a policy.”²⁵ Government officials in Washington contented themselves to leave the transition effort in the hands of the military leaders in Cuba with little to no oversight and even less accountability.²⁶ Thus, he confronted a seemingly daunting task and as always, timidly carried out the vague orders of the president to “get the people ready for a republican form of government.”²⁷ By the fall of 1899, Gen. Leonard Wood, the regional commander of Santiago, complained in a letter to Theodore Roosevelt about the “condition of the islands is disheartening” as “no single reform has been instituted, which amounts to anything up to date.”²⁸ Without a change in military leadership, Wood predicted the Cubans lacked any

²⁴ Howard Gillette, "The Military Occupation of Cuba, 1899-1902: Workshop For American Progressivism," *American Quarterly* 25, no. 4 (Oct. 1973): 413. Most awkwardly of all, Brooke called for the US military to confiscate all the machetes on the island in the interest of public security, failing to see what irrevocable damage this would have done to Cuba’s sugar industry had the law been enforced.

²⁵ *Ibid.*; James H. Wilson, *Under the Old Flag*. (New York: Appleton, 1912), 2.

²⁶ *Ibid.*, 480.

²⁷ McKinley to J.R. Brooke, December 22, 1899, William McKinley Papers, Library of Congress, Washington, DC.

²⁸ Wood to Theodore Roosevelt, August 12, 1899, Leonard Wood Papers, Syracuse University Special Collections, Syracuse, NY.

real chance at a “decent, candid, courageous government, good courts, good schools, and all the public work we can pay for.”²⁹ Although final decisions on a variety of issues emanated from Washington, the people of Cuba looked to Brooke and his commanders to better their lives.

Though Brooke openly embraced the challenge of sanitizing Cuban city streets, he struggled with defining any larger objective and purpose for reform. An early McKinley biographer described Brooke as a man that lacked “the full tide of energy” necessary for such a massive undertaking.³⁰ The governor even admitted the establishment of a new Cuban government and any timetable remained “a subject not be discussed . . . if at all.” He seemed content on leaving those questions to “a higher authority, to whom such matters properly pertain.”³¹ Brooke ultimately failed to realize his position as the face of the US government on the island to the Cuban people. Surely, the challenges faced by Cubans demanded their input and their solutions, but he needed to embrace his role as the instigator of reform rather than entirely ignoring it. So, instead of attempting any large-scale reform of Cuban laws, he merely reinstated colonial many of the older Spanish laws. As a result, Brooke’s military government, and more importantly his leadership, effectively failed to confront the multiple challenges facing Cuba. At the same time, media and political criticisms of Secretary Alger increasingly

²⁹ Wood to Theodore Roosevelt, August 12, 1899, Leonard Wood Papers.

³⁰ Margaret Leech, *In the Days of McKinley* (Westport, CT: Greenwood Press, 1975), 392.

³¹ US War Department, "Report of Maj. Gen. J.R. Brooke," 15.

pushed McKinley to make sweeping leadership changes in the War Department. This desire for change, in turn, affected the course of American leadership in Cuba.

After being sworn in as secretary of war in August of 1899, Root acknowledged that the erosion of the situation in Cuba meant that he needed to “deal with the things immediately before us.”³² As he had done throughout his career in law, he vigorously investigated the situation on the ground. From the time of his appointment to the time the military government disbanded in 1902, Root travelled to Cuba three times, talking to “everybody I could get hold of and got all the information I could get my hands on from soldier to civilian and Americans and Cubans.”³³ In a confidential report to the Senate, Root described how he studied the situation “as carefully as any business man ever studied his own business, or any lawyer ever studied his own case which he was about to try.”³⁴ Beyond his own investigation, Root relied on the advice and experience of experts.

Since he was not a military man, Root relied on military experts who knew the problems of Cuba most acutely to provide him with the insight necessary to effect desperately needed changes. For nearly a decade, progressive reformers, social scientists, and middle-class professional associations had embraced the “scientific process” of compiling detailed studies and assessments. These investigations helped to inform and educate the public and their group about the scope and causation of a wide range of social

³² Root to Philip Jessup, September 30, 1930, Philip Jessup Papers, Library of Congress, Washington, DC.

³³ Ibid.

³⁴ Lawrence F. Abbott, "Leonard Wood And The Presidency: A Personal Impression," *The Outlook* 124, no. 11 (Mar. 1920): 472.

issues, including poverty, homelessness, medical illness, and political reforms.³⁵ Root considered such information gathering as critical in deciding a methodical way of moving forward, establishing priorities, and gaining a more complex view of how various systems functioned toward an overall goal. Upon Root's demand, General Brooke and his regional commanders compiled reports of the current conditions and up-to-date results of American occupation in Cuba. Root then poured over the men's findings in order to better chart out a new course for American policy there, while measuring the strengths and weaknesses of the policies that were in place. This effort represented the first time the War Department had taken such a methodical accounting of measures and operations in Cuba.

Regional commanders in Cuba utilized Root's request for these reports as way to try to gain his attention about leadership concerns. These believed that with this new direction in the War Department, the possibility for new leadership of the military government in Cuba now appeared to be attainable. The four regional leaders presented their reports and with them, their own vision for the future of Cuba. After carefully reviewing the results, Root quickly realized that Brooke needed to be replaced, and as secretary, he bore the responsibility of choosing his replacement. All four generals, Leonard Wood, James Wilson, Fitzhugh Lee, and William Ludlow labored for the support of political leaders in Washington. However, Wood, unlike his counterparts, gained the backing of influential Republican leaders such as Theodore Roosevelt, Henry Cabot Lodge, and even President McKinley. Wood further aided his candidacy by hiring a public relations agent to lobby for him in Washington and convincing the editor of the

³⁵ For a broader discussion of the scientific process within these groups, see Robert Wiebe, *The Search for Order, 1877-1920* (New York: Hill And Wang, 1967), 111-32.

New York Sun to write glowing critiques of his leadership there in Cuba. Root then engaged in the unenviable task of reviewing each candidate's vision for Cuba, and in the end, chose Wood to replace Brooke as military governor of Cuba. Root justified his selection to a friend by explaining that Wood had the ability to "get on with the somewhat excitable and sensitive Cubans."³⁶ Thus, on December 13, 1899, the War Department announced the shift in the leadership of the island and with it a shift in the direction of America's policy. Both Root and Wood received President McKinley's instructions to "prepare Cuba for a republican form of government, provide good schools and courts, put the Cubans on their feet and leave the island as soon as possible."³⁷ Secretary Root chose Wood not as the result as the strong political pressure of Republican leadership, but due to his belief in progressive reforms in a variety of areas. The two men both agreed on the broad and sweeping reform of laws and institutions needed in order to stabilize, modernize, and organize the island. As with previous endeavors by Root, alliances and partnerships between him and his subordinates, assuring each person was on the same page in terms of desired outcomes, became key to the project's successes. Undoubtedly, this endeavor embodied much of the imperialistic spirit of the time, but this also spoke to the progressive and beneficial ends both men wanted to see for Cuban society. These two men, Root and Wood, committed to reforming seemingly broken systems throughout each one's career, now focused their efforts on

³⁶ Root to Lawrence F. Abbott, December 19, 1903, Elihu Root Papers, Library of Congress, Washington, DC.

³⁷ *Ibid.*

raising Cuba from its squalor and disaffection.

Revising Regulations: Legal Reforms in Cuba

Given Root's knowledge of the law and Wood's experience, both men agreed that Cuban legal reforms needed the most attention. In fact, Wood classified changes to the legal system as the "most immediate and pressing need of reform and improvement."³⁸

As was common, progressives of the period often sought to transform institutions rather than individuals so that the net effect promoted comprehensive, top-down reforms. Thus, the changes instituted by reformers hopefully served the greatest number of people and provided the chance for long term success by turning away from a system's crippling defects and inefficiencies. The Cuban judicial system under the Spanish, and even under Brooke's administration, failed to garner the trust and respect of the Cuban populace. The legal institutions on the island, prior to the war, suffered greatly from high legal fees, rampant corruption, and a lack of public transparency. As a result, Root and Wood envisaged a number of major reforms to Cuba's legal institutions. Since the colonial Spanish government firmly ingrained its stamp on Cuban legal institutions and customs, so radically reinventing a new system appeared out of the question. Instead, Root and Wood attempted overhaul glaring institutional deficiencies while still utilizing the Spanish legal framework.

Many of the proposals they considered originated from Cuban jurists themselves, rather than any heavy-handed colonial government in Washington. Root viewed this

³⁸ Leonard Wood, *Report by Brigadier General Leonard Wood, US Volunteers on Civic Conditions in the Department of Santiago and Puerto Principe, in response to circular no. 10* (Cristo, Cuba: Adjutant General's Office, 1899), 20.

reform endeavor as a collaborative venture between “the learned jurists of Cuba” along with American lawyers who “had some experience in our successful reforms.” When discussing goals with Cuban reformers, Root continually referred to his desire to achieve a “satisfactory and effective improvement of the procedure in *your island*.”³⁹ In one such instance, Root applauded the head justice in Matanzas, Adolfo Plazaola y Cotilla, for policies he found “full agreement with” and “views which you so clearly and cogently express.”⁴⁰ He further explained to the judge, “it is in general accordance with those views that General Wood has been instructed to proceed” in implementing the changes Judge Plazaola recommended.⁴¹ So in this case, as with other reforms on the island, Root worked in concert with, not in opposition to Cuban reformers on the ground.⁴²

For Root, changes in the law needed to fit the needs of Cuban society, while endeavoring to open up legal institutions to more Cubans. New laws provided for court-appointed attorneys for the indigent. Prisons on the island often held accused Cubans *incommunicado*, without access to any legal representation sometimes for months and

³⁹ Root to Adolfo Plazaola y Cotilla, January 27, 1900, Elihu Root Papers, Library of Congress, Washington, DC.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Louis Pérez, *Cuba: Between Reform and Revolution*, 5th ed., (New York: Oxford University Press, 2015), 145. According to Pérez, “old colonial [Cuban] elites” needed American protection, while the “new colonial rulers” needed Cuban allies, creating a collaboration that was “as pragmatic as it was politically opportune.” Though this presents an antagonistic view of American intentions, it is not without some truth in explaining the ideas of some American officials. Realistically, Root sought out like-minded Cuban reformers to collaborate with and not merely to institutionalize American external control.

years.⁴³ As he had throughout his career, Root called for a legal system that fairly represented all litigants regardless of socioeconomic status. Thus, he now expanded this progressive philosophy so the Cuban people could effectively access their legal system. Now, the military government bore responsibility for paying indigent counsel, the summoning of witnesses at state expense, and providing timely access to the defendant's counsel.⁴⁴ Local police courts in smaller towns aided in the efficiency of justice and individual access to the legal system as well.

Legal access provided little comfort to a Cuban public, however, if they lacked faith in those who operated it. As an example, Spanish courts previously sentenced a Cuban to forty years for the trifle charge of "insolence to officials."⁴⁵ So Wood, under Root's direction, tried to implement changes to reaffirm the Cuban public's faith in their legal system. To this end, the military government ousted corrupt judges and disallowed American military interference in court actions. Wood viewed this as important step for the "good of the service" and administration of legitimate justice on the island.⁴⁶ The further introduction of a much-needed perjury law, as none had heretofore existed, added to the image of the court as a place the Cuban people could trust. These efforts by Root and his subordinates represented the progressive commitment to rooting out corruption from within the government for the betterment of the Cuban public.

⁴³ Leonard Wood, "The Military Government of Cuba," *Annals of the American Academy of Political and Social Science* 21, no. 2 (1903): 159.

⁴⁴ Ibid.

⁴⁵ Francis Rufus Bellamy, "Reform In Cuba," *Outlook* 64, no. 1 (Jun. 1900): 3.

⁴⁶ Wood, "The Military Government of Cuba," 158.

Root's office then reassessed how the court functioned. For years, Cuban senior court clerks and had notaries received their salaries by assessing exorbitant fees to litigants merely to have their case heard. This fee-based system effectively priced poorer Cubans out of the judicial system altogether. Root and Wood's solution moved court employees from this fee-based system to a fixed-salary model. In the US, the move toward this fixed-salary model in government positions represented a significant "good government" progressive reform. Though it sounded small, this change greatly impacted the Cuban people's ability to access the court system and ensured "the Courts and people . . . have but two things to consider and those are law and the evidence in the case."⁴⁷ Though these reforms accomplished some of their reform goals, Root and Wood noticed the need to systematically restructure the larger legal mechanisms of the Cuban system.

The condition of Cuban prisons and the plight of its prisoners illustrated one of the major problems facing the Cuban legal system. Upon taking command of the military government in December of 1899, Wood ordered an investigation into the overall state of the prison system. Not believing some of the stories he heard, Wood then toured the prisons. He found the results of the prison study horrendous. After his visit, Wood recounted that "unless you had seen the records you could hardly credit the abuse of authority and the absolute disregard of the rights of those held."⁴⁸ The prison system in Cuba suffered from rampant overcrowding, poor facilities, filthy conditions, poor record keeping, and a general lack of operational efficiency. These types of issues would have

⁴⁷ Russell Fitzgibbon, *Cuba and the United States, 1900-1935* (Menasha, WI: The Collegiate Press, 1935), 34.

⁴⁸ Quoted in Jack MacCallum, *Leonard Wood: Rough Rider, Surgeon, Architect of American Imperialism* (New York: New York University Press, 2006), 155-56.

been nothing new to Elihu Root, given the fact the New York prisons in the late nineteenth century suffered from many of the same problems.

As a result of the outgrowth of reform movements during the Second Great Awakening, John W. Edmonds created the New York Prison Association in 1844. Within New York prisons, much public attention revolved around the aims and methods employed at the notorious Sing-Sing Prison, built in 1825. The heavy-handed warden of Sing-Sing, Captain Elam Lynds, utilized what came to be known as the “Auburn system” against his inmates both male and female.⁴⁹ Prisoners in these privately owned prisons endured forced labor at a marble quarry, violent beatings, and horrible prison conditions with little to no state oversight.⁵⁰ Reports soon surfaced that Lynds systematically “starved and beat prisoners, defrauded the state, and bodily assaulted a Presbyterian minister.”⁵¹ Despite such actions, Lynds and his successors continued their own varying styles of systematic abuse. By the late 1830s, the conditions at the prison worsened as punishment and capital overtook the early mission of reforming criminal behavior. Early

⁴⁹ This style refers to Lynds’s previous work as warden of the Auburn prison in New York. His harsh tactics and methods were replicated from his time there to Sing-Sing prison.

⁵⁰ Jennifer Graber, *The Furnace of Affliction: Prisons & Religion in Antebellum America* (Chapel Hill: University of North Carolina Press, 2011), 199. In her account, Graber notes that according to legislative reports, “Sing-Sing keepers used whips, canes, cat-o’-nine-tails, red-hot pokers, and even pistols to subdue the smallest signs of inmate resistance.” Forced labor at the quarry continued to be harsh at the request of prison “contractors.” She even notes the horrid sanitary conditions as convicts “received slop buckets with all their food mixed together. The buckets remained in the cells overnight attracting “mice and other vermin.” Thus these dreadful conditions led to a strong push for prison reform that by the time of administering the island of Cuba was implemented at the request of Root and Wood.

⁵¹ Graber, *The Furnace of Affliction*, 117.

on, the motives of the New York Prison Association (NYPA) embodied a three-fold simplicity. The motivations centered on giving “humane attention to persons arrested and held for examination or trial,” aiding prisoners to “reform and earn an honest living,” and attempting to “improve prison discipline.”⁵² Though an advisory board, the association provided annual assessments of the prisons, toured the facilities, and impressed upon legislators the need for reform. By 1870, the board pressed its reform movement outward with the creation of the National Prison Association. Within two years, the prison reform mission, primarily started in New York, spread beyond American borders with the creation of the International Prison Congress as a way of discussing prison conditions and reforms worldwide. The NYPA succeed in getting legislation passed in New York to create probation and parole boards, separate facilities for youth and adult offenders, and inmate access to formal education.⁵³ For the next several decades, New York prison reformers pressed their case throughout the state, the nation, and the world

In 1894, during the New York Constitutional Convention, Elihu Root threw his support behind measures introduced by the Committee Chair on Prison Labor John McDonough. The proposals called for removing prisoners from the control of the contractors and placing inmate labor “exclusively to the service of the public.”⁵⁴ Root and his reform-minded associates believed this measure aided prisoners in expanding their “usefulness after they leave the prison walls.”⁵⁵ This amendment, upon ratification,

⁵² "The Prison Association of New York," *New York Times*, June 3, 1870.

⁵³ "Prison And Jail Reform," *New York Times*, April 26, 1880.

⁵⁴ Ernest Abbott, ed., "The Week," *The Outlook* 55, no. 11 (Jan.-Apr. 1897): 726.

⁵⁵ *Ibid.*

represented the transfer of the prison system from a private establishment of penal slavery toward a state run institution that focused on inmate skill building and the post-prison experience. Additionally during the convention, Root cast the deciding vote in favor of allowing inmates to form a worker's union, over the objection of his fellow Republicans, including his dear friend Joseph Choate.⁵⁶ In this situation, Root sided with labor unions that supported the measure, though his exact reasoning for such a move is debated.⁵⁷ Regardless, Root understood the prison reform movement and supported it from one of the earliest points of his political career. Yet again, Root's commitment to progressive reform ideas crossed party lines and crucial issues on the day. The American prison reform movement of the nineteenth century, though primarily centered in New York, extended its sentiments, ideas, and methods as far away as the island of Cuba by 1899.

In his initial investigation of Cuban prisons, Governor Wood found them to be unresponsive, inefficient, and unaccountable. Upon his visits, he discovered the jails "full of men who had been held in some instances years awaiting trial."⁵⁸ Spanish and Cuban officials had held men and women without charging them or providing evidence to justify

⁵⁶ The Car Worker, "Convicts Compete With Free Labor," *Journal of the Switchmen's Union of North America* 15, no. 1 (Jan. 1913): 730.

⁵⁷ Ibid. The account given by the Switchmen's Union seems to suggest that Root's action in voting for prison unions represented more a political concern than a social concern. The anonymous writer only labeled "Car Writer" suggested the "conservatives would have let the reform go through if it had not proved to be the only way to secure the popular and union vote backing of the adoption of the new constitution." There can, however, be no consensus as to Root's primary motivation for the move, though it does represent significant compromise on something that strictly "conservative" Republicans detested.

⁵⁸ Wood, "The Military Government of Cuba," 157.

their detainment. Wood struggled to understand how something like that occurred. Ultimately, he concluded these people “had apparently been forgotten, and although the judges and jailors were Cubans, nothing had been done.”⁵⁹ In short order, Wood reestablished the practice of *habeas corpus* and demanded that either trials be held or the accused be released. In some instances, the accused held served more time awaiting trial than if they had been found guilty by the court. In these cases, Wood instructed an appointed commission to overhear their cases as quickly as possible. This board effectively released some six hundred inmates who had been indefinitely held by effectively giving them time served. Early on, even those ordered to be released by American military officials continued to be held until repetitive inspections of the prisons and prisoner lists were created under Wood’s directive. After better organizing the prison system, the number of prisoners held in Cuban prisons dropped by two-thirds.⁶⁰

American-led inspections of Cuban prisons also cited decrepit facilities and unhealthy conditions, causing reformers to clean up institutions and focus on progressive “punishment.” An independent report put together by Charlton Lewis of the New York Prison Association, found a “lack of beds, blankets, and clothing for prisoners; filth and vermin everywhere.”⁶¹ After conducting an inspection, Wood wrote to Root that the condition of the prison “would have made you sick to go through it.” He went on to describe how the beds of some seven to eight hundred children looked “immaculate” on

⁵⁹ Wood, "The Military Government of Cuba," 157.

⁶⁰ Benjamin R. Beede, *The War of 1898, and US Interventions, 1898-1934*. s.v. "Cuba, Military Government."

⁶¹ Bellamy, "Reform In Cuba," 3.

top of the sheets, but once removed, contained “everything from excrement to pus.”⁶² So, Cuban prisoners languished in dark, dank cells, slept on bare floors, and lacked a proper diet or the necessary provisions. In order to ameliorate these conditions, Wood appointed Carlos García Velez as the General Inspector of Prisons. As a requirement of his position, Velez visited every jail and penitentiary once every four months, ensuring they were properly ran and clean.⁶³ Inspector Velez reformed the Cuban prisons out of his belief they needed to be places to “correct instead of merely punish.” Just as in the American prison reform movement, progressives on the island desired to construct a punishment “so human and so just that it would convince the offender of the moral legitimacy of the law.”⁶⁴ In response, Wood called for the regular inspection of prisons by the commission, the beginning of necessary repairs, and material provisions for the prison itself, and the sanitization of the prison facilities. Other parts of the American prison reform movement soon made its way into Cuban prisons.

American leaders in Cuba initiated the progressive innovation in prison management. Almost all Cuban prisons failed to adequately handle juvenile and female populations. Juvenile offenders sometimes shared cells with convicted and hardened adults. Progressives argued such a practice amounted to a criminal education system with young inmates learning the ropes of illegality from their more experienced adult

⁶² Wood to Root, January 13, 1900, Leonard Wood Papers, Syracuse University Special Collections, Syracuse, NY; Hitchman, *Leonard Wood and Cuban Independence*, 396.

⁶³ Hitchman, *Leonard Wood and Cuban Independence*, 45.

⁶⁴ Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Pantheon Books, 1978), 87-8.

counterparts. For the previous two to three decades, American progressives introduced the segregation of minors as their understanding that juveniles represented a distinct phase of life that required different attentions and approaches to punishment. For women, the Cuban prison system fared little better. During his tour of prisons, Wood discovered that in some cases an entire cell of women shared a single dress, allowing for them to only speak with him one at a time. Each woman took turns putting the dress so they appeared clothed before the interviewer. The prisons often held women in their institutions so long they were forced to nurse young children from the confines of their prison cell.⁶⁵ Both juveniles and women, often frittered away in their cells awaiting trial. Thus without reform, such a system courted disaster.

As part of strengthening prison facilities, a thorough updating of prison and court records became vital. In the decades prior to American control, Cuban court documents and prison records set “piled in heaps on the floors in empty rooms” in “absolute disarray.”⁶⁶ Obviously, this practice contributed to the overall confusion of who was in prison, whether or not they were convicted, or the length of their sentences. Taking almost a year, Wood’s team gathered any records thirty years old or more, indexed them, and placed them in an archive in Havana for preservation. For more current cases, they compiled lists of inmates, their charges, and their sentences. In order to reinforce the new changes within the system, Wood ordered that the inmate’s time of sentence be posted “in every prison at a point accessible to the prisoners” so that each person knew exactly

⁶⁵ MacCallum, *Leonard Wood*, 156.

⁶⁶ Wood, "The Military Government of Cuba," 159.

how long they had left to serve.⁶⁷ Also to ensure accurate record keeping, the military government distributed modern typewriters to all the courts, while employing typists to keep such records.

The military government soon established more efficient lower courts to handle minor infractions. Penalties in these courts limited defendants to a maximum penalty of thirty days in jail or what translated to a thirty-dollar fine. In the major cities of Santiago and Havana, Wood instituted free stenography and typing classes for the Cuban populace. This measure not only aided with employment and education, it ensured that accurate records of this type could be feasibly kept for years to come. Thus, Root and Wood acted within the Cuban legal system to elevate the court's ability to ably and impartially process the disposition of the Cuban citizenry coming before it. The American experiment in Cuba exhibited the progressive hallmark of bringing order to systems.

Obviously the reforms were not perfect. Wood and his colleagues failed to institute a permanent *habeas corpus* law and the jury system, though not for lack of trying. Under the military government, Wood enforced *habeas corpus*, but feared that since the Spanish failed to incorporate it, the independent Cuban government may not have included it. Additionally, the jury system collapsed under the weight of jurors' fear of reprisals by defendants. Historically under the previous Spanish system, judges presided over and ruled in court cases, not juries. So the awkwardness of such a new system made for uneasy jurors and the inconsistent dispensation of justice. Cuban judges often dismissed legitimate cases without a decision as a result of intimidation and threats made on the lives of jurors.

⁶⁷ Wood, "The Military Government of Cuba," 157.

Even worse, Wood worried about the possible outgrowth of military-style dictatorship, common in other Latin American nations, should the Cuban government not safeguard individual liberties. He even published a set of proposed “universal rights,” based largely on the American version in order to draw attention to their importance in Cuban law.⁶⁸ Adding to Wood’s difficulties, local politicians and lawyers mounted a rigorous defense against *habeas corpus*, the jury system, and universal rights policies either used or suggested by the military government. In a later constitutional election in 1900, opponents of the measures secured enough influence to block their assent.⁶⁹ So the failures of these major legal reform policies rested largely with delegates of the Cuban constitution and the voters who opposed them with the ballot. The cultural and institutional differences overwhelmed any chance at completely revamping the Cuban legal system to follow a more American model. Wood and Root’s ideas faced rejection at the polls and in the constitution, as Cuban citizens appeared not to want what US officials on the island suggested.

Root and Wood encountered major hardships by attempting to institute such massive legal reforms, and their efforts demonstrated the difficulty of grafting American principles onto Cuban traditions. As one historian points out, the Root-Wood reforms

⁶⁸ MacCallum, *Leonard Wood*, 126. The rights written about by Wood are as follows: “The right of assembly; Freedom of religious choice; Universal access to the courts; Freedom from the seizure of property, Protection from self-incrimination, Protection from double jeopardy, The right to bail, habeas corpus, and a speedy trial, Protection from excessive fines and cruel and unusual punishment, Protection from unreasonable search and seizure, and Freedom of speech and the press.”

⁶⁹ Gerald R. Gems, *The Athletic Crusade: Sport and American Cultural Imperialism* (Lincoln, NE: University of Nebraska Press, 2006), 88.

“were significant, but insufficient to ensure a lasting legal system for self-government.”⁷⁰

The failures of American cultural and legal imperialism, however, belied the larger point.

Despite the imperialistic nature of American aims, Root and Wood packaged these notions and ideas within the concept of progressivism. Thus, the two currents, imperialism and progressivism merged. To both Root and Wood, American legal reforms looked like probable remedies to what they viewed as some of the larger inadequacies of the Spanish-Cuban traditional system. The undercurrent of these reforms flowed toward the empowerment, to a certain degree, of the disenfranchised and those ignored by the system heretofore.⁷¹ These major reforms attempted at least to give the Cuban people a degree of independence or, at the very least, an order that under their traditional legal system had not existed.⁷² As pointed out by historian Jack Lane, Wood “could compel the Cubans to accept organizational changes, but he could not force them to alter traditional attitudes and methods.”⁷³ However, Root and Wood conceded that totally altering the Cuban system was not their goal anyway. In fact, both men agreed a legal system based on Cuban needs provided “far better for them than anything we could produce out of our

⁷⁰ Hitchman, *Leonard Wood and Cuban Independence*, 49. Elaborates on his arguments made in his earlier article: Hitchman, “The American Touch in Imperial Administration: Leonard Wood in Cuba, 1898-1902” *Academy of American Franciscan History* 24, no. 2 (Apr. 1968): 397.

⁷¹ So the idea here is that Root and Wood’s view of the supposed failures of the Spanish-Cuban legal system are inherently in line with the imperialistic views of their cultural superiority over the Cubans. That’s not really at argument here. The more important fact rests with the idea that the reforms themselves were rooted in progressive notions grown here at home and transmitted, or at least attempted, abroad.

⁷² Hitchman, *Leonard Wood and Cuban Independence: 1898-1902*, 397.

⁷³ Jack Lane, *Armed Progressive: General Leonard Wood* (San Rafael, CA: Presidio Press, 1978), 100.

own experience.”⁷⁴ If they discovered traditional law worked better than American statute, “it was left, and properly left, substantially unchanged.”⁷⁵ Despite the failures and successes of Root and Wood’s legal efforts, other institutions needed desperate attention, especially the system of education in Cuba.

Education in Translation: Cuban Educational Reforms

Another facet of Root’s reform effort involved modernizing the Cuban education system. When the military government gained control of Cuba in 1899, American leaders described the Cuban school system “a system in name only,” with the Spanish government listing only a total of 18,000 pupils in 1895 across the entire island.⁷⁶ The first Cuban secretary of public education reported to Wood the island lacked “a single schoolhouse,” while the teachers “lived in penury.”⁷⁷ The Spanish controlled 541 primary schools, while 400 private schools, mainly religious in nature existed.⁷⁸ According to a census conducted after American occupation, around two-thirds of the Cuban population was illiterate.⁷⁹ American forces found the education system in Cuba in utter disrepair.

⁷⁴ Elihu Root, "Duties of American Lawyers To American Law," *The Yale Law Journal* 14, no. 2 (Dec. 1904): 61.

⁷⁵ Ibid.

⁷⁶ Wood, "The Military Government of Cuba," 162; Hitchman, "The American Touch In Imperial Administration," 397.

⁷⁷ US War Department, *Report of the Military Governor of Cuba on Civil Affairs*, vol. 1 (Washington, DC: Government Printing Office, 1901), 92.

⁷⁸ Thomas, *Cuba, or The Pursuit of Freedom*, 446; Hermann Hagendorn. *Leonard Wood: A Biography*. (New York: Harper & Brothers, 1931), 295.

⁷⁹ Jessup, *Elihu Root*, vol. 1, 301.

Crumbling edifices and family homes served as the majority of the island's schools, while larger problems remained.

The failings of the Cuban education system ran deeper than just infrastructure problems. The US military found that schools lacked textbooks and had “practically no maps, blackboards, desks, or other school apparatus.”⁸⁰ Now, private schools in Cuba existed, but the number of Cuban families that afforded such an education for their children was abysmally low. Even public schools, under the Spanish system, utilized a “fee system” or fee for service system that less than one-tenth of the families of school-aged children could afford.⁸¹ Both Root and Wood realized the importance that public education held if Cuba had any future as an independent republic. Wood emphasized that the success of the future government depended “as much upon the foundation and extension of its public schools as upon any other factor.”⁸² Root also echoed the sentiment when he stated, “I do not believe any people, three-fourths of whom are contented to remain unable to read and write, can for any very long period maintain a free government.”⁸³ The first attempt at education reforms in Cuba began under Wood's predecessor, General John Brooke.

As with most of Brooke's projects in Cuba, he selected a man to head the project and left everything up to him. In this case, he appointed a forty year old, Boston educator

⁸⁰ *Five Years of the War Department Following the War with Spain, 1899-1903: As Shown in the Annual Reports of the Secretary of War* (Washington, DC: Government Printing Office, 1905), 111.

⁸¹ Ibid.

⁸² Wood, *Report by Brigadier General Leonard Wood*, 12.

⁸³ Jessup, *Elihu Root*, vol. 1, 305.

named Alexis Frye in 1899 as the new superintendent of Cuban schools. Frye like many other urban educators easily recognized the problem of lacking educational facilities in Cuba. In large eastern cities, such as New York, Boston, Chicago, and others, situations such as rampant overcrowding and the general lack of educational facilities created massive challenges for educators and reformers.⁸⁴ A zealous educator and dedicated to mission of Cuban independence, Frye quickly tried to create a viable educational framework largely based on American educational models. He helped draft a new school law that emphasized the local autonomy and municipal control of schools in Cuba. At the same time, Frye feverishly called for the opening of new school buildings throughout the island.

The US military and local Cuban workers aided in the transitioning of abandoned barrack, buildings, and warehouses into houses of education. Within four months, Frye opened some 3,000 new schools with more on the way.⁸⁵ By the end of Brooke's command, Frye listed enrollment at 21, 435.⁸⁶ Despite the opening of so many new schools, the educational system and its process seemed to lag. Low attendance, a lack of uniform curriculum, and a shortage of good teachers stagnated what seemed to be a

⁸⁴ Diane Ravitch, *The Great School Wars: A History of the New York City Public Schools* (Baltimore: Johns Hopkins University Press, 1974), 113. Although this focuses on New York, it was fairly representative of what large cities in the northeast faced as barriers to education and the provided the impetus for reform.

⁸⁵ Lane, *Armed Progressive*, 92; Jessup, *Elihu Root*, vol. 1, 301. According to Jessup, within a few months "he established over 3300 schools."

⁸⁶ Hitchman, "The American Touch in Imperial Administration: Leonard Wood In Cuba, 1898-1902," 397.

growing surge in education. For his part, Frye remained contented to run the school system *carte blanche* under Brooke, but changes in leadership soon meant conflict.

Just a month into Frye's assignment, General Wood replaced Brooke as the military governor. The two men almost immediately bumped heads. By March of 1899, Wood grew concerned that although many schools were up and running, they lacked any real quality, cohesion, or control. In a report, he cited the "school system as established was in a somewhat chaotic state and without any well-defined plan of administration."⁸⁷ He ordered a halt to the school building until the schools already constructed could be inspected and evaluated. The fight that followed between the Wood and Frye soon mirrored the reform arguments raging throughout northeastern cities, including New York City.

During the 1890s, Nicholas Murray Butler, an educator, reformer, and lifelong friend of Root, led the call for a major overhaul to the New York City education system. The major point of contention between Butler and educators who opposed him focused on local versus state control of New York school system. Along with three other men, Root and Butler formed the Citizens Committee for Public School Reform. Within weeks, the committee numbered over one hundred members. As the men met resistance by those opposed to the centralization of school authority, Butler described his efforts as "the intelligence and civilization of a community struggling to reclaim their own public schools from a horde of bandits and barbarians."⁸⁸ Butler and others on the committee

⁸⁷ Wood, *Report by Brigadier General Leonard Wood*, 11.

⁸⁸ Nicholas Murray Butler, ed., "Editorial," *Educational Review* 11, (Mar. 1896): 305.

hoisted this not-so-veiled attack on the “Platt-Tammany” politicians “whose friends and dependents are now to be found in the New York school system in large numbers.”⁸⁹ The committee of reformers argued for the centralized control of public education, attempted to remove the role of corrupt local political machines in education policy, and pushed for trained, professionalized teachers.⁹⁰ These types of progressive arguments reverberated in large cities throughout the country and now the effects of those reforms found their way to Cuba. Supporters of educational reform movements at home, Root and Wood attempted to weave these progressive ideas into the Cuban school system, along with many others.

Disagreements over the substance of educational law in Cuba soon led to major conflicts and revisions. Frye, a staunch supporter of local autonomy, railed against Wood’s campaign as a method to discredit him. He referred to Wood as a “tyrant” before a large gathering of American and Cuban educators in Boston.⁹¹ For his part, Wood accused Frye of spreading “the most intense radicalism,” in a letter to Root.⁹² This confrontation threatened to explode into a full-blown media incident, so Wood took measures to occupy the time and tongue of Mr. Frye. He assigned Wilson Gill, a fellow

⁸⁹ Nicholas Murray Butler, ed., "Editorial," 300.

⁹⁰ "School System Reform," *New York Times*, February 7, 1896.

⁹¹ Thomas, *Cuba, or The Pursuit of Freedom*, 447.

⁹² Ibid.; Leonard Wood to Root, January 8, 1901, Elihu Root Papers, Library of Congress, Washington, DC.

education reform advocate, to work with Frye on a project to create “School Cities” in Cuba.⁹³ Eventually, Frye resigned in 1902.

With Frye now out of the way, Wood relegated the process of school reform to his twenty-seven year old lieutenant and former teacher, Matthew Hanna. After some study, Hanna outlined his vision for Cuban education on progressive American educational models, many of them progressive school policies from his home state of Ohio. Wood wholeheartedly supported Hanna’s recommended reforms. As a result, the new education law, known as Civil Order No. 279, contained language that demanded the school system to be “independent of the municipal political administration” and citizens elected school board members “entirely distinct from the elections for their town officers.”⁹⁴ Also, the new law included the measure that the “public school system was controlled and directed by the state.”⁹⁵ Thus, despite the conflict with Frye, both Root and Wood achieved their aim of creating a progressive education law based on the direction of school reforms back in the United States.

Secretary Root and General Wood agreed on number of other educational reforms in Cuba. First, they shared the progressive notion that education across the island must be available to all groups in Cuba, including the poor, the Afro-Cubans, and those living in

⁹³ Benjamin Orange Flower, “Wilson Gill: The Apostle of Democracy in Education,” *Arena* 35, vol. 195 (Feb. 1906): 182. The School City project sought to encourage civic virtue and leadership. Elected students made decisions over various aspects of school policy, discipline, and academic goals. President Roosevelt said of the program “nothing could offer higher promise for the future of our country than an intelligent interest in the best ideals of citizenship, its privileges, and duties.”

⁹⁴ Wood, *Report by Brigadier General Leonard Wood*, 11.

⁹⁵ *Ibid.*

rural areas. Prior to the War of 1898, the Spanish government all but ignored the educational needs of the bulk of the Cuban people.⁹⁶ Building on reform movements started in the mid-to-late nineteenth century, American educators and advocates such as Horace Mann emphasized broad-spectrum education for the masses as the “great equalizer of the condition of men.”⁹⁷ As evidence of this attitude toward education, Wood allocated some \$17 million a year on the education budget, spending an unheard amount of sixty-six dollars on each student. The amount spent on education represented one fourth of the military government’s entire budget for the island.

For his part, Root immediately proposed in a letter to his friend Paul Dana, the editor of the *New York Sun*, that the military government must “extend opportunities to the entire Cuban people for elementary education.”⁹⁸ He added that Afro-Cubans “evinced fully as much desire to learn how to read and write” and declared that education would “advance in the condition and intellectual standard of both the black and poor white people of Cuba.”⁹⁹ So Root saw well beyond traditional stereotypes of race and educational attainment, believing that education served to uplift the whole lot of Cuban society. Back in the United States, many regions of the nation failed to share such progressive attitudes about education, especially in the “Jim Crow” South, falling on the heels of 1896 *Plessy v. Ferguson* decision to enforce segregation in public institutions

⁹⁶ *Five Years of the War Department Following the War with Spain*, 111.

⁹⁷ Ronald Waters, *American Reformers: 1815-1860* (New York: Hill And Wang, 1978), 208.

⁹⁸ Jessup, *Elihu Root*, vol. 1, 305.

⁹⁹ *Ibid.*

such as schools. He also echoed the mantra of educational progressives in his belief that public education and access to it symbolized the best hope at improving the lives and the lot of its practitioners.

Secondly, Root and Wood recognized the importance of a Cuban-centered education within an American framework. Both men stressed the need for hiring Cuban educators, rather than their American counterparts. Early on, military leaders and officials discussed the idea of hiring American teachers and sending them to Cuba. When Root and Wood took charge of the island, they quickly quelled any such ideas. Wood deftly understood such a principle “unwise . . . as the (Cuban) people were rather suspicious of our motives.”¹⁰⁰ He further elaborated that in order to “establish a stable government by the people we must use the people directly concerned, otherwise they will be a governed and not a governing people.”¹⁰¹ Wood also disavowed any attempt at flooding the island with “American teachers ignorant of the language and customs of the people,” believing such a step definitely led to claims that the “United States wished to Americanize the children.”¹⁰² In order to entice educated Cubans to become educators themselves, the military government offered teachers’ salaries “higher than we pay in this country (US),”

¹⁰⁰ Wood, "The Military Government of Cuba," 162.

¹⁰¹ Leonard Wood, *Civil Report of Brigadier Leonard Wood, Military Governor of Cuba, for the Period from January 1 to May 20, 1902*, in US War Department, *Report of Brigadier General Leonard Wood, July 5, 1902*, (Washington, DC: Government Printing Office, 1902), 17-8.

¹⁰² Wood, *Report of Brigadier General Leonard Wood*, 12, 17-8. General Wood wrote, “They would have considered the appointment of several thousand American teachers as an effort to ‘Americanize’ the children. Again, I know that we were going to establish a government of and by the people in Cuba and that it was going to be transferred to them at the earliest possible moment.”

amounting to forty-five to sixty-five dollars per month.”¹⁰³ Such a high salary drew the interest of some educated Cubans, but many of them lacked any formal teaching experience. American officials settled on training Cuban educators to prepare them for the classroom. They also addressed the issue of classroom tools such as textbooks.

In order to better serve the Cuban population, all textbooks from American companies needed to be written or translated into Spanish. Cuba lacked the facilities to produce these educational materials at the price and efficiency of American companies. The Board of Superintendents, which consisted of Frye and six Cuban representatives, oversaw the textbook selection process. In November 1900, the board sent out a notice to textbook publishers that established the guidelines by which a book would be selected. The notice clearly stated that “no textbook will be adopted for Cuba until fully translated.”¹⁰⁴ Knowing that every American publishing house would jump at the chance to secure such a large contract, the notice declared board members “deem themselves competent to select the textbooks for the island of Cuba without the assistance of agents of the publishing house.”¹⁰⁵ In fact, Frye and the other board members demanded “all communications concerning books be made in writing, in order that they be matters of record.”¹⁰⁶ Not only did this streamline the process, but it also lessened any chances of corruption during the process. The board’s members not only stressed the necessity of

¹⁰³ Ibid, 12; "Educational Notes," *The School Record: A Journal for Teachers and School Workers* 8, no. 2, (Dec. 1899): 23.

¹⁰⁴ US War Department, *Report of the Military Governor*, vol. 1, 625.

¹⁰⁵ Ibid.

¹⁰⁶ Wood, *Report by Brigadier General Leonard Wood*, 12.

presenting information and ideas in the native language of Cuba, but they also placed emphasis on the nature of the text. A notice informed potential publishers “the text of all books should be adapted to Cuba or to the Tropics.”¹⁰⁷ The superintendents assigned classes such as American history and other US related topics as electives rather than part of the standard curriculum. Thus, the board of superintendents, all but one of which were Cuban, served as experts in the educational needs of the island rather than an American government official back in Washington.

So Wood and Root through their actions and those of their subordinates attempted to create a Cuban-centered education while utilizing American resources to accomplish their goal. The men emphasized the need of Cuban, rather than American educators, selected textbooks through an open process by the assent of the majority Cuban board of superintendents, and pushed American textbook publishers to conform to the educational needs of the island rather than being left to their own devices and desires.

Thirdly, the group of men expressed the progressive desire to professionalize Cuban educators. The system of instruction and the pedagogical techniques taught to Cuban teachers reflected progressive trends in the American educational system. Thus, scholars of empire rightly noted the imperialistic overtones inherent in the system. Those same scholars failed to see the progressive undercurrents within the various programs. So Wood, along with American educators and institutions, organized a Cuban educator exchange program. Cuban educators traveled to the United States during the summer of 1900 and 1901 to witness some of the newest progressive innovations in teaching. Root and Wood showed interest in a new progressive form of school developing in New York

¹⁰⁷ Wood, *Report by Brigadier General Leonard Wood*, 12.

known as the “school-city.” These American leaders not only believed in this latest educational trend, but believed it to be the best program to export back to Cuba.

Started in the 1890s by Wilson Gil, this educational experiment in the northeastern urban centers allowed students to organize the school “into the city form of government.”¹⁰⁸ So students voted their fellow classmates into the same leadership positions as any city government and held responsibility for pupil self-government.¹⁰⁹ Promoters of the school-city idea such as the National School-City League, viewed this not only as a way to promote civic virtue and the importance of the community, but it also served the purpose of relieving teachers of the “police duty of school government” in order to focus their full efforts on teaching.¹¹⁰ In Boston, Ralph Albertson a secretary of the National School-City League told a reporter, “When we find graft everywhere . . . it is time that we teach ethics in school.”¹¹¹ This movement foreshadowed the progressive push to end political corruption in eastern cities and stood as call for responsible government at every level, even in school. The educator merely offered advice and guidance to these student-leaders as a way to teach “a method of moral and civic training.”¹¹² Wood openly embraced the idea of the school-city idea and viewed it as

¹⁰⁸ National School City League, *The School City: A New System of Moral and Civic Training* (Philadelphia: National School City League, 1905), 4.

¹⁰⁹ As set out by the School City League charter, the students comprised the following elected positions within the school-city: Mayor, City Clerk, President of the City Council, City Attorney, Treasurer, and 5 judges.

¹¹⁰ US War Department, *Report of the Military Governor of Cuba on Civil Affairs*, vol. 3, (Washington, DC: Government Printing Office, 1901), 193.

¹¹¹ "Women's Clubs," *Boston Evening Transcript*, March 17, 1906.

¹¹² National School City League, 4.

something that needed to be mirrored back in Cuba. Thus, the Cuban teachers arrived in the United States to see this educational innovation at work.

During the summer of 1900, almost thirteen hundred Cuban educators arrived in Cambridge, Massachusetts. Harvard University hosted the exchange and footed the majority of the bill with some seventy thousand dollars it privately raised. The teachers received their monthly salaries, around fifty dollars, while attending the summer exchange. The organizers of the exchange, Alex Frye and Wilson Gill, offered the Cubans, courses designed to “fit them for their duties.”¹¹³ Most importantly, they showed off the school-city idea and laid out the basic framework of how it would work in Cuba. Educators then attended classes focused on school and classroom management, civics, US history, Cuban history, the history of Latin America, and geography.¹¹⁴ Frye and Gill recognized that Cuban teachers not merely needed a more updated system of teaching, but also the newest information, ideas, and approaches for the actual subjects they taught. Obviously, officials in Washington realized the trip was about more than just an education policy exercise.

The coordinators of the project, Frye and Gill, arranged a number of “educational” excursions to Boston, New York, and Washington, DC as a way of showing off the history of the United States, while also inculcating American culture, images, and experiences to the foreign teachers. These trips also served as powerful political capital. Cubans attended receptions and galas with American politicians ranging from the mayor of New York to the president of the United States. Cuban educators,

¹¹³ *Five Years of the War Department Following the War with Spain*, 111.

¹¹⁴ "The Cuban Summer School," *Harvard Crimson* (Cambridge, MA), September 26, 1900.

unable to travel to classes in the United States, attended American led mandatory summer schools for teachers in their provincial capitals. Root, Wood, and the military government viewed the program a success and sent another two hundred Cuban educators to participate in summer training the following year in the United States and the provincial capitals of Cuba.

In 1901, the military government stepped up its commitment to professionalizing Cuban educators. Beyond sending another group to Harvard, Root and Wood allocated thirty thousand dollars in scholarships to send thirty Cuban teachers to attend the New York State Normal School at New Paltz. The school already had a reputation in New York for being independent and providing training for future educators and non-educators alike. In 1899, under the leadership of Dr. Myron Schudder, the school emerged as a training ground for the “school-city” movement. The thirty Cuban educators witnessed this innovation and viewed it as a way to promote civic engagement, something they could take back to the children of the island.

Overall the reaction by Cuban educators and children seemed positive. While at one of the events in Cambridge, one of the Cuban provincial school presidents endorsed the program, voicing his “absolute certainty in its correctness.”¹¹⁵ He further exclaimed that such a system visibly demonstrated the authenticity of American intentions. He said it offered the “irresistible evidence of the sincerity and depth of General Wood’s desire to foster and protect Cuba’s dearest interest and welfare.”¹¹⁶ Teachers emerged as “enthusiastic advocates” and students became “delighted and faithful citizens” of the

¹¹⁵ US War Department, *Report of the Military Governor*, vol. 1, 231.

¹¹⁶ *Ibid.*

school-city idea.¹¹⁷ By October of 1900, the school-city project debuted in Cuba with the general reaction being “satisfaction on the part of both faculty and students.”¹¹⁸

Organizers such as Wood believed participants returned to Cuba “full of new ideas and of zeal for the educational work in which they had found so much sympathy and encouragement.”¹¹⁹ Satisfied with the reforms within primary education, Wood then directed his efforts at institutions of higher learning. Upon his review of Cuban universities, Root and Wood demanded more accountability amongst educators and educational standards. At the time of becoming military governor, he noted the attendance at the University of Havana included “professors and instructors and a total of 406 students.”¹²⁰ Upon further investigation, Wood reported the professors garnered “liberal” salaries “while the work accomplished was little or nothing.”¹²¹ In order to try to get the best educators for the job, Wood ordered that most of the current professors be laid off. He then established an open examination process available to those who were laid off and others interested in teaching at the university. To his mind, this move eliminated any ineffective teachers, corruption, and nepotism, while the many in the Cuban public “gave rise to a sea of protest.”¹²² Though not well liked, this hiring process

¹¹⁷ US War Department, *Report of the Military Governor*, vol. 1, 231..

¹¹⁸ *Ibid.*

¹¹⁹ Elihu Root, *Report of the Secretary of War, November 30, 1900*, in US War Department, *Annual Reports of the War Department for the Fiscal Year Ended June 30, 1900*, (Washington, DC: Government Printing Office, 1900), 3.

¹²⁰ Wood, "The Military Government of Cuba," 165.

¹²¹ *Ibid.*

¹²² *Ibid.*, 166.

in Cuban education mirrored reforms within the War Department itself and those in civil service positions throughout the nation. Thus, Wood's action, under the authority of Root, illustrated a key component of the Progressive period—the elimination of corruption from public service.

Beyond that, Wood and Root's reform effort in education sought to help the least among Cuban society. In parallel with movements in the US, Wood instituted free public schools dedicated to things like the arts, trades, and technology. One of the prevailing progressive notions in education, pushed by those like well-known progressive educator John Dewey, was an education based on teaching practical information and skills for the society at large. He along with others, railed against what they believed to be a bygone educational format that stressed abstraction over usefulness. Thus, Wood installed several schools throughout the island dedicated to this “new school” idea.

Such exercises, excursions, and innovations in Cuban education reflected the progressive values of efficiency, modernization, and professionalization, while at the same time serving imperialist designs by inculcating American ideals, values, and practices within the minds of Cuban teachers. In the long run such a scheme, if continued, placed both concepts on a parallel path rather than really being antagonistic to one another. Thus, the progressive nature of the reforms abroad complemented and reinforced the implicit imperialist practices of the American government and its leaders. However, no records of those who implemented these programs, especially Root, indicated they established the program for the explicit purpose of furthering some well-formed, imperialist agenda.¹²³ The progressive nature of the improvement seemed to be the

¹²³ US War Department, *Report of the Military Governor*, vol. 1, 190-230.

underlying motivations of Root, Wood, Frye, Hanna, and the others involved in the project.

The Root of Power: Government Reforms in Cuba

With these other objects of reform ongoing, Root and Wood turned their attention to constructing a Cuban constitution, holding elections, and beginning the process that would ultimately lead to American withdrawal from the island. Such a project entailed many more snares than merely creating a minor court or reformulating school curricula. Wood started the process of transitioning the Cuban toward self-rule early into his tenure. American troop numbers on the island dwindled to an average of 5,000 soldiers and Cuban leadership grew to “over 97 percent of the military government.”¹²⁴ The American military government administered and oversaw the process of governance during what they called the “formative” period. Root conceded the temporary, transitional government operated “in trust for the people of Cuba” only as a necessity.¹²⁵ As the framework for this new government materialized, Cuban leadership increased as the Americans prepared to loosen their grip. Both Wood and Root went about the unenviable, yet exciting challenge of creating a principled and stable government in Cuba.¹²⁶ Out of the countless possible difficulties, Root focused on three main areas of vital importance during this

¹²⁴ Hitchman, "The American Touch in Imperial Administration: Leonard Wood In Cuba, 1898-1902," 399.

¹²⁵ Root, *The Military and Colonial Policy of the United States*, 171.

¹²⁶ "Secretary of War Submits His Report," *New York Times*, December 4, 1900. Root says in the report, “the conduct of affairs there during the year has been a continuance of the process of aiding the Cuban people in the development of the Cuban Government in such a way that when fully organized, it shall be stable and efficient.”

process: a moderate Cuban leadership, legitimate and acceptable elections, and policies that encouraged an educated voting populace.

Root hoped to establish a stable government for the Cuban people with well-tempered, sensible leaders. Back in New York, he learned firsthand the detriment blind partisanship produced as radical reformers and stone cold conservatives waged political battle. The resulting gridlock and posturing failed to serve the best interest of the people and built resentment or apathy amongst the people over the political process. In Cuba, the problem of sectarian divide represented a lesser concern compared to the possibility of political revolution or outright failure. Root thought a measured Cuban government provided the best possibility for Cuba to succeed as an independent nation. Progressives such as Root approved of societal changes and reforms, but also stressed the need for what Hofstadter called a “responsible elite.”¹²⁷ So it’s no surprise when Root backed politically moderate Cubans such as Diego Tamayo, Leopoldo Cancio, José Varela y Jado, Emilio Núñez, and other veterans who served during the Cuban Revolution. This group of leaders showed their commitment to Cuban independence and supported a close relationship with the US government.¹²⁸ Root and Wood both feared that if radicals took the helm of this newly formed Cuban government, the possibility for government gridlock, instability and collapse increased exponentially.

Additionally, Root’s goal for stability and moderation within Cuban leadership also served a parallel purpose. Supporters of American empire building reasoned that if Cuban leaders espoused a more docile approach, the US could exert more influence over

¹²⁷ Richard Hofstadter, *The Age of Reform* (New York: Vintage Books, 1955), 163.

¹²⁸ Wood to Root, February 16, 1900, Root Papers; Wood to Root, June 3, 1900, Root Papers.

the island. Under such a puppet-led state, American corporate interests could then influence political and economic policies on the island in their favor with the backing of their own government. Such a move definitely fell in line with the prerogatives of American imperialism in the region, but the decision also reflected the progressive side of Root.

At his core, Root hoped to avoid the same type of political and economic instability caused by some of the more revolutionary movements in Latin American. Thus, his desire for moderate leadership brought about order, while also allowing the opportunity for more broad-based reforms. He argued it made little sense to stabilize the Cuban government after the chaotic collapse of Spanish rule only to have it fall into the cycle of perpetual revolution. His disdain for radicalism applied to both sides of the political spectrum, especially if those ideas threatened the “Cuban experiment.” So many of these imperialist tendencies contained elements of progressive thought as explained by historian Richard Hofstadter.¹²⁹

Wood and Root next endeavored to have honest and fair elections. Though both men feared the impact of the radical Cuban politicians on elections, they dreaded to a greater degree any appearance of electoral impropriety. If questionable election results arose, United States leaders risked charges vote tampering by the Cuban populace. Such a devastating outcome endangered whatever goodwill remained between US officials and the populace, called into question the United States government’s primary motivation, and jeopardized the whole American project. Back home, the American public, enthralled by the accounts of the “yellow press” journalists, certainly desired a free and democratic

¹²⁹ Hofstadter, *The Age of Reform*, 163.

Cuba, or *Cuba Libre*. If the American press latched onto to any stories about the United States government rigging elections, the McKinley Administration stood to lose the support of very public it needed to continue its policies in Cuba. Given Root's progressive record of cleaning up dirty elections back in New York, he remained devoted to keeping elections, at home or in Cuba, honest. Beyond honest elections, American leaders promoted civic responsibility as a prime necessity for an independent Cuba.

Root and Wood's policies reinforced the importance of everyday Cubans carrying out their civic responsibilities and engaging their new government. As stated previously, Root wholeheartedly believed that only an educated populace made effective decisions in a democratic style of government. A measure of the progressive mantra involved empowering the people with access to knowledge so that they could, in turn, affect change and understand change in their society. So despite the regal high tones, his ideals roughly followed in line with general goals of progressivism. The proposed expansion of democratic government ran headlong against Cuban experiences. Therefore, Root accepted the fact that many Cubans needed to be aware how this new system worked in order for it to work for them. With the foundations of public education in place and expanding, Root understood such a proposition took time to bear fruit.

With those three conditions in mind, Root announced the implementation of voting requirements to limit suffrage in Cuba. In order to vote, Cuban men needed to meet only one of the following criteria: possess the ability to read and write, own two hundred fifty dollars' worth of property, or acquire an honorable discharge from the Cuban army.¹³⁰ Cubans disqualified from voting protested against the requirements.

¹³⁰ Wood, *Report by Brigadier General Leonard Wood*, 9.

Many on the island suspected these conditions allowed the US officials to handpick the Cuban leadership, rather than Cuban “people” electing their own government. Despite the outwardly awkward appearance, Root’s policy adhered to progressive notions, interwoven with imperialist drive and Mugwump paternalism. Historian H.W. Brands spoke to this idea in his book about the Philippines, but the same concepts apply. He noted that progressive notions, or as he called them “schemes for earthly salvation,” required “a strong elitist and authoritarian strain.”¹³¹ Such policies in Cuba mirrored Root’s political values back home.

In the United States, Root strongly supported universal male suffrage for all races. To value one’s civic duties, he believed the voting populace needed to be educated about the issues of the day. Education provided political understanding and rationale, while property ownership shaped responsibility and military or civic service endowed a faith in the government one served. Thus, in transitioning Cuba toward independence, these temporary restrictions embodied the principles he deemed necessary in creating and sustaining a successful society and responsive government.

Once a Cuban male achieved only one of these conditions, not all of them, the government lifted any voting restrictions and granted suffrage. Again to reiterate for emphasis, Root viewed these suffrage restrictions as a temporary stopgap measure, to be quickly lifted by the independent Cuban government with universal male suffrage to follow. He asked nothing different of Cuban people than what he desired of his own citizenry at home. While the policies were obviously paternalistic and blatantly

¹³¹ Brands, *Bound to Empire*, 61.

imperialist, Root's actions reflected some of the core values of progressivism: notions of meritocracy, the importance of education, the need for societal responsibility, etc. In this formative period of Cuba's independence, Root desired the island nation to be led and governed by political moderates and the educated elite to guide the new government through the birth pangs of democracy. This measure, to Root, promised the best chance of establishing a lasting and successful government.

Modern critics of these suffrage requirements often point to Root's supposed racial attitudes toward people of color as the key component of his decision-making process.¹³² One group of historians incorrectly claimed that Root's policy toward Cuban suffrage reflected his misguided views on race. The scholars arrived at this conclusion by distorting one statement in one letter in June of 1900. In it, Root explained to Wood that the limited suffrage policy succeeded in "excluding so great a proportion of the *elements* which have brought ruin to Hayti and San Domingo."¹³³ Many historians bent the meaning of "elements" here to mean the Afro-Caribbean population as a whole, thus giving the statement a blatantly racist connotation.¹³⁴ These scholars contend Root and

¹³² Evan Thomas, *The War Lovers: Roosevelt, Lodge, Hearst, and the Rush to Empire* (New York: Little, Brown, And Company, 2010), 394. Thomas used the phrase that "civilization" meant "denying the darker races the power to govern and Root's decision was based on an attempt to "avoid the 'black peril' that had seized Haiti and Santo Domingo." Though racial attitudes toward Cubans definitely shared a place in the decision, the idea of preventing radicals from gaining power factored more into Root's backing of the policy much more so than race. Root supported the idea of African American men voting in the United States and none of the policies that set voting requirements specifically outlined race as a determining factor for voting rights.

¹³³ Jessup, *Elihu Root*, vol. 1, 306.

¹³⁴ Aline Helg. *Our Rightful Share: The Afro-Cuban Struggle for Equality, 1886-1912*. Chapel Hill: University of North Carolina Press, 1995. 94-95. Helg claims in her work that the suffrage law based in line with the 1899 census "interpreted the continuing

the military government established these conditions precisely to eliminate any and all voting by the Afro-Cuban populations.¹³⁵ While ethnocentrism and racism definitely emerged as part of the imperial American idea, Root's statements seemed more progressive than most of his contemporaries, though heavy laced with elements paternalism weaved in them.

Given Root's support of black male suffrage in the United States, he never intended the statement as one about race. As a member of the Union Club of New York, he consistently supported the right for African Americans to vote and hold office years before he ever became secretary of state. In the newspaper, Root publicly railed against the fact that "the black man of the South in general no longer has the right to vote," referring of course to Southern state and local leaders preventing African American men from a right guaranteed to them through the Fifteenth Amendment.¹³⁶ He then told the club membership that Americans "cannot throw away the responsibility we undertook for the welfare of this people."¹³⁷ As part of this "responsibility," Root included the right for African-American men to freely vote. So, though paternalistic in his speech, Root

decline of the proportion of Afro-Cubans since 1861 as another illustration of the inability of an inferior race to hold its own in competition with a superior one." The claims made by Helg might represent the views of some American and Cuban whites on the "race issue," but it failed to substantiate such a charge against Root and Wood based on the evidence available.

¹³⁵ Lars Schoultz, *That Infernal Little Cuban Republic* (Chapel Hill: University of North Carolina Press, 2011), 23; Helg, *Our Rightful Share*, 94.

¹³⁶ "Mr. Root Says Negro Suffrage Has Failed," *New York Times*, February 7, 1903.

¹³⁷ "Mr. Root Says Negro Suffrage Has Failed," February 7, 1903..

remained dedicated to the idea of universal male suffrage in the United States, just as in Cuba.

Root clearly stated his support for Afro-Cuban voting. He reinforced to Wood in a letter “there can be no just charge of a color line in the proposed basis of suffrage” given the fact “the Cuban Army consists mostly of blacks.”¹³⁸ Afro-Cuban veterans gained the ability to vote despite the suffrage restrictions. Beyond just veterans, the educational facilities constructed on the island virtually guaranteed an increase in Afro-Cuban voter participation, once they met the literacy requirement.

The limited suffrage policy definitely prevented some Afro-Cubans in early elections, but it also applied toward poor and illiterate “white” Cubans—47 percent of them according to the census. In the first election in 1900, the restrictive policy affected Afro-Cuban participation, as they represented “only 19 percent of voters, though they made up 37 percent of Cuban male citizens.”¹³⁹ Even though 74 percent of Afro-Cuban qualified as illiterate, many of them voted as a result of their military service.¹⁴⁰

¹³⁸ Jessup, *Elihu Root*, vol. 1, 305.

¹³⁹ Helg, *Our Rightful Share*, 94-5. These figures cited in her work are based on Thomas Orum’s 1975 dissertation, entitled “The Politics of Color: The Racial Dimension of Cuban Politics during the Early Republican Years, 1900-1912.” I was not able to obtain a copy of the work as the closest microfilm of it at the University of Texas at Austin is cited as missing in their catalogue. His work has been cited in numerous works of leading historians in the field. Thus, since I am unable to access the work, I take the credibility of the information on faith and through the use of it by other top historians in that field.

¹⁴⁰ Henry Louis Taylor, *Inside El Barrio: A Bottom-Up View of Neighborhood Life in Castro's Cuba* (Sterling, VA: Kumerian Press, 2009), 27. Taylor provides a bit of misleading analysis in his view of election participation. He states, “about 74 percent of Afro-Cuban males (compared to 47 percent of white males) could not read, which meant that they could not vote.” While he does mention earlier that “all veterans were able to vote,” the information that follows leads one to believe that just because an Afro-Cuban could not read, they could not vote. Most of the military was made up by Afro-Cubans,

Some of the biggest disappointments or fears Root stressed in no way related to Afro-Cuban suffrage, but to the political rise of Cuban office holders he termed “agitators” or radicals. He feared if these individuals or political groups controlled the government from the onset of independence, the whole attempt at self-government could collapse into chaos and fall apart. Such a concern caused Wood to warn Root that immediate universal suffrage might “stop investments and advancement in the island to the extent which would be disastrous in its results.”¹⁴¹ So the fears implied by immediate suffrage emanated not from Root and Wood’s concern over race, but socioeconomics and political instability.

Thus, the appropriate criticism to be leveled at Root over the preliminary suffrage law dealt more with socioeconomics and elitism rather than outright racial discrimination. Root intended his remarks to reflect his concerns about political instability in governments dominated by radicals or the uneducated. His past statements, well before this period, supported his views toward suffrage and continued beyond his tenure in government. In a 1906 speech, Root reinforced that “where universal education goes with universal suffrage, the great mass of people can be depended upon to inform themselves carefully and to think soberly and clearly about political questions.”¹⁴²

meaning they could automatically vote regardless of literacy. Here the census date accounts for the illiterate, but does not tell us how many of the illiterate Afro-Cuban veterans were allowed to vote. Helg claims the number of Afro-Cuban male voters amounted to only 30,000 but even then conflicting numbers and estimates make it hard to figure real numbers (total participants) in the election.

¹⁴¹ Wood to Root, February 23, 1900, Root Papers.

¹⁴² Elihu Root, *Speech of Hon. Elihu Root, Secretary of State at Utica, New York* (Washington: C.F. Sudwarth, 1906), 4.

Contrary to the view purported by a small group of historians, Root's suffrage policy in Cuba differed vastly from the "Jim Crow South." The Jim Crow-era South employed multiple measures to ensure blacks did not vote such as poll taxes, deliberately misleading literacy tests, frequent voter registrations, violence, intimidation, and others. African Americans by and large lacked the ability to access education even in the post-Civil War South.¹⁴³ Regardless, white southern politicians in the United States intended their suffrage policies to place permanent restrictions on African-American voting rights.

Despite the admittedly low numbers of Afro-Cubans voters in the early election, Root never intended to barricade the ballot box permanently. The measures suggested by Root meant if the potential voter met at least one of the requirements, not all of them, they could then vote. Given the educational opportunities available for Cubans on the island as a result of the major reforms on the island, the limited suffrage measure delayed, not destroyed the ability for poor Cubans of all races to vote. The comments made by Root actually focused on what he considered the real threat to the island; the politically radical of that society. In letter after letter to General Wood and his friend Paul Dana, he continually referenced his fear of radicalism sweeping through the island, not his great plans to deny Afro-Cubans explicitly the right to vote or hold office.

So, the very notion that Root's policy attempted to permanently restrict the participation of the poor or the Afro-Cuban population seriously distorted the policy

¹⁴³ Jason Colby, *The Business of Empire: United Fruit, Race, and US Expansion in Central America* (New York: Cornell University Press, 2011), 60. Colby wrote Root's policy led to "the resulting electoral suppression rivaled that of the Jim Crow South." Despite these claim, Root never authorized the creation of poll taxes, deceiving literacy tests, voter fraud, or frequent re-registrations as were prevalent in the post-Reconstruction Era South.

outcomes suggested by Root himself. So regardless of his supposed initial intent, he explained the “greatest of all importance for the future of Cuba” was when “the Cubans open the doors to manhood suffrage.”¹⁴⁴

Making Their Mark: Cuban Elections

On June 16, 1900, the military government performed its first real test in moving toward Cuban independence. Cuban men, meeting the suffrage requirement, gathered all around the island and cast their ballots for municipal leaders such as mayors, police court judges, and city council members. Root congratulated Wood on carrying out the elections, calling it “a great thing to secure the peaceful adoption of the basis of suffrage upon which we had agreed.”¹⁴⁵ Given the short tenure of military government, the municipal elections went surprisingly well. Despite the desires of Root and Wood to have moderates elected, many candidates running under the more conservative Union Democratic Party declined to run due to the outrage expressed by those not allowed to vote. A similar outcome awaited the general election later that fall.

On September 15, 1900, Cuban voters converged on cities throughout Cuba to cast their ballot for delegates to send to the constitutional convention. Behind the scenes, Wood busily worked on a constitutional outline similar in nature to the American version. He wanted to ensure that wording in the constitution that “will definitely bind . . . the two countries and definitely state their relations.”¹⁴⁶ A bigger concern to Wood appeared to be the voter turnout in the election. According to the official statistics, only 30 percent of

¹⁴⁴ Root to Paul Dana, January 6, 1900, Root Papers; Jessup, vol. 1, 305.

¹⁴⁵ Root to Wood, June 3, 1900, Root Papers; Jessup, vol. 1, 306.

¹⁴⁶ Hagendorn, *Leonard Wood*, 299.

those who could vote actually voted in the delegate elections. Such a small turnout signified at least to Wood that the Cuban people “lacked confidence in their own people,” and convinced him, “they are not, as a body, anxious to take another leap in the dark.”¹⁴⁷ Although he admitted that some of the men represented this “best men” grouping, he also lamented that voters had sent “some of the worst agitators and political rascals in Cuba.”¹⁴⁸ Despite the disappointment, Wood concluded that the group of delegates selected “represents, at any rate, the class to whom Cuba would have to be turned over” to after the US withdrew from the island.¹⁴⁹

On November 5, 1900, the Cuban delegates arrived in Havana to frame a constitution and worked on defining their national government. The convention represented a significant step and political milestone. Despite the request of several Cuban leaders, Secretary Root, there on his second visit to Cuba, dared not attend or speak on the matter directly for fear this might be construed as American interference. He very simply reiterated the general promise of the US government to “leave Cuba to the Cubans.”¹⁵⁰ Despite his own feelings about a policy moving toward Cuban independence, the fate and status of the island rested in the hands of the US Congress.

Congressional leaders back in Washington moved quickly to determine Cuba’s final disposition as a nation. Republican leaders in the House and Senate faced increasing criticism from opposition Democrats, a good numbers of Cubans, and the American

¹⁴⁷ Ibid, 323; Jessup, *Elihu Root*, vol. 1, 307.

¹⁴⁸ Wood to Root, September 26, 1900, Root Papers.

¹⁴⁹ Ibid.

¹⁵⁰ Jessup, *Elihu Root*, vol. 1, 308.

“yellow press” for dragging their feet on Cuban independence. The public’s patience for putting Cuba back on its feet again had reached a critical point. As a result, Root pressed the need for the Cuban delegates to work out the constitution so he could put it up for congressional approval. If arguments at the convention lingered on, he feared it meant the US would, “govern for another year with the Cubans howling at us to do something and the democratic press abusing us because we do not do something, and . . . a possibility for the worse in Cuban relations.”¹⁵¹ So Root promptly asked that Wood try to ascertain from the Cuban constitutional delegates what the nature of US-Cuban relations were to be, if any. He implored Wood to try and figure out the Cuban position on the subject without appearing that he was giving formal demands to the convention or even informal suggestions.¹⁵² Quite likely, Root wanted the delegates to understand the reality they faced, especially if they chose to face the world alone. He hoped the Cuban delegates, on their own, would choose a close relationship with the US in terms of economic and political relations. Such an arrangement promised, in Root’s mind, a mutual benefit: a more secure Cuba in return for American access to their markets.

Root greatly feared the prospect that this new Cuban government could split all political and economic ties with the US. Cuban delegates needed to understand their precarious position here and Root painted a stark future. He explained in a letter to Wood that if the Cuban government severed ties with the US, then it no longer would receive any type of US assistance, including military and economic aid. Such threats yet again demonstrated the imperial agenda of the US and the importance of Cuba. Root, however,

¹⁵¹ Ibid.; Root to Wood, January 9, 1901, Root Papers.

¹⁵² Jessup, *Elihu Root*, vol. 1, 308.

argued that such a response represented the only rational response. Since the US government invested millions of dollars and countless resources rebuilding and reforming the island, American imperialists demanded a reciprocating relationship should, and would follow between the Cuban and American governments. Needless to say, the breakdown of the US-Cuban relationship stood to shut out American businesses, Cuban markets, and its resources. Such a direction in US foreign policy with the island nation meant the loss of millions of trade dollars, millions of consumers of American goods, and millions of pounds of cheap Cuban coffee and sugar.

If the Cuban government dissolved ties and shut out the US government, Root and the McKinley administration faced the possibility of an American backlash toward the “Cuban project.” The tidal wave of national support that moved countless Americans to call for war with Spain for Cuban independence could just as quickly turn into animus for what US public might perceive as ungratefulness for American sacrifice ostensibly on Cuba’s behalf. The political implications also factored in the concerns of Republicans back home, especially the vocal supporters of the McKinley administration. A complete turnaround by the American people toward the Cuban government threatened the very legitimacy of this overwhelmingly “Republican” imperial project. In the end, Root and the others in the McKinley administration valued the imperial economic relationship between the two nations as a high priority. Ultimately, the success of the Cuban “experiment” in self-government, in the eyes of American officials, depended on the economic stability and viability of Cuba.

Root’s Role in the Monroe Doctrine and Platt Amendment

US officials, the secretary of war included, desired a strong connection with the island as a way to protecting it from the predatory nations of Europe. With the global race to imperially expand well under way, some leaders in Washington believed expansionist European nations might test the American government's resolve to keep them from interfering in their "sphere of interest." Originally declared in 1823, the Monroe Doctrine represented an American policy statement formed to limit European interference in Western Hemisphere. Root referenced the policy in an article, describing it as "a declaration of the United States that certain acts would be injurious to the peace and safety of the United States and that the United States would regard them as unfriendly."¹⁵³ The administrations of Polk, Grant, and Cleveland not only reaffirmed the policy, but expanded it to deal with their respective issues with European nations in the hemisphere.

Historically, the doctrine both lacked any legal backing and the real ability for the United States government to militarily or economically enforce it. Root even emphasized, "no one [European or American leaders] ever pretended that Mr. Monroe was declaring a rule of international law."¹⁵⁴ Most European nations scoffed at the idea of the doctrine as a serious policy and doubted the ability for the United States to back it up, especially during the mid-nineteenth century. Further, the doctrine's authors never articulated a course of action if it was violated. Even Root seemed unclear on the outcome of the Monroe Doctrine's violation. He vaguely explained the American government's reaction

¹⁵³ Elihu Root, "The Real Monroe Doctrine," *American Journal of International Law* 8, no. 3 (Jul. 1914): 431.

¹⁵⁴ Ibid.; Robert Bacon and James Brown Scott, *Addresses on International Subjects*, (Cambridge: Harvard University Press, 1916), 109-10.

to a violation depended on the individual factors of each particular instance and the statesman in charge at the time. But the rise of the American economy, along with the buildup of US military might, caused some officials in Washington to rethink the seemingly benign historical meaning of the doctrine. Several militant and jingoistic Republicans called for a sterner defense of this policy against any so-called “European aggressors.” The island of Cuba emerged as a policy battleground over a more aggressive interpretation of the Monroe Doctrine.

With respect to Cuba, Root soon clarified the US government’s legal position regarding both its treaty obligations and what he considered the true nature of the Monroe Doctrine. The Treaty of Paris (1898) granted the US government “the right to protect her [Cuba] which all other nations recognize.”¹⁵⁵ Root then logically linked the legal acceptable notion of Cuban “protection” and situated it within the historical context and precedent of the Monroe Doctrine. Root constructed a seemingly benevolent interpretation of the doctrine, arguing the policy primarily served as the basis of mutual defense in the Americas by rogue or unfriendly nations. This defense that Root referred to as “self-protection” allowed the “right of every sovereign state to protect itself” and by extension areas “beyond the limits of the territorial jurisdiction of the state exercising it.”¹⁵⁶ In layman’s terms, the US exercised the Monroe Doctrine as a policy in order to “aid” nations in their hemisphere, keeping predatory European states from colonizing the region. In such cases, the US government assisted the endangered state, usually in the form American military or economic intervention for the “necessary protection of the

¹⁵⁵ Root to Wood, January 9, 1901, Root Papers; Jessup, *Elihu Root*, vol. 1, 309.

¹⁵⁶ Root, "The Real Monroe Doctrine," 432.

weak against the strong.”¹⁵⁷ So according to Root’s analysis, the doctrine not only reinforced, but promoted national sovereignty and independence of smaller states in the Western Hemisphere against the designs of covetous European states. Political scientist Troy Smith argued that despite the American self-interest of the doctrine, “this objection should not disguise its essentially progressive cast” in the way it opposed outside colonialism and upheld the concept of national government sovereignty.¹⁵⁸ Such a policy directive, despite its tendencies toward paternalism, played on and reflected the prevailing progressive attitudes trends developing back in the United States.

The protection of the weak against the strong mirrored the political battle being waged back at home. In many states, especially Root’s New York, politicians hotly debated the merits of government action versus individual privacy. Individuals and governments wrestled with their changing conceptions of private liberty versus the public good: the place of business versus the role of the state, the right to contract labor versus the individual rights of workers, or the privacy of parenthood versus the public interest of child welfare, etc. As one historian rightly claimed, progressivism rested on long championed notions of “unselfish service on behalf of the public good,” while providing the language of “condemnations of corruption, self-interest, and partisanship.”¹⁵⁹ Just as he envisioned the federal government as a broker between these competing concepts

¹⁵⁷ Ibid, 434.

¹⁵⁸ Tony Smith, *The Pattern of Imperialism: The United States, Great Britain, and the Late-Industrializing World since 1815* (New York: Cambridge University Press, 1981), 172.

¹⁵⁹ James J. Connolly, *The Triumph of Ethnic Progressivism: Urban Political Culture in Boston, 1900-1925* (Cambridge, MA: Harvard University Press, 1998), 11.

domestically, Root viewed the American government as protecting a “weak” Cuba from the “strong” European imperial powers. As a result, he regarded to policy and policy directives as a way to justify American actions in situations that other nations might perceive as intrusive outside government interference. Root described his views of the Monroe Doctrine as a policy that “awards to the smallest and weakest state the liberty to control its own affairs without interference from any other, power,” noting that it “does not infringe on that right.”¹⁶⁰ Despite the United States government’s reassurances and affable interpretations of the policy, the Monroe Doctrine encountered a fair amount of resistance from anti-imperialists at home and those concerned with the abuse of American power abroad. Critics argued that the United States utilized the Monroe Doctrine as a mechanism of extending empire and establishing imperial control over other nations. Some, such as the former president of Colombia Perez Triana, expressed a long-held protest that the doctrine “is by no means based on disinterested, altruistic, or humanitarian motives, but solely on the advantage of that nation,” while others, like a writer identified in an article only as “One Chilean,” summed up his view quite succinctly by saying, “We don’t want any Papa.”¹⁶¹ Root countered such an aggressive representation of American largesse by referring to naysayers as subscribers to a “suppositious doctrine” that never involved any such “grandiose schemes of national expansion.”¹⁶² Again and again, Root re-emphasized that the doctrine “neither asserts nor

¹⁶⁰ Root, "The Real Monroe Doctrine," 434.

¹⁶¹ Albert Hart Bushnell, *The Monroe Doctrine: An Interpretation* (Boston: Little, Brown, And Company, 1916), 254.

¹⁶² Root, "The Real Monroe Doctrine," 442.

involves any right of control by the United States over any American nation.”¹⁶³ Further, he claimed the US would neither “dictate what kind of government any other country shall have,” nor “impair or control the independent sovereignty” of any nation in the hemisphere.”¹⁶⁴ Despite Root’s best efforts to find a commonly accepted conception of what the doctrine represented, there remained a lack of consensus over what it exactly meant in regards to America’s future relationship with Cuba.

Arguments over the validity of the Monroe Doctrine caused Root to seek another, more permanent and legally recognized solution to ensure the defense of Cuba and strengthen the bonds with the US. The relationship between the US and Cuba, according to Root, “has, and will always have, the most vital interest in the preservation of the independence she [the US] has secured for Cuba.”¹⁶⁵ On January 11, 1901, Root wrote to Secretary of State John Hay, outlining the key concepts of what eventually became the Platt Amendment. He suggested the new Cuban constitution include the following provisions: the right of US intervention to protect Cuban independence, limited treaty-making powers by the Cuban government, the maintenance of a US military presence on the island, and the continued enactment of all acts passed by the military government. These concepts formed the backbone and background of the finalized act.

Senator Orville Platt of Connecticut inserted other additions into the finalized amendment. These included banning the Cuban government from taking on financially disastrous public debts or loans, continuing efforts at the sanitation of the island, and

¹⁶³ Ibid., 439.

¹⁶⁴ Ibid., 433-34.

¹⁶⁵ Elihu Root, *The Military and Colonial Policy of the United States*, 210.

determining the ownership of the Isle of Pines, an island of the coast of Cuba. This later adaptation of Root's core principles also added something not found on his earliest version. At the end, the amendment stipulated that the provisions outlined in the amendment would be inserted into a permanent treaty between the US and Cuba. Such an addition seemed extraneous and unnecessary to Root, but Congress included it in their version. So beyond that and the latter additions, the finalized version essentially reflected Root's original ideas as laid out in his earlier letter to Secretary Hay.

Such policies seemingly clarified the nature of US policy when it came to Cuba and her supposed independence. Lacking total sovereignty, Cuba under these conditions appeared more of an American protectorate, rather than independent nation. The outcome of Root's labor, the Platt Amendment, created a view of him as an undaunted imperialist, a view held by many historians and Latin Americans to this day. Contrary to this view, Root's efforts, along with Platt's own assurances, revealed a policy that refused, as Platt phrased it, to "interfere with the independence or sovereignty" and that rendered it "impossible that any such construction can be placed upon that clause."¹⁶⁶ Within his own letters to Wood and McKinley, Root reinforced the idea that such a policy renounced "intermeddling or interference with the affairs of the Cuban government."¹⁶⁷ To Root's legal mind, the amendment amounted to "the Monroe Doctrine, but with international force."¹⁶⁸ While Root no doubt shared much of the same imperialist views

¹⁶⁶ Orville Platt to Root, April 26, 1901, Root Papers.

¹⁶⁷ Root to Leonard Wood, April 2, 1901, William McKinley Papers, Library of Congress, Washington, DC.

¹⁶⁸ Jessup, *Elihu Root*, vol. 1, 319.

of many of his colleagues, he also truly believed the policy to be in the best interest of Cuba.

Years later, Root explained to his biographer, “You cannot understand the Platt Amendment unless you know something about Kaiser Wilhelm the Second.”¹⁶⁹ The Platt amendment satiated the appetites of most Cuban expansionists in Congress, while it also protected Cuba from his greatest fear, outside attack or European imperial aggrandizement. Germany, like other emerging powers in parts of Europe and Asia, was engaged in the “great game” of imperial expansion, spending millions on modernizing and escalating its military capability in order to grow its empire and defend its territorial acquisitions. Already, the Kaiser and his government had expanded their empire well beyond their own “sphere of influence” by colonizing areas as far away as Africa, Asia, and the Pacific islands. The German government lacked the ability to expand in more traditional “spheres of influence,” causing the Reich to look beyond to more non-traditional areas of expansion. In particular, American officials grew increasingly concerned with the possibility of German expansion or influence in the western hemisphere, a place where the Kaiser himself said the German state “had a major role to play.”¹⁷⁰ While other imperial nations such as England and France constructed their Latin American empires well before Germany, a spirit of Anglo-American *entente cordial* and Franco-American *rapprochement* existed while such a relationship with Germany failed to share such historic, economic, or diplomatic ties. Since the US and Germany now

¹⁶⁹ Root to Philip Jessup, December 20, 1934, Jessup Papers.

¹⁷⁰ Leslie Bethell, ed., *The Cambridge History of Latin America*, vol. 4, c. 1870-1930 (Cambridge, UK: Cambridge University Press, 1986), 98.

desired much of the same territory in the Caribbean, Nancy Mitchell rightly asserts, Latin America emerged as the “arena in which the two potential rivals were sizing each other up, eyeing each other suspiciously, full of bravado and fear.”¹⁷¹ Senator Albert Beveridge, a leading light of American imperialism, spoke to this strain of American concern when he stated, “Shall we abandon them, with Germany, England, Japan, hungering for them? Shall we save them from those nations, to give them a self-rule of tragedy?”¹⁷²

Throughout the War of 1898, Kaiser Wilhelm attempted to drum up large-scale European opposition toward American involvement on the island, an island he considered a “European state.” He even categorized American efforts in Cuba and the other Spanish possessions as led by the “American-British Society for International Theft and Warmongering.”¹⁷³ Much of the criticism leveled at American policy during and after the war stemmed from imperial jealousy and rivalry. United States naval intelligence categorized the German attitude as “one of regret” while “colonial plums fell from the old Spanish tree” right into the waiting arms of the United States. To add insult to injury, the same officer sarcastically noted, “it was an irony of fate that we got colonies we were not trying to get, and Germany lost the chance.”¹⁷⁴ With the imperial tentacles of a Germany

¹⁷¹ Nancy Mitchell, *The Danger of Dreams: German and American Imperialism in Latin America* (Chapel Hill: University of North Carolina Press, 1999), 107.

¹⁷² Albert J. Beveridge, *The Meaning of Times* (Freeport, NY: Books For Libraries, 1898), 47.

¹⁷³ David Trask, *The War with Spain in 1898* (New York: The Free Press, 1981), 45; Ernest May, *Imperial Democracy: The Emergence of America as a Great Power* (New York: Harcourt, Brace, and World, Inc., 1961), 196.

¹⁷⁴ Mitchell, *The Danger of Dreams*, 31.

reaching ever outward, the McKinley administration distrusted the Kaiser's intentions, especially so close to America's doorstep. While the Kaiser branded American efforts as a mere act of self-aggrandizement, Root envisioned American efforts as a way to ensure Cuban independence or at the very least to prevent German interference. In an 1897 article in the *North American Review*, Paul Bigelow reflected this general distrust of German expansion by suggesting, "It should no surprise us if we read some morning the news that the German flag had been hoisted on St. Thomas or Curacao."¹⁷⁵ So while Wilhelm II accused the US of coveting the island nation in deed, Root and other foreign policy observers considered Germany as spying a re-emerging Cuba with equally covetous eyes. Though documents made public in the 1930s showed the German threat in the Caribbean was overhyped and exaggerated, American and British officials observed first-hand the threatening posture of the Reich government along with several confrontational public statements made by their officials.

Beyond the outward possibility of threats to the new island nation, additional problems also threatened to sabotage the success of the new Cuban government. Root grew concerned with the possibility that the new Cuban government might be unwilling or unable to protect foreign property and lives after the handover of power from the US military government. By "foreigners," Root's biographer went to great lengths to point out his concern over the safety of Spanish citizens and businessmen only, not just American business concerns. Jessup, in detail and almost defensively, wrote there was "nothing in Root's contemporary correspondence or in his later recollections to suggest

¹⁷⁵ Poultney Bigelow, "The German Press And The United States," *North American Review* 164, no. 1 (Jan. 1897): 21.

that he was much troubled by fears of any interference with American property after the termination of occupation.”¹⁷⁶ While this definitely obscures American motivations for the policy, Root’s concerns toward the treatment of the Spanish, mainly elite and landowning, remained a legitimate concern. The preoccupation with Spanish citizens in Cuba resulted from the possibility of retribution by Cubans over their pre-war treatment at the hands of the Spanish regime. The War Department also grew concerned that current events in Asia foreshadowed a difficult future in Latin America.

More importantly, what happened, American officials pondered, if another nation decided that instead of merely seeking a cordial relationship or a beneficial economic arrangement, a nation’s leaders decided to stay and carve up parts or all of Cuba in the great imperial race? Root shaped the Platt amendment to effectively prevent just such occurrences, while providing the US government with what he perceived as the legal ability to intervene if the situation required it. He repeatedly insisted that intervention in Cuba by the US only occurred for “the sole and exclusive purpose of preserving unharmed the independence of Cuba,” for the “sake of preventing foreign attacks against the independence of the Cuban Republic,” or “there existed a state of real anarchy within the Republic.”¹⁷⁷

Additionally, the amendment prevented Cuban leadership from ceding territory to foreign governments either through treaty or loan agreement defaults. In February 1901, Root wrote to Wood that the small island’s independence “must depend on her strict performance of international obligations . . . and upon her never contracting any public

¹⁷⁶ Jessup, *Elihu Root*, vol. 1, 315.

¹⁷⁷ *Ibid.*, 319.

debt which in the hands of foreign powers shall constitute an obligation she is unable to meet.”¹⁷⁸ If the Cuban government defaulted on their debt, then the lending government “takes possession as a mortgagee and there is no power of ouster.”¹⁷⁹ Put simply, the foreign nation took control of the equivalent amount of territory to serve as payment for the contracted debt. Washington officials deemed such an outcome in Cuba as unacceptable and viewed the Platt Amendment as possibly the only way to prevent it. Though viewed by many as a far-fetched possibility, Root and the rest of the McKinley administration witnessed just such a thing in China during the incorrectly named “Boxer Rebellion” as expansionist Europeans desired to carve up the second largest nation in Asia.¹⁸⁰ Despite the assurances of the Platt Amendment as a policy of Cuban protection, anti-imperialists and many Cubans specifically judged the policy to be an excuse for American economic and political exploitation of the island.

In an effort to calm Cuban fears, Secretary Root entertained Cuban members of the Committee on Convention in Washington on April 26, 1901. These men met with American policymakers like senators Spooner and Platt, military leaders like generals Wood and Miles, and even President McKinley. Secretary Root focused his visit on clarifying the American position on the Platt Amendment in the hopes that once these men realized the affable aims of the policy, they could return that sentiment to the

¹⁷⁸ Root to Leonard Wood, February 9, 1901, Root Papers.

¹⁷⁹ Root to Philip Jessup, January 11, 1930, Jessup Papers.

¹⁸⁰ For additional information, please see: David Silbey. *The Boxer Rebellion and the Great Game in China* (New York: Hill and Wang, 2013) and Paul Cohen. *History in Three Keys: The Boxers as Event, Experience, and Myth* (New York: Columbia University Press, 1998).

constitutional delegates back in Cuba. In a letter to Platt, Root outlined the three key effects as clearing up misunderstandings, providing arguments in favor of amendment to convince suspicious convention delegates, and creating “feelings of kindness” toward the US.¹⁸¹ In less than a month, a member of the Cuban delegation, Dr. Domingo Mendez Capote a forty-five year old law professor at the University of Havana, signaled that the majority of the convention supported the amendment. Over the next few weeks, however, Root through General Wood and Cuban convention representatives communicated over how the exact phraseology of the amendment would appear in the Cuban constitution. Despite additional recommendations and statements put forth by the Cuban delegation, Root worried that much of what was proposed “make me appear to say stupid and foolish things” and could not be included in the final version. Beyond this, Root vented to Theodore Roosevelt that the delegates failed to understand that “I was giving only my own views, and that I had no authority or power in any way to change or modify the law.”¹⁸² Root attempted to impart to Wood the fact the only way a government transition could occur was for the delegates to accept the amendment. By June 12th, after long debates over the issue, the delegation finally accepted the Platt Amendment as an appendix of the Cuban constitution by a close vote of sixteen to eleven. With the acceptance of the amendment and the finalizing of Cuban constitution, Root readied to pass the torch to a new Cuban government under their newly elected president, Tomas Estrada Palma. Palma’s ascendancy to the presidency in 1902 represented a change in direction toward Cuban independence.

¹⁸¹ Root to Orville Platt, May 9, 1901, Root Papers.

¹⁸² Root to Theodore Roosevelt, June 4, 1901, Root Papers.

By April of 1902, Secretary Root traveled for the last time to a Cuba under its provisional military government. He described the visit as a type of closure with the Cuban people, referring to it as a way “to be sure that when we turn over the government and put the power out of our hands we leave as few seeds of misunderstanding as possible.”¹⁸³ On the May 20, crowds of Cubans gathered to watch as the new government took its place, while the American military government stepped aside. Both prideful and suspicious hearts watched as the Cuban flag emerged atop the jutting stone structure of Morro Castle, which had guarded the entrance to the harbor of Havana for almost over three centuries. For possibly the first time, the Cuban people’s excitement stemmed not so much from who was arriving at the harbor, but who was finally leaving the harbor. General Leonard Wood, his subordinates, and his staff boarded American ships to sail out in the hopes of leaving a new and stable nation in place of the post-revolutionary chaos they had found two years earlier.

Conclusion

During the late 1890s, the lawyer turned statesman turned his efforts from defending well-known clients back in New York City, to representing the United States on the world stage. As the American empire extended to areas such as Cuba and the Philippines, Elihu Root extended the ideas of progressivism beyond American shores. Despite a lack of professional political and diplomatic experience, Root initiated the spread of modernity, efficiency, and good government. As the head of the War Department, he embarked upon the process of rebuilding and remaking war-torn Cuba’s legal, educational, and political structures. Along with the leader of the military

¹⁸³ Joseph B. Bishop, "The Cuban Republic," *The International Monthly: A Magazine of Contemporary Thought* 5, (Jan.-Jun., 1914): 77.

government Leonard Wood, the two men transformed the island of Cuba into a laboratory of American progressive ideas and programs. From the reform of prisons to changes in educational structures, all of the programs undertaken in Cuba reflected institutions, problems, and ideas that Americans debated and dealt with back home. The political reforms in Cuba attempted to stabilize divisive issues of class and race, while leaving the new government in a stable and secure position.

Despite the benevolent sounding nature of the reforms, they ultimately failed in two very important ways. First, American ideas never effectively translated into a Spanish or, more importantly, a Cuban framework. Since these outside changes, in many cases, antagonized societal tensions or completely ignored them, Root and Wood lacked the necessary support of the Cuban population in order to make effective, long-lasting change. Additionally, after the transition to the Cuban-led government, Root missed the ability to see through many of the societal changes he and Wood started.

Secondly, the US government imposed many of these “enlightened” reforms on the Cuban population while at the same time tightening its imperial grip on the island. Much of the Cuban leadership and a sizable portion of the society questioned the American end game. As the United States government talked about transitioning Cuba toward independence, the increased visibility of Americans on the island, both entrepreneurs and investors, caused merely more suspicion about how honorable American intentions were. Though American officials ceremonially handed over power to the Cuban led government in 1902, the Platt Amendment granted control, more or less, of the island until its abrogation in 1934, but its ultimate effect reached all the way to the 1959 Cuban Revolution. Since Root crafted much of the amendment, critics apportioned

him much of the blame, considering him as the great architect of American empire. While the former remains indisputable, the latter lends itself to reconsideration.

In attempting to create an independent Cuban state, Root and Wood relied on the latest in scientific management to make Cuba's society run more efficiently not just for American business or a bottom line, but also for the Cuban people. So despite the overtones of imperialism, Cuba represented a testing ground for progressive ideas and institutions. Additionally, subsequent war secretaries altered the meaning of the amendment that Root had understood to be benevolent in its function. While Root remained convinced that the United States could intervene only in the most extreme cases, many of his successors required much less cause for intervention. Cuban politicians contributed to its misuse as well. They often utilized the language of the law to further their own ambitions of holding political and economic power while utilizing the American military to suppress their opposition.

Ultimately, Root's handling of postwar Cuba reinforced the sometime-mutual nature of American imperialism and the progressive movement abroad. Intervention beyond America's shores supported progressive ideas of government intervention at home, but unfortunately not with the same long-lasting benefits at times. Even in the United States, progressivism represented experimentation with new ideas, many of which failed while a few very beneficial reforms succeeded. Similarly, American policies in Cuba served as the first experiment in full-scale empire building and international progressivism in the twentieth century outside of America's insular borders. Root and Wood searched for answers to societal problems facing an emerging Cuba. Many of the American "solutions" and ideas missed their mark, while others greatly improved the everyday lives of Cubans.

CHAPTER IV

LABORATORY OF PROGRESS & EXPERIMENT IN EMPIRE: PROGRESSIVE IDEAS IN THE PHILIPPINES, 1899-1904

“When we came to govern colonies, we didn’t find anything in the exact words of the Constitution as to what we can do in a colony . . . yet there are general principles that apply to all mankind, we had to govern according to them. But it was after long study of the matter that I came to the conclusion there are certain things the United States Government couldn’t do because the people of the United States had declared that no government could do to them—the Bill of Rights. There is a moral law, which prevents the Government doing certain things to any man whatever. We haven’t always stuck to it.”

Elihu Root
Letter to Philip Jessup, September 20, 1930

By the end of the nineteenth century, American leaders faced a whole host of new and modern problems. Though the nation’s economic engine continued to roar in the late 1890s, the reality for regular Americans tended to translate poorly by comparison. Social problems, economic dislocations, and political factionalism threatened to beat back whatever gains science, business, and technology provided following the end of the Civil War. Increasingly, people looked for a more responsive government to mediate the great excesses and inequalities of the decade. Progressives, Mugwumps, and other reformers alike demanded an honest, efficient, and a more responsible government to address society’s growing problems, while at the same time urging that Americans hold politicians accountable through informed participation in the democratic process. Progressive reforms, experiments, and ideas at the turn of the twentieth century formed a framework for Americans to navigate growing societal tensions by seeking modern methods to address problems, both age-old and those created by the radical changes in

the present. While some harkened back to their nation's romanticized past and its idealized virtue for solace, progressive reformers applied modern advances in science, business, and education, along with a healthy dose of righteous virtue, to try and ease the chaotic state of American society.

In the period following the Civil War, the US government engaged in the nation's second phase of empire building. The late nineteenth century Indian Wars ended in the American control of the West, while the US government engaged in its first ventures in acquiring the control of some Pacific islands. In reality, it was only in the 1890s, that the nation engaged in offshore empire-building on any significant scale.¹ Additionally, all territories acquired by the US, prior to the War of 1898, followed the model of expansion established under the Northwest Ordinance of 1787, allowing for the possibility of statehood.² In a significant shift, the ordinance no longer applied to territories such as the Philippines. Such a change reflected a new mission Americans looked to undertake by the end of the nineteenth century. In the years following the War of 1898, American officials once again tried to remake nations and peoples in America's image, but this time on a global scale.

Reformers such as Elihu Root, who fought on behalf of progressive reforms domestically, also looked to transmit American ideals, values, and systems to peoples in

¹ Walter Nugent, *Habits of Empire: A History of American Expansion*, (New York: Alfred A. Knopf, 2008), xv.

² Julian Go, "Introduction: Global Perspectives on the U.S. Colonial State in the Philippines," in *The American Colonial State in the Philippines: Global Perspectives*, eds. Julian Go and Anne Foster, (Durham: Duke University Press, 2003), 7; Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*, (Princeton: Princeton University Press, 2004), 98.

the furthest corners of the globe. Some historians argued America's involvement in the Philippines reflected the "last episode of the nineteenth century pattern of territorial acquisition . . . based on the long road from independence to wardship for America Indians."³ However, Root considered his policies in the Philippines as quite different from other colonial missions. He insisted that America's actions in the archipelago "differed from all other colonial experiments that I know anything about in following consistently as one of its fundamental rules of conduct the purpose to fit the Filipinos themselves for self-government."⁴ He applied wisdom gleaned by forward-thinking political experiments at home and across the Atlantic to areas previously untouched by American imperial reach. Regions, such as the Philippines, served not just as an experimental laboratory for progressive ideals to be tried, tweaked, or tossed aside, but they also provided a staging ground to determine if so-called "superior" values of the American system could be successfully grafted onto a culture and a people they knew so little about. Root understood American engagement in the Philippines as less about exploitation and more about intercession.

Motivations for domestic reforms in the United States ranged from the benevolent, to the calculatedly selfish. Beyond American borders much of the same could be said. Root's conversations with colonial officials in the Philippines mirrored similar discussions by reformers at home about the ravages of society and a desperate

³ Edward P. Crapol, "Coming to Terms with Empire: the Historiography of Late Nineteenth-Century American Foreign Relations," in *Paths to Power: The Historiography of American Foreign Relations to 1941*, ed., Michael J. Hogan (Cambridge: Cambridge University Press, 2003), 108.

⁴ Stanley Karnow, *In Our Image: America's Empire in the Philippines* (New York: Ballantine Books, 1989), 371.

search for conceptual antidotes: the need for moral uplift, the expansion of the democratic participation, the promotion of good government, and the importance of universal education. Root's War Department, along with the subordinates that made up both Philippine commissions, performed the dual roles of progressive reform instigator and paternal colonial overseer, both the giver of political liberty and the one who defined its limitations.

Even as the American-Philippine War was being fiercely waged in 1900, Secretary Root through the appointment of officials and the establishment of commissions attempted to bring about beneficial progressive reforms in the Philippines. Root believed by promoting good government, encouraging political education, and creating a well-functioning civil service commission, he created an effective road map for eventual self-government in the archipelago. In some cases, American commissions, bureaus, and agents attempted to set a moral example to follow, while in others they merely led by decree. A lack of cultural awareness, uncertain economic resources, shifting bureaucracies, and even a lack of conviction at times contributed to the uneven application and even more uneven results of the American empire's progressive experiment in the Philippines. Just like their reformist contemporaries back in America, progressive reformers in the Philippines fell short of their high-minded political goals, at least in the short run. Despite the failed attempts and the sometimes not-so-benevolent intentions, Secretary Root utilized his position as head of the War Department in an attempt to export domestic, progressive political ideas to the Philippines.

The Rumble in the Jungle: Backdrop of the Philippine-American War

The recent War of 1898 focused a good deal of American attention on Cuba, though the island served as one front of a war with Spain that stretched across the globe. Aside from Cuba, Spain counted the Philippines as part of its colonial possessions. American expansionists grew excited at the prospect that other Spanish territories were possibly up for grabs as well. As tension increased between the Spanish and American governments over Cuba in 1896, the US Navy adopted a contingency plan to stand ready to engage the bulk of the Spanish Pacific fleet located in Manila, the Philippine capital.⁵ These plans never specified any American intent to act aggressively without provocation, only naval preparation and observation. On the heels of the *USS Maine* explosion in Cuba, the Spanish-American War arrived on the Filipino doorstep on April 30, 1898 with the arrival of Admiral Dewey's Fleet.

The quick fall of the Spanish capital in the Philippines brought about a much longer wait in deciding what do with the Philippines. In the beginning, the McKinley administration focused much of its attention on the Caribbean, especially given the amount of press it received back home. As time passed, Republican leaders in the McKinley administration continued to lean more toward holding onto to the Philippines rather than freeing it as originally announced in the Teller Amendment. Justification for their stance ranged from the Filipinos not being ready for self-governance to fears of European or Japanese takeover once the US forces left the islands.⁶ In terms of blatant

⁵ Robert L. Beisner, *From the Old Diplomacy to the New, 1865-1900*, 2nd ed., (Hoboken, NJ: Wiley-Blackwell, 1986), 119.

⁶ Jeffrey Meiser, *Power and Restraint: The Rise of the United States, 1898-1941*, (Washington, DC: Georgetown University Press, 2015), 39.

self-interest, American control of the Philippines allowed for closer access to the Chinese market, while providing a military outpost capable of protecting US trade and interests in the area. Expansionists within the administration finally convinced a reluctant McKinley to haphazardly settle on the annexation of the Philippines as America's policy forward. Supporters clamored, while critics such as the Anti-Imperialist League called foul. League members, including well-known figures such as Andrew Carnegie, Jane Addams, Mark Twain, and Thomas Dewey, opposed annexation on moral, economic, and constitutional grounds.

When fighting against the Spanish mostly ceased in October 1898, McKinley instructed delegates to the Paris peace talks to demand the control over the Philippines, which brought about a chorus of Spanish objections. After a short time, Spanish officials soon withdrew their objections as soon US officials offered them twenty million dollars for the islands. They subsequently signed the Treaty of Paris on December 11, 1898. When the US Senate ratified treaty in February of 1899, American officials considered the annexation of the Filipinos complete, despite the fact that Filipino voices and votes remained conspicuously absent during the entire proceeding. Filipino nationalists such as Emilio Aguinaldo refused to sit back and accept American ownership of his homeland. Any hopes at an American-Filipino government partnership toward the common goal of Filipino independence soon fizzled as doubt and suspicion fueled further distrust of the American government's intentions. Aguinaldo's rebel forces and American troops sustained an uneasy coexistence in the late winter of 1898 and into the spring of 1899. By that time, the Philippine-American War, as it came to be know, now looked inevitable. So

as the war against the Spanish closed, the threat of a renewed military conflict, against the very Filipino nationalists US officials claimed to earlier support, loomed.

Many elite Filipinos, known as “*ilustrados*” or the “accommodationists,” increasingly turned against Aguinaldo and the other so-called “irreconcilables,” whom they viewed as too radical, power hungry, and authoritarian. Many of these dissenting factions increasingly modified and re-imagined the overall political, economic, and social goals they hoped to pursue, adopting a more realist approach to their relationship with the United States. Instead of opting for outright independence, the ilustrados focused on attaining large-scale reforms that placed a greater share of power in the hands of more Filipinos, but with American support.⁷ Some even believed US control of the Philippines, at least under the right circumstances, meant an increased role in government (whereas the Spanish gave them none) and the modernization of the economy and society writ large.

The Schurman Commission

In order to try and stave off further destabilization in the region, President McKinley deployed a five-man commission to Manila that came to be known as the First Philippine Commission, or Schurman Commission. In January 1899, the president tapped Jacob Schurman, the president of Cornell University, to head an interesting team of American officials: the former minister to China and Chinese cultural scholar Charles Denby, University of Michigan ornithologist Dean Worcester, Maj. Gen. Elwell Otis, and Comm. George Dewey. McKinley tasked the group to determine the general state of affairs on the ground, identifying key policies that promoted “the maintenance of order,

⁷ Fred Atkinson, *The Philippine Islands* (Boston: Ginn & Company, 1905), 345.

peace, and public welfare . . . for the perfection of the present administration, or as suggestions for future legislation.”⁸ This included researching existing forms of local governments, legal institutions, tax codes, transportation systems, and public infrastructure in order to determine what sectors of Filipino society needed to be repaired, remodeled, ordered, and modernized.

Schurman and the rest of the commission stood ready to obediently carry out the president’s wishes. Secretary of State John Hay called for the team to arrive in Manila as soon as possible in order to determine “the measures which should be instituted for the maintenance of order, peace, and public welfare, either as temporary steps to be taken immediately . . . or as suggestions for later.”⁹ Unfortunately, by the time the men arrived in Manila in early March of 1899, the conflict between the Filipino insurgents and American troops had already raged throughout the countryside, especially after the forces of Aguinaldo declared their intention to create a Philippine Republic earlier that January.

In addition, the commission soon garnered resistance to its efforts from several American military leaders, especially Major General Otis. The general claimed renewed hostilities indefinitely suspended any talks of the peace and with it, any need for the commission. Said in another way, given the changes on the ground, the commission’s peace-keeping duty now proved rather useless and irrelevant. According to Otis, the three-man group seemed more of a bother and liability to his men and his mission, rather than a necessary part of the pacification process that contributed to the overall goal of

⁸ U.S. Congress, Senate, *Report of the Philippine Commission to the President*, S. Doc. 138, 56th Cong., 1st sess., (Washington, DC: Government Printing Office, 1900), 2. [Cited hereafter as: *RPC Schurman*].

⁹ *RPC Schurman*, 2.

victory. Over time, the general's view softened toward the academics, but commission participants committed to its mission at first only consisted of Schurman, Denby, and Worcester.

In its open message to the Filipino people, the commissioners, namely the non-military portion of the group, outlined their progressive belief in the “perfection of the Philippine people [which] is to be brought about by the assurance of peace and order . . . and the realization of those noble ideals which constitute the higher civilization of mankind.”¹⁰ The report detailed what the commission referred to as the “regulative principles by which the United States will be guided,” deeming them as of “cardinal importance.”¹¹ These so-called principles embodied the commission's attempt to outline practical expectations and set moral boundaries for Filipinos and Americans alike. Included in its report, the commission specifically highlighted progressive ideas as part of their agendas such as promoting Filipino self-government, creating of civil rights, preventing of native exploitation, employing credible US officials, operating honest and effective fiscal policies, maintaining a corruption free bureaucracies, constructing necessary infrastructure, and reformulating the educational system. Taken together, the majority of these goals mirrored progressive projects back in the United States. The group even embraced the overall spirit of progressivism, one which called for “reforms in all departments of the government, in all branches of the public service, and in all corporations” for the “well founded demands and the highest sentiments and aspirations

¹⁰ *RPC Schurman*, 4.

¹¹ *Ibid.*, 5.

of the Philippine people.”¹² Despite setbacks from the Filipino insurgency and internal squabbles, the commission gathered documents about any pertinent issues, collected information from the local press, and conducted interviews with a wide range of people on the islands throughout 1899.¹³ Throughout its reports, the Schurman Commission invariably laid most of the blame for poor conditions on the islands at the feet of the Spanish. The fact that the Americans just fought a war against the Spanish and the negative views of their former Filipino subjects significantly contributed to the highly critical tone toward Spanish in the report. The commission paid particular attention to the “wretchedly inadequate” nature of the Spanish education system, while noting the fact that Catholic religious indoctrination within public education further exacerbated the problem.¹⁴ The report picked apart the problems of teacher to student ratios, teacher pay and qualifications, religious authority, and the lack of a coherent system of education for the mass of Filipinos. The commission all agreed the previous education system, under the Spanish, contained major flaws, but the group expressed no consensus on how exactly to move forward and make the system better.

After conducting countless interviews amongst the populace, the Schurman Commission seemed divided over the educational ability of Filipinos as a whole. Caught in the racialized thinking of the time, the committee explained away the population of educated professionals in the Philippines as an exception to the rule, believing their intellectual abilities came from the fact they were “said to have been mestizos, or people

¹² *RPC Schurman*, 5.

¹³ *Ibid*, 2-3.

¹⁴ *Ibid.*, 17-31.

of mixed blood.”¹⁵ Most American officials believed trades and skills could easily be taught to them, while others questioned the ability a majority group of Filipinos to grasp intellectual concepts, foreign languages, and higher education. In another portion of the report, the commission almost gushed at the elite Filipinos, known as the *ilustrados*, for their “high range of intelligence, and not only to their intellectual training, but also to their social refinement, as well as the grace and charm of their personal character.”¹⁶ Despite differences of race and ethnicity, the commission recognized the *ilustrados* as “equals of the men one meets in similar vocations . . . in Europe or America.”¹⁷

Just like in the United States, the belief that certain segments of the population lacked the ability to be educated contrasted sharply with the “firm commitment initiated by the common school movement and confirmed by social progressives that all Americans could be educated.”¹⁸ Despite their racial stereotypes and ethnic fallacies, the commission rightly understood the “average native has never as yet had a fair opportunity to show what he can do.”¹⁹ The commission report concluded that average Filipinos, despite being “keenly alive to the drawbacks under which he has thus far labored,” strongly desired a chance at gaining educational opportunities.²⁰ As a result, the

¹⁵ *RPC Schurman.*, 40.

¹⁶ *Ibid.*, 120.

¹⁷ *Ibid.*

¹⁸ Paula S. Fass, *Outside In: Minorities and the Transformation of American Education*, (New York: Oxford University Press, 1989), 36-7.

¹⁹ *RPC Schurman*, 41.

²⁰ *Ibid.*

commission called for the quick establishment of an “adequate system of secularized and free public schools” by increasing the school infrastructure, making drastic revisions to curriculum, revising the pay and qualifications of teachers, and creating vocational schools for a practical education. Given the thousands of native dialects and the poor inculcation of the Spanish language, the commission recommended English as the language of Filipino education. This selection rested more on the practicality of creating a centralized education system that taught an across the board curriculum rather than some deep seated feeling that the natives needed English to prove their humanity. In fact, the very selection of English as the common language revealed the commission’s belief that the Filipinos possessed such an innate intelligence to learn new languages. The Schurman Commission closed its report on education by recommending the raising of taxes to pay for the vast sums of money such an educational expansion entailed. They reassured the president that soon the Filipinos, both friendly and insurgent, “would cheerfully bear almost any burden of taxation having for its object the provision of funds for a good public-school system.” In fact, the commission remained optimistic that education for Filipinos promised a “certainty of good returns.”²¹ The commission also examined the pre-War of 1898 system of government.

The Schurman Commission’s report described in detail what it considered the problems of the Spanish colonial system of government. Throughout its critique, the committee expressed that Cuba’s lack of “good government.” The report cited specific issues surrounding this overall idea, including the lack of transparency, civilian participation, checks and balances, and governmental control at different levels of

²¹ *RPC Schurman*, 42.

government. Taken together, this created an environment in which the government “failed to accomplish even the primary ends of good government—the maintenance of peace and order and the even administration of justice.”²² Just as the major cities wrestled with bossism and corruption back in the United States, the Schurman Commission noted much of the same about Cuba while under the Spanish colonial government. Thus, many of the group’s suggestions followed progressive strains of creating “good government” at home. In fact, the report outlined that if the Filipino government operated “in the spirit in which it is administered in the United States, the people of that archipelago will . . . enjoy more benefits than they dreamed of,” since taking up arms against the Spanish.²³ The commission held out great hope for Filipinos to operate an efficient and responsive government. Now they needed to chart a path for what this Filipino government would look like.

Based on what it documented in hundreds of Filipino interviews, the commission outlined its suggestions of reform for the new Filipino government. The group stopped short of recommending independence, citing that “they [Filipinos] do not . . . generally desire independence.”²⁴ The commission, along with certain parts of the Filipino population, feared that if made completely independent, the new Philippine government stood little to no chance of remaining that way for long due either to external threats of other imperial powers or internal collapse due to the inability to govern such a diverse citizenry amongst a vast series of loosely connected and endless islands. According to the

²² *RPC Schurman*, 81.

²³ *Ibid.*, 82.

²⁴ *Ibid.*

report, a Filipino government, unable to stand alone, needed “tutelage and protection of the United States” if it ever hoped to achieve “the dream . . . of a united and self-governing Philippine commonwealth.”²⁵ For now, the commission denied recommending complete independence to the Philippines for what it perceived to be in the island’s long-term interest.

Such a stance seemed at odds with the prevalence of the Filipino *nationalistas* demanding their independence by fighting against American forces. The commission blamed most of the revolutionary violence on a group of Tagalog fighters who held grievances against the Spanish government for a lack of reforms. The violence only continued, according to this line of logic, against US forces out of frustration rather than a desire for freedom.²⁶ Of all the outstanding reforms desired by the Filipinos, the commission outlined that any “plans of reform all start from a concrete basis” of a bill of rights that allowed the Filipinos to “seek deliverance, sure and abiding, from wrongs and cruelties to which the people have hitherto been exposed.”²⁷ The group explained the increasing tension between Filipino nationals and the military government as a misunderstanding of intent. The mistrust developed from what the report referred to “self-seeking and ambitious” Spanish colonial leadership, misleading them so much that

²⁵ *RPC Schurman*, 83.

²⁶ *Ibid.*, 84. They noted the reform demands as lessening the authority of religious leaders, increased representation, equality in treatment and pay of civil servants, freedom of the press, home rule, land redistribution, and legal equality for all Filipinos. According to the commission, such a plan “certainly is no scheme of independence,” but a “state of grievances, a demand for reforms, and, by implications, a bill of rights.”

²⁷ *Ibid.*, 85.

the Filipinos now distrusted America's more benevolent intentions.²⁸ The commission summed up the aims of the US government as being to "assist them in establishing for themselves [the Filipinos]—the reign of peace and order, justice and liberty, education, prosperity, and all the good things of the highest civilization."²⁹ A government aided by the US, but led by Filipino desires, rights, and goals, represented the best form of incentive to get the support of the misled rebels.

The Schurman Commission outlined a bill of rights as the basis for essential political reform. Additionally, the group viewed the substitution of a military government for a civil government as the quickest delivery method for the Filipinos to accept America's role as promoting these rights, rather than repressing them as the Spanish had done. Whether Filipinos supported a government led by Aguinaldo or the Americans, they shared the critique of an overly powerful and corrupted executive and the need of legislative oversight that lacked under the Spanish colonial regime. The commission suggested that Filipinos, if qualified, be given preference over Americans for any open government post. Thus, the push for a merit based government appointments gathered momentum in the Philippines just as it did back home in the US. Even amongst American candidates for the Philippine civil service, the group agreed those candidates needed a mastery of local languages and local problems. They reasoned such knowledge aided in a way "no other means can" to bring the two peoples "to understand and appreciate one another."³⁰ As part of the "good government" progressive ideology, the commission

²⁸ *RPC Schurman*, 85.

²⁹ *Ibid*, 120.

³⁰ *Ibid.*, 114.

emphasized that “the patronage or spoils system would prove absolutely fatal to good government in this new Oriental territory.”³¹

Recommendations soon followed for the creation of a civil service board “analogous to that which exists in many of the States of the Union” which would determine appointments based on exams and qualifications over political favor or support. The Schurman Commission emphasized the need for the selection process to focus on “honesty and integrity; then for intelligence, capacity, and technical aptitude or skill.”³² This preference mirrored changes in the selection of civil service employees back in the US as a result of political corruption. Many reformers in the US, especially in metropolitan areas dominated by cronyism, distrusted the intentions of state and local political executives, especially crooked political bosses, and desired a legislature of “good government” progressive representatives. Admittedly, such a merit-based system represented a departure from earlier Spanish and local patronage systems. However, the Schurman Commission remained optimistic that such a system could impress upon the Filipinos, “a republican form of government whose civil service is regulated by justice . . . and directed solely for the welfare of the community.”³³ As the commission worked to complete its inquiries for their study and report, the fighting of Aguinaldo-led “nationalistas” not only continued, but ratcheted up during the late summer and early fall months of 1899.

³¹ *RPC Schurman*, 112.

³² *Ibid.*

³³ *Ibid.*, 113.

Uprooting Resistance: Root's Military Campaign

As events on the ground spiraled out of control in the Philippines, the president had appointed a New York lawyer to the position of secretary of war in August of 1899. So six months into the fight against the Filipino nationalists, Root, with no prior military experience or service, now faced a conflict that seemed to be showing as no sign of letting up. Before he could institute his progressive agenda, Root needed to bring the conflict to a close. Due to his leadership and the reorganization of military forces, the military soon captured one of the top Filipino nationalist leaders, causing military combat in the main to quickly dissipate. Turning his attention to civil government, Root then attempted to institute progressive ideas that promoted religious and civil liberty, just laws, honest and efficient government leadership, an effective educational system, and eventual self-government.³⁴

As mentioned in the earlier chapter, Root inherited a War Department that lacked any ability at effectively managing military logistics. He quickly worked to clean up the mess of his predecessor, the former secretary Russell Alger. Again, Root took advantage of new ideas in military science, along with the progressive desire to create predictable, orderly, efficient, and stable military systems. As proof, twenty-one thousand troops landed in the Philippines in February, just as the Senate ratified the 1898 treaty, calling for the return of troops who signed up for the military in the previous year, leaving behind only a force of about thirty-seven hundred. During what was left of the rainy season in the archipelago which ended in November, Root, as head of the War

³⁴ Elihu Root, *Speech of Hon. Elihu Root, Secretary of War, at Peoria, Illinois, September 24, 1902* (Washington, DC: Gibson Bros., Printers And Bookbinders, 1902), 9.

Department, recruited, trained, and shipped some forty thousand additional troops halfway across the globe. At the same time, his department brought home the troops slated to return.³⁵ The War Department's massive troop restructuring, under the department's new leader, provided much greater efficiency and went off without a hitch.

As the rainy season ended in November, the US military in the Philippines, under the command of Maj. Gen. Elwell S. Otis, launched an offensive campaign against the Filipino insurgency. Prior to the shift, Aguinaldo and his men suffered major losses due to their use of traditional combat methods against an American military with more firepower and economic resources. So by mid-November, Aguinaldo and the rebel army resorted to the use of guerrilla war tactics, long known as so-called "weapons of the weak," in order to try to frustrate, confuse, and overwhelm their American foes. The redirected combat style better complemented the few advantages the Filipinos forces retained: better knowledge of terrain, the ability to blend insurgent forces into civilian populations, and the popular support of segments of the native population.

The insurgent campaign, and the American response to it, revealed the cruelties of war as both the US Army and the Filipino Liberation Army (FLA) committed numerous atrocities. Filipino fighters, blending in with civilian population, employed hit-and-run tactics against American troops only to then melt away into the surrounding jungle, a phenomenon American troops called "amigo warfare."³⁶ This derogatory phrase referred to the perceived "shape-shifting" abilities that Filipinos possessed, allowing them to

³⁵ H.F. Gunnison, ed., "The Philippine Islands," *Brooklyn Daily Eagle Almanac* 26, no. 1 (Jan. 1901): 513.

³⁶ David J. Silbey, *The War of Frontier and Empire: The Philippine-American War, 1899-1902* (New York: Hill And Wang, 2007), 147.

suddenly and maliciously transform from friend to foe.³⁷ As one US soldier complained, “The soldiers start with a fine contempt for the insurgent, who would not stand up for a square fight, but who always wanted to fight from ambush and who playfully boloed the stragglers.”³⁸ Though such actions blew up headlines in American newspapers, typically the approach only netted single-digit casualties.

Aguinaldo embraced the strategy largely out of desperation, hoping that his forces could hold out until the political winds might change with the US presidential election of 1900. He believed the possible election of the anti-imperialist Democrat, William Jennings Bryan, might signal the end of American occupation; he just needed to hold out until that point. As it turned out, the use of guerrilla tactics along with the re-election of President McKinley failed to improve the chances of Aguinaldo’s liberation campaign. In the waning years of the fight, nationalist insurgents even attacked Filipino villages they viewed as complicit with American rule. Overwhelming American military might, and the decreasing pockets of Filipino support, spelled an end to insurgent hopes. Ultimately, Aguinaldo’s military strategy bought him some time, though it only delayed his failure.

Within a matter of months after the US presidential election, Emilio Aguinaldo’s time finally ran out. Using tactics akin to the Trojan horse, Philippine scouts led what appeared to be American prisoners of war to Aguinaldo’s camp. Once inside, the scouts, supportive of US forces, along with their American “prisoners,” turned their guns on the *insurrectos*. So on March 23, 1901, US forces, under the command of General Frederick

³⁷ Sarita Echavez See, *The Decolonized Eye: Filipino American Art and Performance*, (Minneapolis: University of Minnesota Press, 2009), 95.

³⁸ Joseph McCallus, ed., *Gentleman Soldier: John Clifford Brown & the Philippine-American War* (College Station: Texas A&M University Press, 2003), 230.

Funston, succeeded in the capture of Aguinaldo, bringing his resistance to an end. Despite calling his men to fight to the death throughout the war, Aguinaldo chose surrender over what easily would have been a certain suicide mission. Though small pockets of Filipino resistance continued for the next year, the capture of Aguinaldo signaled an end, at least in the short run, to the hoped for acquisition of Filipino autonomy and true independence.

Changes in the American power structure soon followed. Maj. Gen. Arthur MacArthur, the replacement appointed for General Otis, deplored the ascendancy of the civilian government as it supplanted what he believed to be his own military authority. As one member of the commission noted, MacArthur openly vented that “what the Filipinos needed was military government pinned to their backs for ten years with bayonets.”³⁹ In a matter of months, he would drastically reverse his position on the commission and ended up embracing the shift toward a civilian government.

Upon Root’s recommendations and largely his ideas, President McKinley moved quickly to transform the American military control toward a civilian government in 1901. This shift was termed as “benevolent assimilation.”⁴⁰ As the military government wound down its authority, President McKinley and Root selected a very reluctant, but able, legal

³⁹ Dean Constant Worcester, *The Philippines Past and Present*, vol. 1 (New York: The Macmillan Company, 1914), 331.

⁴⁰ Charles Harcourt Ainslie Forbes-Lindsay, *America's Insular Possessions*, vol. 2 (Philadelphia: The John C. Winston Co, 1906), 305; Philip C. Jessup, *Elihu Root*, vol. 1 (New York: Dodd, Mead, and Company, 1938), 354. According to Jessup, Taft commented to the Governor General of the Philippines in 1912, that Root “wrote the letter of instructions (from the President).”

mind in William Howard Taft to run the civilian government. Taft, who had been a judge on the Sixth US Court of Appeals, arrived in the Philippines in June of 1900.

Judge Taft soon gained the support of influential politicians and journalists alike, along with their derision. Prior to President McKinley's assassination, Theodore Roosevelt, who then served as vice president, mentioned his friend's "weight in public life." Roosevelt's comments represented a slip of the tongue perhaps, given his friend's five foot, eleven inch and over three hundred pound frame. More seriously, he explained the hefty judge "combines as very, very few men, ever can combine, a standard of absolutely unflinching rectitude on every point of public duty, and a literally dauntless courage and willingness to bear responsibility."⁴¹ The rather rotund Taft suffered in the tropical heat, but proved effective at his post. A British, self-titled expert on the Philippines, John Foreman, described Taft as known for making "frequent utterances favourable [sic] to their [the Filipinos] aspirations, and his discouragement of those Americans who sought to make quick fortunes and be gone."⁴² Foreman explained that

⁴¹ Theodore Roosevelt, "Governor William H. Taft," *The Outlook* 69, no. 3 (Sept. 21, 1901): 166-67.

⁴² John Foreman, *The Philippine Islands: A Political, Geographical, Ethnographical, Social and Commercial History of the Philippine Archipelago and Its Political Dependencies* (New York: Charles Scribner's Sons, 1906), 564. Foreman had several critics of his views on the Philippines at the time. Interestingly, his views on American imperialism and interactions between Filipinos and the US government in general are more in line with today's historical view on the situation. In 1904, a then former Assistant Secretary of the Philippine Commission, James LeRoy, wrote what could only be described as a diatribe against Foreman and his views. The information given to discredit Foreman amounted to splitting hairs on more petty issues or him downplaying a claim made by the author. In a way, it seems to the reader now as merely a minimized acknowledgement of his claim and an act of damage control by LeRoy. The fact this article appears in the newspaper less than two weeks prior to the 1904 presidential elections suggests LeRoy's defense is more political face-saving on the part of the Republicans and their Philippine policy record, than concern about the Filipinos

Taft's critics tended to negatively focus on him for the fact he "unduly protected the Filipino to the prejudice of the white man's interest."⁴³ With a great deal of support from Root and other leaders, Taft, a strong and forward-thinking leader, now pushed to create an efficient government and his reformist agenda.

As governor of the Philippines, Taft supported and implemented numerous progressive ideas with Root's assistance and approval. Just as General Wood orchestrated much of Root's progressive agenda in Cuba, Taft served effectively and efficiently. Some argue that Taft's time as governor highlighted the most successful period of his entire political career. Throughout his tenure, he consistently received the full counsel and support of the secretary of war. Root reminded Taft that the emerging Filipino government was designed, "not for our satisfaction or for the expression of our theoretical views, but for the happiness, peace, and prosperity of the people of the Philippine Islands, and the measures adopted should be made to conform to their

themselves. For the full article, see: "A Disputed Authority: Mr. John Foreman, Writer on the Philippines," *Boston Evening Transcript*, October 22, 1904: 20. Paul Kramer suggests the criticism dealt more with differing attitudes over colonial policy between the US and the British governments. British colonialists criticized American policy in the Philippines as dishonest and self-interested, while Americans argued the British had no way of judging American actions, largely because the British only understood their own colonizing model, but failed to understand this supposedly "new" American policy of uplifting the Filipinos for eventual self-rule. So the British disagreed about methods, while the Americans tried to differentiate ends. For further reading, see: Paul Kramer, "Empires, Exceptions, and Anglo-Saxons: Race and Rule between the British and U.S. Empires, 1880-1910," in *The American Colonial State in the Philippines: Global Perspectives*. "Empires, Exceptions, and Anglo-Saxons," eds., Julian Go and Anne Foster (Durham, NC: Duke University Press, 2003), 74-6.

⁴³ Kramer, "Empire, Exceptions, and Anglo-Saxons," 74-6.

customs, their habits, and even their prejudices.”⁴⁴ Following Root’s directive, Taft continually proclaimed his policy as the “Philippines for the Filipinos!”⁴⁵

Despite the important role Taft played in policy implementation, Root defined the majority of American policy in the Philippines. In a 1902, an American commissioner in the Philippines wrote about Secretary Root, thanking him for his “great interest taken . . . in drafting and pushing through Philippine legislation.”⁴⁶ He described Root’s actions as “very gratifying, but not at all surprising.”⁴⁷ The commissioner then concluded his complimentary assessment by calling Root “more than any other man in the United States, [the] master of the Philippine question.”⁴⁸ Even Taft later admitted in a 1913 New York speech that Root “more than any other man initiated our Philippine policy.”⁴⁹

The Taft Commission and the Transition to Civil Government

Taft met with his fellow commissioners upon his arrival to the Philippines in March of 1899. Dean Worcester stayed on as the only original member of the now defunct Schurman Commission. Henry Ide of Vermont previously served as a judge in

⁴⁴ Elihu Root. *The Military and Colonial Policy of the United States: Addresses and Reports* (Cambridge: Harvard University Press, 1916), 291.

⁴⁵ Oscar King Davis, *William Howard Taft, The Man of the Hour* (Philadelphia: P.W. Zeigler Co, 1908), 121; Cristina Evangelista Torres, *The Americanization of Manila: 1898-1921*, (Quezon City, Philippines: University of the Philippines Press, 2010) 34; Stuart Creighton Miller. *Benevolent Assimilation: The American Conquest of the Philippines, 1899-1903* (New Haven, CT: Yale University Press, 1982) 134.

⁴⁶ Luke Wright to Col. Clarence Edwards, February 20, 1902, Luke Wright Papers, University of Michigan, Ann Arbor, MI.

⁴⁷ Ibid.

⁴⁸ Luke Wright to Col. Clarence Edwards, February 20, 1902.

⁴⁹ Jessup, *Elihu Root*, vol. 1, 354.

American Samoa, another US outpost in the Pacific. Also, the Taft Commission included Luke Wright, a Tennessee judge and former Confederate war veteran, and Bernard Moses, a progressive history professor from the University of California.⁵⁰ In a report some years later, the commission described the group as “a civilian agency for the exercise of the powers of the military government.”⁵¹ These men worked within the former town hall building in Manila, a building referred to by one author as the “Walled City.”⁵² Despite the protected and insulated sounding name, Filipinos frequently visited the building to hear and take part in debates before the commission at Taft’s invitation.

The Taft Commission quickly set lofty, utopian, progressive goals of “improving the condition of the people in education, wealth, comfort, and in the knowledge of how to govern themselves [that] can not but awaken the deepest enthusiasm on the part of every friend of civilization familiar with the actual conditions.”⁵³ The Commission compiled a \$3000 library of works on European colonial policies as a rough guide, implemented

⁵⁰ Bernard Moses, *Spain Overseas* (New York: The Hispanic Society of America, 1929), 70. Commission member Moses wrote about his experiences in this book. He outlines his progressive mindset when he wrote, “When a nation has lived through all republic forms from aristocracy to complete manhood and womanhood suffrage, submitting complicated laws and difficult administrative problem to popular vote, it is not probable that this situation will satisfy the nation permanently, whence long life for a republic hangs on its delay in approaching this democratic finale.” For more information on Dean Worcester, see Rodney Sullivan, *Exemplar of Americanism: The Philippine Career of Dean Constant Worcester*. Ann Arbor: The University of Michigan Center for South and Southeast Asian Studies, 1991.

⁵¹ U.S. Congress Senate, *What Has Been Done in the Philippines: A Record of Practical Accomplishments Under Civil Government*, S. Doc. 304, 58th Cong., 2nd sess., (Washington, DC: Government Printing Office, 1904), 8.

⁵² Foreman, *The Philippine Islands*, 566.

⁵³ U.S. War Department, *Reports of the Taft Philippine Commission* (Washington, DC: Government Printing Office, 1901), 19.

some of Schurman Commission's conclusions, and improvised policies where it deemed necessary. Root commented that the postwar conditions in New Mexico and California served as the only "simple and meager proceedings" for him to find an American precedent to what they were attempting in the Philippines. Root and the others in the War Department looked to learn from the colonial experiences of nations in that area of the world, especially Great Britain. Even here, however, Root admitted that different people and customs likely required different methods and means. While the United States government utilized tribal terminology as a general definition as it related to the Filipinos, Root rejected the American models of tribal governance.⁵⁴ Either way, he remained flexible in his approach in dealing with how to move forward in the Philippines.

The great distance between Washington, DC and Manila required that the War Department adapt its processes in order to efficiently carry out their duties. Root realized that only what he called "a thorough system" would be able to keep up-to-date records of policy, orders, and personal communication.⁵⁵ Thus, Root called for the creation of the Division of Insular Affairs within the War Department. Once again, he looked to increase governmental efficiency through the reform of departmental policy and reorganization. He compared this new bureaucratic level as performing with "admirable and constantly increasing efficiency" the numerous duties ascribed to it.⁵⁶ While others compared the

⁵⁴ Paul A. Kramer, *Blood of Government: Race, Empire, the United States, and the Philippines*, (Chapel Hill: University of North Carolina Press, 2006), 214.

⁵⁵ Jessup, *Elihu Root*, vol. 1, 287.

⁵⁶ U.S. Congress, House of Representatives, *Report of the Chief of the Bureau of Insular Affairs*, H. Doc. 2, 57th Cong., 2nd sess., (Washington, DC: Government Printing

new division to colonial offices in European government, Root wryly admitted the group performed much of the same duties as its European counterpart, but without a “much more pretentious establishment.”⁵⁷ With this new department in place, Root then prepared for the handover of power from the US military to a civilian authority.

Beginning in September of 1900, Secretary Root authorized the process of transitioning power toward civilian control while working out the reforms of major political and economic systems. Root stressed the importance of this quick transition as going “hand in hand with our advancing armies,” and not “waiting until the termination of war.”⁵⁸ The Filipinos, according to the secretary, needed to see that American authority meant mercy, not malevolence. Taft whole-heartedly agreed in his report when he noted that “until a civil government is established here, it will be impossible for the people of the Philippine Islands to realize the full measure of the difference between a government under American sovereignty and one under that of Spain.”⁵⁹ By early 1901, he reported that resistance toward American forces continued to lessen and the “conditions [are] improving rapidly” to Root.⁶⁰ The passage of the Spooner Amendment in March of 1901 started the process of passing the torch of leadership from the military rule toward a civilian government, making Taft the civil governor and empowering his commission as the transitional legislative body.

Office, 1902), 742.

⁵⁷ Jessup, *Elihu Root*, vol. 1, 287.

⁵⁸ *Ibid.*, 77.

⁵⁹ *Reports of the Taft Philippine Commission*, 85.

⁶⁰ *Ibid.*, 6.

Secretary Root quickly impressed upon the President McKinley the need to shift toward this civilian government. In April of 1900, the “Instructions of the President to the Philippine Commission,” actually penned by Root and referred to in a report as the “Magna Charta of the Philippines,” outlined a rudimentary form for the commission to use for establishing a new form of government from the ground up.⁶¹ First, he authorized commission to devote the majority of its attention in setting up municipal governments so that “natives of the islands . . . shall be afforded the opportunity to manage their own local affairs to the fullest extent of which they are capable, and subject to the least degree of supervision and . . . consistent with the maintenance of law, order, and loyalty.”⁶² The legitimization of American leadership in the Philippines required the “buying in” of a significant number of Filipinos. Thus, a relationship, referred to by political scientist Stein Rokka as a *vertical peripherality*, between the policymakers of the metropole in Washington and Filipino citizen periphery needed to crystallize in some fashion.⁶³ One

⁶¹ U.S. Congress Senate, *What Has Been Done in the Philippines*, 8.

⁶² Jessup, *Elihu Root*, vol. 1, 287.

⁶³ Peter Flora, Stein Kuhnle, and Derek Irwin, eds. *State Formation, Nation-Building, and Mass Politics in Europe: The Theory of Stein Rokkan*. (London: Oxford University Press, 1999), 108-21. The concept of vertical peripherality is borrowed from a study based European politics, but the concept applies to all empire building nation-states. Stein Rokkan contrasts the idea of thinking about core/center-periphery or metropole-periphery relationships as merely spatially (in terms of places, *horizontal peripherality*) with the notion of political groups involved in the relationship (*vertical peripherality*). In historical circles, especially concerning models of empire building, most point to Immanuel Wallenstein’s “World System Theory” with its focus on economic aspects of core-periphery relations. While I find this useful, Rokkan’s conceptualization about the *identity of the actors* within the core-periphery relationship bears more interest in this discussion. He states, “it is possible to compare groups of actors both across and within both centre and periphery.” He concludes however, “we cannot study territorial differences without considering differences within the population of each area, nor can we study elites or decision-makers without looking at their territorial ties.”

historian explained that if periphery groups in the Philippines mobilized more support than the metropole American government in Washington and especially Manila, then “a profound crises challenges both the domestic legitimacy of the metropolitan regime and the metropole’s transnational interest in the periphery.”⁶⁴ After fighting a long-running insurgent campaign and dodging the criticism of many anti-imperialists at home, Root hoped to incentivize Filipino participation in the new government.

Following the inquiries of the previous board, the Taft commission focused their legislative efforts on two key groups: elite *ilustrados* and the professional classes. An academic and critic of Taft’s regime, Henry Willis Parker referred to the Filipino elites as the “Americanistas.”⁶⁵ This social group stood the most to gain from American leadership socially, politically, and financially. The professional classes, according to Willis, accounted for the “bulk of Spanish meztizos and the more enlightened men of pure Filipino blood.”⁶⁶ Both groups, although a minority compared to the third class of peasant Filipinos, carried the majority of social authority and moral leadership that the lower classes relied upon for direction.

So the Taft Commission redoubled its efforts to convince these groups of the civil government’s moral earnestness, social awareness, and political inclusiveness. When a controversial measure came before the commission, Manila residents showed up in droves. Typically, a few Filipinos stated their views on a certain issue, while others just

⁶⁴ Michael W. Doyle, *Empires* (Ithaca: Cornell University Press, 1986), 370.

⁶⁵ Henry Willis Parker, *Our Philippine Problem: A Study of American Colonial Policy* (New York: Henry Holt And Company, 1903), 184.

⁶⁶ *Ibid.*

as quickly rose to rebut them. Quite often, the commission moved forward with its original proposal without amendment, though sometimes enough native onlookers agitated against the commission's original idea to cause the men to modify it.⁶⁷ Whatever the outcome, by involving the Filipinos in governmental reform, American authorities slowly starved the insurgents of support and political currency, while simultaneously engendering a good amount of native backing for the developing political system. Willis noted that due to this policy, the *ilustrados* no longer inquired, "nor do they greatly care how long the United States is likely to continue to control."⁶⁸ The professional classes quickly realized that "open resistance is now absurd," recognizing what Willis referred to as the "inevitableness of American rule."⁶⁹ Though they agreed on which socioeconomic groups to include in this new government, the Taft Commission encountered much more difficulty in squaring its racial views with the residents of the Archipelago.

American racial views toward Filipinos remained far from unanimous. Instead the American people in the postwar period still struggled with their own race relations at home. These problems, combined with a glaring cultural and geographical ignorance of the Philippines, created a generally unsympathetic view toward the Filipinos and their plight. Throughout documents written both by and for the Taft Commission, the authors, in varying degrees, lamented about the Filipinos' lack of education, civilization, and sophistication, while other writers commented on the nominal equality, the educational pliability, and the societal complexity of the Filipino people. For example in early

⁶⁷ Foreman, *The Philippine Islands*, 566.

⁶⁸ Parker, 183-84.

⁶⁹ *Ibid.*, 184.

November 1900 report, a Taft Commission report referred to the Filipinos and their conception of government as “ignorant, credulous, and childlike.”⁷⁰ For the foreseeable future, the group concluded, “the large majority will not, for a long time, be capable of intelligently exercising it.”⁷¹ In another instance, the commissioners admitted that branding the entire population as backward failed to describe the reality on the ground. They grudgingly admitted that a fair amount of the violent resistance by the Filipinos occurred as a result of “treating them all alike as savages ignorant of Western Civilization, when, in fact, there were thousands of Filipinos who were intellectually equal to average middle-class whites.”⁷² As civil government officials waffled back and forth over the educational ability of the masses of Filipinos, they quickly realized the establishment of an American-styled government required familiarity with the flaws and the progressive aspirations of it.

Home Rule at Home

One of the aspects that garnered much discussion both at home and in relation to the US colonial possessions was the notion of “home rule.” Back in the US, this movement during the Progressive Era attempted to find ways to limit corrupt state legislatures from controlling cities by guaranteeing more local power through the constitution.⁷³ In fact, one contemporary referred to the home rule movement as the

⁷⁰ *Reports of the Taft Philippine Commission*, 15.

⁷¹ *Ibid.*

⁷² Frank Moore Colby, Harry T. Peck, and Edward Engle, eds., *The International Yearbook* (New York: Dodd, Mead, And Company, 1901), 727.

⁷³ Daniel B. Rodriguez, “State Constitutionalism and the Scope of Judicial Review,” in *New Frontiers of State Constitutional Law: Dual Enforcement of Norms*, eds.,

“cornerstone of the progressive movement in American cities.”⁷⁴ According to historian Robert Wiebe, home rule represented a “precondition for reform” that prepared the progressive laboratory for uninterrupted experimentation.⁷⁵ Though this type of reform originated in major cities like New York, Root and other progressives, who participated in the domestic struggle, attempted to apply these same values to their experiment in the Philippines. They upheld good government values as vitally important to the functioning of their own government and the American colonial enterprise. As like many areas of American history, domestic events influenced foreign policy and this reform was no different.

As more people flooded into urban areas in the late nineteenth century the American city took on a key importance; in fact some believed it “as important as the nation or the state, and in some respects more so.”⁷⁶ Life at the city level touched everyone; government interacted with business and the citizenry. So the city dweller typically first felt the ills of industrialization, uncertain economic trends, political intrigue, and purported moral scourges as these radiated outward from the metropole. Corruption lacked limits and metropolitan cities throughout the nation provided the perfect breeding ground for it, though it not always originated there.

James A. Gardner and Jim Rossi, (New York: Oxford University Press, 2011), 63.

⁷⁴ Benjamin P. Dewitt, *The Progressive Movement: A Non-Partisan, Comprehensive Discussion of Current Tendencies in American Politics* (New York: The Macmillan Company, 1915), 298.

⁷⁵ Robert Wiebe, “Progressivism Arrives,” in *Who Were the Progressives?*, Glenda Elizabeth Gilmore, ed., (New York: Bedford St. Martin’s, 2002): 84.

⁷⁶ Dewitt, *The Progressive Movement*, 278.

Cronyism, corruption, and waste permeated throughout all levels in governments across the nation. In many instances these failings started in the halls of state governments and trickled down to cities and their officials. As the “creatures of the states,” city government officials found themselves under the thumb of state legislatures. Often, the legislature’s approach appeared to both city leaders and dwellers as “more parsimonious than generous.”⁷⁷ While state legislatures conversely spend inordinate amounts of time on “city issues” rather than statewide problems, financially strapped city governments vied for attention and were forced to beg for state funds. Lincoln Steffens, a prominent reformer and advocate for good city government, published a collection of articles for *McClure’s Magazine* describing these problems, entitled, *The Shame of the Cities* in 1903. In his fiery introduction, he contended, “the mismanagement of the American people is misgovernment by the American people.”⁷⁸ Steffens emphasized the depth of corruption in a cities like Pittsburgh by writing that if it “has been described physically as ‘Hell with the lid off’; politically it is the same with the lid on.”⁷⁹ State governors and other high-ranking officials often viewed cities as political playthings; something to control for their own ends. These state leaders influenced and shaped local politics by controlling appointments, rigging elections, and supporting of legislation that often served their interests rather than the public good of the city. As one writer

⁷⁷ Arthur A. Ekirch, *Progressivism in America: A Study of the Era from Theodore Roosevelt to Woodrow Wilson* (New York: Viewpoints, 1974), 104.

⁷⁸ Joseph Lincoln Steffens, *The Shame of American Cities* (New York: McClure, Phillips, And Co, 1904), 2.

⁷⁹ Steffens, "Pittsburg: A City Ashamed: The Story of Citizens' Party That Broke Through One Ring Into Another," *McClure's Magazine* 21, (May 1903): 24.

explained, city governments occupied the unique position of having to protect the residents from the boogey men within its borders, while also trying to “insure itself against unjust and wanton interference with its affairs by those without its walls, in some instance hundreds of miles away.”⁸⁰ The principle of home rule, according to one writer, established as its ultimate end the ability to provide “relief from the legal straight jacket of state control.”⁸¹

In return for their loyalty to the machine, corrupt municipal office holders, especially city mayors, reaped substantial political and economic benefits. Those crooks and party hacks, known publicly as “boodlers,” operated city governments as a business primarily for their own benefit. Such men endeavored to enrich and entrench their cronies much in the same way state legislators viewed cities. They utilized political appointments and support to gain loyalty. These city government bosses attempted to maintain an iron grip on the city, while at the same time paying back their state boss counterparts. They rallied support for strictly partisan legislation and more importantly, delivered the votes in their district for that politician. As a result of a successful challenge to “Dillon’s Law” in the 1871 Michigan Supreme Court case, *People v. Hurlbut*, Justice Thomas Cooley ruled that city governments possessed certain rights of self-government. State legislatures passed laws affirming the same concept in Missouri, California, Minnesota, and Washington, while the US Supreme Court upheld Cooley’s decision in 1903 and again in

⁸⁰ Dewitt, *The Progressive Movement*, 278.

⁸¹ Robert Pecorella and Jeffrey Stonecash, ed., *Governing New York State*, 5th ed. (Albany: State University of New York Press, 2006), 9.

1923. The movement in various forms gained ground throughout much of the nation during the early twentieth century, but especially in Root's native New York City.

While in New York, Elihu Root, Theodore Roosevelt, Henry Stimson, and countless other reformers challenged the rule of New York political bosses for over two decades.⁸² Progressive movements in large cities such as New York drew strength and leadership from this "patrician class of civic-minded reformers."⁸³ In an 1890 speech he described simply as "renewal of faith" in local government, Root considered municipal reforms such as home rule "more important to the people of New York than the tariff, the silver question, or any other legislative subject."⁸⁴ In fact, he viewed the reform of government as the blueprint for a broader national campaign. He told the audience that the good government of cities "must give the keynote for the government of our country."⁸⁵ Upon this declaration, the gathering of people erupted in applause.

Early attempts at reform failed to garner enough meaningful support to make radical changes and challenge boss rule. The changes in the 1884 New York City charter incorporated the surrounding boroughs, confined fiscal powers to a board of estimate and apportionment rather than city politicians, and centralized the public school system in the city. The call for substantial reforms fell on deaf ears as these meager changes to the charter "ultimately resulted in a mishmash of departments and regulations that enabled

⁸² "The People Are For Scott," *New York Times*, October 15, 1890.

⁸³ Ekirch, *Progressivism in America*, 100.

⁸⁴ "The People Are For Scott," October 15, 1890.

⁸⁵ *Ibid.*

Tammany Hall's resurgence for the next 30 years."⁸⁶ Increasingly, Root grew frustrated that the city remained under the thumb of "men who are not gods and certainly do not rule by divine right, but rule because they control the machinery" of government.⁸⁷ Root saw continued corruption in the form of unelected and unprofessional boards such as the Alderman Board, also known as the "Boodle Board" to its critics. He remained resolved, however, to loosen the strong grip widespread corruption and machine politics through his support of municipal reforms such as charter reform and home rule. Most meaningful debates about home rule, especially those at New York's Constitutional Convention and the National Municipal League, occurred during the years of 1894 through 1919 known as the period of "Innovation."⁸⁸

Reform groups, municipal research bureaus, citizen's unions, and civic societies sprang up during this period throughout New York, grounding their reform goals in scientific study and expert analysis. Throughout his public career, Root served as a member and officer of the City Club of New York. This noted elite reform organization pushed for home rule in New York City other cities across the nation. In fact, the City Club of New York, along with the Municipal League of Philadelphia, played pivotal roles in setting up the National Municipal League and the First Annual National Conference for Good City Government in Philadelphia in 1894. In late January, reformers for good government and home rule gathered at the hall of the Art Club. Reporters described the

⁸⁶ Daniel Prosterman, *Defining Democracy: Electoral Reform and the Struggle for Power in New York Study* (New York: Oxford University Press, 2013), 28.

⁸⁷ "The People Are For Scott," October 15, 1890.

⁸⁸ James Svara, "The Structural Reform Impulse In Local Government: Its Past And Relevance To The Future," *National Civic Review* 83, (Summer-Fall, 1994): 324.

hall as “prettily decorated with evergreen and flags and bunting.”⁸⁹ The organizers unfurled two rather large banners and placed them conspicuously in hall. The banners easily summed up the majority position of most attendees. One banner read “The Corruption of the City Is the Menace of the State,” while the other proclaimed “National Parties for National Affairs, Municipal Parties for Municipal Affairs.”⁹⁰ Attendees at the two-day conference represented mostly eastern cities such as Philadelphia, Boston, Chicago, and Baltimore. Several attendees, however, came from New York City and the surrounding boroughs of Brooklyn, Queens, and Yonkers. The crowd included a young Theodore Roosevelt, then just a member of the US Civil Service Commission, and Charles Eliot, the president of Harvard. Root maintained a close friendship with both men. Though Root himself failed to participate in the conference due to other obligations, his group’s message definitely resonated since the largest majority of delegates represented the City Club with others there from the good government clubs and the civil service reform clubs.

Home rule represented a way for metropolitan areas such as New York City to create effective reforms, specifically for that city, without undue or corrupted state interference. The home rule movement pushed for the empowerment of local leaders, legislators, and judges to at least maintain a semblance of self-governance, legal autonomy, and law enforcement. In 1900, Root wrote that “it would be impossible for the State governments to attend to the public business and special wants of every part of the states,” so he argued, “certain matters have therefore been left to the decision of the

⁸⁹ "The National Association: Opening Proceedings of The Philadelphia Conference," *New York Times*, January 24, 1894.

⁹⁰ *Ibid.*

people of limited districts.”⁹¹ In some areas, elites and academics called for the reform of their city’s municipal charter, revising in some cases the very structure of the city government. In fact in 1894, a University of Pennsylvania political scientist, Edmund J. James, first introduced the concept of a model charter that “adapted to local and temporal conditions.” A legal charter defined by a city rather than the state allowed local leaders the ability to make “the working of good influence easy and of bad influence hard.”⁹²

Just three years later, the National Municipal League Committee of Ten published *A Municipal Program* that contained outlines of the ideal charter that league members adopted unanimously at the Columbus conference the previous year.⁹³ In the ideal charter, the National Municipal League and similar organizations generally proposed increasing mayoral authority, adopting a system of at-large councilmen, replacing several elected offices with appointed ones, creating an independent civil service commission, and placing boards or commissions between city departments and the executive.⁹⁴ Despite sounding like the ideal charter reneged on democratic principles, reformers in fact sought to reconcile their distrust of representative democracy in its current corrupted

⁹¹ Elihu Root, *Collection of United States Documents Relating to the Philippine Islands*, vol. 106, (Washington, DC: Government Printing Office, 1900), 44.

⁹² Edmund J. James, *The Elements of A Model Charter For American Cities*, in *Proceedings of the Second National Conference for Good City Government* (Philadelphia: National Municipal League, 1895), 155.

⁹³ See Horace Deming, *A Municipal Program* (New York: The MacMillan Company, 1900).

⁹⁴ Philip J. Ethington, *The Public City: the Political Construction of Urban Life in San Francisco* (Berkeley: University of California Press, 1994), 387; H. George Frederickson, Gary Johnson, and Curtis Wood, *The Adapted City: Institutional Dynamics and Structural Change* (New York: M.E. Sharpe, Inc., 2004) 85.

form with the principles of merit, expertise, and political disinterestedness without the undemocratic features of the alderman or commission form that had been in operation previously.⁹⁵ Cities like New York, San Francisco, and Philadelphia embraced many of these changes by the late 1890s, allowing “new leaders with greater direct accountability” to try their hand at new methods and way of operating government.⁹⁶

Municipal reformers across the nation focused their efforts in seeking out experts and expertise, if sometimes in different ways. In the South and parts of the West, reformers generally opted for a council-manager system, putting leadership in the hands of a hired expert in civil administration, the city manager, whose continued employment was determined by an elected city council. The manager needed to exhibit leadership, sound judgment, and listen to the council and the citizenry in order to carry out their duty. Effectively, the manager’s expertise formed a key component that needed to be part of the larger “political” model. The city manager system emerged at “integral to the democratic aspirations” of the reformers, while it increased professionalism and efficiency.⁹⁷ Up through 1919, one hundred forty-four American cities with populations of 2,500 people or more adopted the council-manager model.⁹⁸

Just as outlined by the ideal charter, municipal reform advocates also pressed for the establishment of governmental commissions composed of largely independent experts

⁹⁵ Svara, “The Structural Reform Impulse in Government,” 326.

⁹⁶ Ibid., “Do We Still Need Model Charters? The Meaning And Relevance To The Future,” *National Civic Review* 90, no. 1 (Spring, 2001): 20.

⁹⁷ Svara., “The Structural Reform Impulse in Government,” 326.

⁹⁸ Ibid., See Harrison G. Otis, *Seventh Year-Book of the City Managers’ Association* 7 (Aug. 1921), 241-46.

to run civic affairs in a politically disinterested way. These experts, free from the temptation or control of political leaders, maintained the ability to conduct the city's business, while utilizing the newest scientific methods from the blossoming study of public administration. As a way to produce efficient governments, reformers stressed the need for increasing professionalism, streamlining organization, and limiting the direct interaction of elected and department officials. This switch in organization, when combined with home rule powers, in many cases not only permitted localities to focus local resources on local problems, but the system in some cases had the added benefit of curtailing waste, inefficiency, and corruption.

In New York City, as in a number of metropolitan areas across the nation, reforms often fell short of the reformer's stated goals. In some cases, proposals never progressed beyond that beginning stage. In other instances, state legislatures responded much more conservatively in its legislation than local-minded reformers with much more radical designs desired. Some modern historians explained the failure of these reformers for failing to adequately deal with social reform, income inequality, and a sense of political powerlessness. Good government reformers of the period focused their energies on "structural and legal change," believing that centralizing executive authority, establishing home rule, and reducing partisanship served as a "precondition for other changes."⁹⁹ As a contemporary of the movement New York University Professor Benjamin DeWitt recognized with a sense of realism, "there is no panacea for municipal ill; municipal home rule, commission governments, and city managers are merely a means to an

⁹⁹ Svara, "Do We Still Need Model Charters," 20. See also James Svara, "Progressive Roots of the Model Charter and the Manager Profession: A Positive Heritage," *National Civic Review* 78, no. 1 (Sept.-Oct., 1989): 339-55.

end.”¹⁰⁰ Continuing along this line of thought, he stressed that “the efficiency movement repairs and adapts the machinery of government which the home rule movement frees, the commission movement simplifies, and the social movement uses in the interest of the people.”¹⁰¹ DeWitt reminded readers, “home rule does not guaranty good city government any more than the right to be virtuous insures virtue.”¹⁰²

Despite failing to completely overhaul the system, structural changes chipped away at established political machines. In some cases the reforms caused the hierarchy of loyalty to become irrelevant and allowed the election of “good government” politicians not beholden to the machine. In order to be truly effective, home rule reformers emphasized that these new structures of government needed to utilize, “the same scientific study and analysis that banking and railroad problems require,” to root out corruption and inefficiency.¹⁰³ By changing the structure of city government via home rule, they hoped to alter the behaviors and attitudes of those within it and limit unnecessary interference from the outside. In the end, the reform efforts shifted political power from “neighborhood to citywide interests and from parties to businesses.”¹⁰⁴ As far as practical benefits, home rule provided city leaders with control over city taxation policy and the ability to set a local political agenda away from the prying eyes of often

¹⁰⁰ Dewitt, *The Progressive Movement*, 320.

¹⁰¹ *Ibid.*, 339.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*, 194.

¹⁰⁴ Svava, “Do We Still Need Model Charters,” 20.

“unsympathetic state legislators.”¹⁰⁵ A writer summed up the importance of the home rule movement by proclaiming that, “Not until cities are free and have all the privileges and responsibilities that always accompany freedom will they measure up to their opportunity an fulfill their true function in our political life.”¹⁰⁶ Some sought even loftier goals.

Frederick Howe, a member of the Citizens League of Greater Cleveland, wrote optimistically that city rule promised “the love and affection of the citizen for the city would increase, which, in turn, would bring about a purification of our politics,” allowing metropolitan areas to be “consciously allied to definite ideals, and the new civilization.”¹⁰⁷ In the end, the home rule movement tried to clean up corrupt and overbearing state legislatures, while promoting more local control of city government.

Root witnessed much of the same issues concerning the Philippines. He wanted to create local Filipino governments that responded to community needs while guaranteeing the efficiency and honest leadership, an idea that applied to American as well as Filipino officials.

Home Rule for the Taft Commission

Though the home rule battle continued on back in the states, the echoes of the fight found its way to the archipelago. In the Philippines, the struggle for home rule played itself out on a much larger stage, and in very distinct ways. First, Root resisted the efforts of the US Congress to completely dictate how Taft governed the islands. This

¹⁰⁵ Ekirch, *Progressivism in America*, 105.

¹⁰⁶ Dewitt, *The Progressive Movement*, 298.

¹⁰⁷ Frederick Clemson Howe, *The City: The Hope of Democracy* (New York: Charles Scriber's Sons, 1906), 312-13.

version of home rule, referred to as “parental governance” by one legal writer, emphasized that Governor Taft lacked a certain amount of constitutional capacity to create policy abroad without the strict approval of Congress. This reflected the paradigm shift occurring between cities and states, only now it involved the insular government of the Philippines and the US Congress. Along the same line of reasoning as municipal reformers, Root understood well that Congress used the Philippine Commission as a divisive, partisan tool to further politicians’ own agenda. A majority of Democrats in Congress defeated the original version of the Spooner Amendment in 1900 through the use of a filibuster. The amendment would have granted greater power and oversight of the colonial effort in the hands of the Taft Commission and the executive branch. Finally, the Spooner Amendment passed the following year as part of a military appropriations bill. Along with the amendment’s passage, the government announced the formal appointment of Taft to the governorship over the islands.

On July 1, 1901, Root wrote to his friend Henry Cabot Lodge and expressed his concerns with Congress. He informed Lodge that the Taft Commission, and not Congress, should “work out the form and machinery of government,” proudly proclaiming that “no committee sitting in Washington could work the subject out so well as Taft and his associates can do in Manila, dealing from day to day with the practical problems as they arise.”¹⁰⁸ Root wanted to see the colonial experiment in the Philippines as untarnished by corruption, undue interference, or inefficiency. Just like political machines in American cities, the US Congress contained, within both political parties,

¹⁰⁸ Root to Henry Cabot Lodge, July 1, 1901, Elihu Root Papers, Library of Congress, Washington, DC; Jessup, *Elihu Root*, vol. 1, 362.

corrupt elements, party hacks, and boodlers. Home rule for the Taft Commission provided its members with the ability to establish an effective government there in the Philippines free from partisan backlash, political agendas, or party patronage.

In much the same way state governments allowed for the home rule by municipalities, Root lobbied Congress to bestow upon the Taft regime the ability to “exercise certain powers of sovereignty never before conferred upon any portion of the territory of the United States for the exclusive use and benefit of that territory.”¹⁰⁹ These powers included the ability of the insular government to control its public lands, charge taxes on American imports, create its own currency, and run its own postal service—things unheard of for modern American territories. Despite their initial struggles, Taft and his commissioners directed the great majority of the structural framework of government and the majority of policies affecting the lives of everyday Filipinos. Thus, Root’s War Department, along with Taft and his subordinates, coordinated a system of home rule in the Philippines that went well beyond the scope of local governments or for that matter other insular possessions.

Mirroring home rule city councils back in the United States, the Taft Commission possessed both investigatory powers and appointment authority, so understanding the Filipino people meant the difference between a successful and failed attempt at constructing a government.¹¹⁰ Root tasked his officials with performing what amounted to social science studies, analyzing the evidence gathered, and formulating policies based on their analyses. In one of his most definitive progressive qualities, Root encouraged

¹⁰⁹ Forbes-Lindsay, *America's Insular Possessions*, vol. 2, 209.

¹¹⁰ Svara, “The Structural Reform Impulse in Government,” 326.

Taft's men to consider "different degrees of civilization and varieties of custom" as a determinate for action.¹¹¹ Though commission members assuredly held "Americanized" views on government, they needed to understand the differences of the Filipino people mattered just as much as the similarities, focusing on the role each had to play. Root suggested that Taft form local governments based on commonalities that brought people together, whether they shared geographical locations, tribal identity, or familial ties.

The Taft Commission accessed previous studies and interviews conducted by the Schurman Commission, while it conducted a whole series of its own investigations. Root really emphasized these "patient experiments," as he called them, should play a key role in reflecting the commission's attempt to fit the government to the needs of the people, not the other way around. In a speech before Congress, Root explained that laws passed by the commissioners represented "the practical treatment of carefully studied conditions," rather than "expressions of theoretical views as to how the Philippines ought to be governed."¹¹²

Home Rule for Filipinos

A more traditional style of home rule referred to the ability of Filipinos to self-govern, becoming free from American control by gaining autonomy. Though the Northwest Ordinance of 1787 defined how the US government ruled over its western frontier, it "did not apply in the whole" to the Philippines. A series of congressional acts and Supreme Court decisions in 1901 defined the Philippines as "unincorporated territory." Such a designation largely removed any possibility of statehood and meant its

¹¹¹ Root, *The Military and Colonial Policy of the United States*, 290.

¹¹² U.S. Congress Senate, *What Has Been Done in the Philippines*, 9.

future political status would be deferred.¹¹³ Some segments of the Filipino population, excluding a many *ilustrados*, desired home rule, while most American leaders remained cautious about the proposition, at least in the short term. Critics characterized Secretary Root's view of home rule policy in the Philippines as being "undemocratic" and in some instances non-existent.¹¹⁴ The process of home rule for the Philippines crept along slowly for decades, but all along Root never doubted that it should come. If anything, Root viewed the subject of Filipino independence as involving a "maturity which will make self-government possible must necessarily be slow."¹¹⁵ Even a national journalist declared American actions in the Philippines provided "indubitable evidence of the desire of this country to give the islands as full a measure of self-government at once as the people are capable of carrying out."¹¹⁶

Root and Taft viewed the Philippine capital of Manila as the face of America's colonial experiment. So, colonial administrators placed a great deal of emphasis on the perceptions of American success and stability in the city. On July 31, 1901, the Taft Commission passed an act numbered one hundred eighty-three that provided Manila with

¹¹³ Julian Go, "Introduction: Global Perspectives on the U.S. Colonial State in the Philippines," in *The American Colonial State in the Philippines: Global Perspectives*, eds. Julian Go and Anne Foster, (Durham: Duke University Press, 2003), 7.

¹¹⁴ Richard Leopold, *Elihu Root and the Conservative Tradition* (Boston: Little, Brown & Company, 1954), 37; Benjamin Soskis and John Stauffer. *The Battle of the Republic: A Biography of the Song That Marches On* (New York: Oxford University Press, 2013) 132. Leopold commented what he referred to as the "Rootian scheme" faced criticism for "its undemocratic character." In the second work, the authors cited Root as part of the group who "opposed the granting of home rule to the Filipinos."

¹¹⁵ Root to Mrs. Lowell, February 11, 1904, Root Papers.

¹¹⁶ Alfred E. Smith and Francis Valton, eds., "Governor Taft On The Philippines," *The Outlook* 71, no. 5 (May 31, 1902): 298.

a city charter. Brig. Gen. George Davis formulated the charter's wording while he served as the Manila Provost General. Borrowing from the city charter regulating Washington, DC, Davis's work placed a large amount of power in the hands of the governor-general and the commissioners, while not devolving much power to the municipal council or the mayor.¹¹⁷ Any changes, recommendations, or orders required majority approval of the commission. Much like the running of nation's capital at the time, General Davis and the Taft Commission exercised broad powers over various aspects of Manila local government, including the police force, government works, tax assessment, code enforcement, city ordinances, and city budgets.¹¹⁸ The commission exerted a great deal of control over the Philippine capital city, while allowing a greater amount of autonomy to spill into smaller areas.

Not surprisingly, Taft and his colonial counterparts held a tighter grip on Manila as its economic and political importance trumped most of the other populated areas. As with any centerpiece of empire, Taft and Root wanted to highlight the positives of the city: political amity, economic prosperity, and social stability. In doing so, they hoped to show Manila as an "example city" that other cities, even those in the US, could follow. As a result, the colonial government settled on taking its time in unleashing the ultimate experiment in Manila, self-rule.

American leaders based their long-term assessment on the idea that unlike their colonial counterparts, Filipinos lacked the republican intellectual tradition of Cuba and

¹¹⁷ Torres, *The Americanization of Manila*, 53.

¹¹⁸ *Ibid.*

the desire for a political relationship with the US of Puerto Rico.¹¹⁹ To make up for this lack of experience, Governor Taft pinned his eventual home rule hopes on the ability of the minority-educated elites, the *ilustrados*, to adapt to the American-style of government. The resulting slow and methodical pace toward ultimate independence reflected several progressive ideals and values—paternalism based on skewed views of superiority (both racially and culturally), education as a tool for political inculcation, and meritocracy amongst an active and politically appropriate citizenry.

The paternalism in the Philippines, referred to as “benevolent paternalism,” reflected how American expansionists categorized their imperial efforts as different from their European counterparts. These individuals established goals that included the “moral uplift” of colonial society rather than the outright exploitation of it. One historian explained that progressives “sought moral redemption through domestic reform and benevolent paternalism abroad,” while another scholar described the US policy as a “combination of altruism, paternalism, and national interest.”¹²⁰ American officials, from Washington to Manila, discussed imperialism in lofty, yet paternalistic terms. Different politicians displayed differing amounts of paternalism: McKinley called them “errant children,” Alfred Thayer Mahan preferred to say they were “still in race-childhood,”

¹¹⁹ Connor Crawford, "U.S. Colonial Sponsorship of Self-Government in the Wake of the Spanish-American War" (unpublished manuscript, April 2, 2012): 39, PDF File.

¹²⁰ Walter L. Hixson, *The Myth of American Diplomacy: National Identity and U.S. Foreign Policy*, (New Haven: Yale University Press, 2008), 128; Michael J. Hogan, *Paths to Power: The Historiography of American Foreign Relations to 1941*, (Cambridge: Cambridge University Press, 2000), 125.

while Taft supposedly referred to them as “our little brown brothers.”¹²¹ According to their infant or childlike categorization, Filipinos needed the “tutelage and protection of the United States in order . . . that they may become self-governing and independent.”¹²²

Many progressives assumed in order for the Filipinos to master supposedly superior ideals about self-governance, they required the initial leadership and supervision of “enlightened” American officials. Root and other reformers provided oversight of the islands, in their minds, so that Americans molded, modeled, and demonstrated the Filipinos the progressive values of good government. One article in *The Outlook* referred to the purpose of the US occupation of the Philippines as “the laying of the foundations of a superior civilization.”¹²³ Once these supposed values took hold and Filipino leaders demonstrated the ability to self-govern, American leaders felt more comfortable about the Philippine transition to home rule and ultimate independence.

Root, Roosevelt, and Taft reflected this attitude of “progressive paternalism” in letters, speeches, and articles from the period. In a 1904 letter, Root admitted that the Filipinos were advancing through what he referred to as “political childhood,” in which the “obligations of a guardian can not be performed without the power to control the

¹²¹ Alfred Thayer Mahan, *Lessons of the War with Spain and Other Articles* (Boston: Little, Brown & Company, 1899), 249; Vicente L. Rafael, “White Love” in *Cultures of United States Imperialism* (Durham, NC: Duke University, 1993), 186; Paul Kramer, *The Blood of Government: Race, Empire, and the United States and the Philippines* (Chapel Hill: University of North Carolina, 2006), 200. See the “The Convention and the Man,” *Western Christian Advocate* 74, no. 25 (Jun. 17, 1908): 7.

¹²² Atkinson, *The Philippine Islands*, 345.

¹²³ Smith, “Governor Taft on the Philippines,” 297.

child's actions."¹²⁴ He conceded that for now the "power to control by the United States involved in the word 'sovereignty' must continue."¹²⁵ Such an idea mirrored the guardian-ward relationship between the US government and Native Americans, but promised to be more efficient and effective. These men hoped advances in education, science, and technology held the key to success in the Philippines, where it had failed for Native Americans. For Root, however, an American-led paternal government in the short run provided the best opportunity for future independence.

In another article, Theodore Roosevelt elaborated on the paternalistic notion of Americans leading the way politically toward home rule. Since he characterized some of the Filipinos as "savage and half-civilized elements," he explained an American administered government worked to "the advantage of the natives themselves." This provided the natives, according to Roosevelt, the ability of "gradually learning what it means to keep faith."¹²⁶ Roosevelt spoke about Filipinos travelling what he called the "first steps along the hard path" that led to "self-respect and self-government," though he ultimately believed "they will travel this road with success to the ultimate goal."¹²⁷ Like Root, Roosevelt never held the contention of permanently controlling the Philippines.

In a number of speeches, Taft discussed the Filipinos as moving "upon another step in the enlargement of popular self-government" and in another instance, he talked about Filipino home rule as a product of the "gradual extension of popular control."

¹²⁴ Root to Mrs. Lowell, February 11, 1904. Root Papers.

¹²⁵ Ibid.

¹²⁶ Roosevelt, "Governor William H. Taft," 168.

¹²⁷ Ibid.

Ultimately he, too, embraced that though such a policy continued, “it must logically reduce and finally end the sovereignty of the United States in the islands.”¹²⁸ Even by 1908, Taft still harbored doubts as to the timing of home rule. He wrote in his report that upon his last visit to the islands, he “ventured the opinion that it would take considerably longer than a generation.”¹²⁹ He stated that no other nation attempted a state building project of the type that had been occurring in the Philippines, something he referred to as “a great experiment.”¹³⁰ Thus, if people expected to attach a certain date to independence, Taft believed they did so to the peril of the Filipino people themselves. The paternalism of American leaders, informed by their views about race, formed a key component of their gradual, but ultimate transition to home rule in the Philippines.

Progressive Political Education for the Filipinos

The policy of the Root’s War Department and the Taft Commission embodied a progressive belief in the “democratizing effect of public education.”¹³¹ Additionally, this system of instruction placed Filipinos on the eventual path toward a home rule policy. Initially in his instructions to colonial administrators, Root announced that American policy in the Philippines intended to “fit the people for the duties of citizenship and for the ordinary avocations of a civilized community.”¹³² According to Taft, the previous

¹²⁸ U.S. War Department, *Report of the Philippine Commission to the Secretary of War*, vol. 1, (Washington, DC: Government Printing Office, 1907), 215-16.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ James Traub, *The Freedom Agenda: Why America Must Spread Democracy (Just Not the Way George Bush Did)* (New York: Farrar, Straus, And Giroux, 2011), 15.

¹³² U.S. Congress, Senate, *Affairs in the Philippine Islands*, S. Doc. 301, 57th

Spanish system neither allowed the Filipinos “responsibility for government” nor provided “examples of fidelity to public interest sufficiently numerous in the officeholders to create a proper standard of duty.”¹³³ So, political education, from an American point of view, took on a transitive property in that American officials not only led by political example, but they put Filipinos on the pathway to home rule leadership by allowing them to lead. One author referred to this process as “self-government with training wheels.”¹³⁴ Regardless, Root and Taft’s education policies “embraced the progressive ideal of readying persons broadly for life in a democratic society.”¹³⁵

If Filipinos hoped for home rule self-government, American officials felt they needed not just the help of “moral uplift,” but also political education. Just as progressives introduced middle-class values to immigrants back in the US, Root and Taft’s policies endeavored to graft an “American” identity onto the Filipinos, instilling in them the same value system.¹³⁶ According to Root and others in the War Department, Filipinos required the “strong and guided hand” of American officials to unload a “course of tuition” in order to make them a self-governing people.¹³⁷

Cong., 1st sess., (Washington, DC: Government Printing Office, 1902), 109. Though these were the “President’s” instructions, they were all written by Root.

¹³³ William H. Taft, *Special Report of Wm. H. Taft, Secretary of War, to the President on the Philippines* (Washington, DC: Government Printing Office, 1908), 23.

¹³⁴ Traub, *The Freedom Agenda*, 13.

¹³⁵ H.W. Brands, *Bound for Empire* (New York: Oxford University Press, 1992), 68.

¹³⁶ *Ibid.*, 82; Traub, *The Freedom Agenda*, 16.

¹³⁷ Elihu Root, *Collection of United States Documents Relating to the Philippines Islands, vol. 2* (Washington, DC: Government Printing Office, 1899), 7; Glenn May, *Social Engineering in the Philippines: The Aims and Execution of American Educational*

American policies for Filipino political education targeted the supportive and pliable elite *ilustrados* most intensely. Most of the *ilustrados*, who supported American leadership of the territory, joined the emerging Filipino political party called the *Federalistas*. While Taft argued the *Federalistas* needed “as much education in practical civil liberty as their more ignorant fellow-countrymen in reading, writing, and arithmetic,” he viewed this political education as a continuation of what referred to as his “policy of attraction.”¹³⁸ Such a policy, which one historian wryly called “trading offices for acquiescence,” incentivized Filipinos to take part in their government, while discovering the benefits of what Taft termed “liberal and popular” municipal government protections.¹³⁹ For Root, the Filipino path to democracy occurred in degrees, not all at once and not every step guaranteed forward progress.¹⁴⁰ At some point, American officials feared that Filipinos risked going astray. Taft discussed this possibility, admitting, “here and there the measure of self-government granted to a given locality will have to be withdrawn or diminished because on trial the people do not show themselves fit for it.”¹⁴¹ In a domino-effect fashion, Taft hoped Filipinos recognized not just the bountiful rewards of the American system, but also understood the basic concepts of self-government by learning from the examples of other political converts.

Policy, 1900-1913 (Westport, Conn.: Greenwood Press, 1976), 138. May asserted the Commission believed the expansion of education “was to assist the Filipinos in achieving popular government.”

¹³⁸ Taft, *Special Report of Wm. H. Taft*, 24.

¹³⁹ *Ibid.*, 17; Brands, *Bound for Empire*, 81.

¹⁴⁰ Traub, *The Freedom Agenda*, 14.

¹⁴¹ Roosevelt, “Governor William H. Taft,” 168.

By providing the Filipinos with a program of “practical political education,” both men agreed that this served to eventually ready Filipinos for the home rule transition. In fact, Taft configured the Filipino government system to “meet future necessities and keep pace with the development in political knowledge.”¹⁴² Portions of the Filipino population not only accepted the American claims of political weakness, but also encouraged their policies of political education. Felipe Buencamino, a noted judge and commission member, admitted in a 1902 Senate hearing “with regard to political education, we have absolutely none.”¹⁴³ He compared the state of the Philippines as “a sick man full of wounds” that “needs to convalesce.” According to Buencamino, the proper recommendation for treatment required Filipinos to be “better advised of American methods.”¹⁴⁴ In order to truly exercise home rule, Buencamino referred to “American instruction” in politics as necessary to “know and exercise political rights.”¹⁴⁵ So beyond a policy of attraction for the more educated elite, Root and Taft embarked on a progressive policy to provide basic education for the masses.

In 1900, Taft’s Commission announced the formation of a “system of secularized and free public schools.”¹⁴⁶ The group selected a young principal named Fred Atkinson, a Harvard graduate and friend of Harvard President Charles Eliot, to run the Philippine

¹⁴² *Affairs in the Philippine Islands*, 112.

¹⁴³ U.S. Congress, House Committee on Insular Affairs, *Committee Reports, Hearings, and Acts of Congress Corresponding Thereto*, 57th Cong., 1st and 2nd sess., (Washington, DC: Government Printing Office, 1904), 248.

¹⁴⁴ *Ibid.*, 259.

¹⁴⁵ *Ibid.*, 248.

¹⁴⁶ *RPC Schurman*, 41.

school system as the general superintendent of education, despite not having any previous experience running so large an enterprise. After several months, Atkinson proposed an education bill based on “learning the actual conditions by visits to practically every part of the archipelago, by conferences, interviews, and personal association” with native Filipinos and American military leaders alike.¹⁴⁷ While the creation of schools focused on trades, vocations, the arts, and higher education served the Filipinos in varying ways and capacities, the primary schools, with their basic education, served as the main source of political education for the masses of Filipinos.

American educators in the Philippines confronted the daunting task of constructing an educational system from the ground up. The Spanish colonial government practically ignored the educational needs of the Filipino masses. As a result, basic reading and writing skills for the bulk of the Philippine population went unmet. Literacy numbers ranged from 15 percent, according to a Philippine official to 20 percent, according to the national census.¹⁴⁸ Either way, the numbers illustrated a large level of disconnect between the islands’ educational opportunities and native educational attainment. As a result, Atkinson and other American educational leaders in the Philippines established primary schools in almost every small village, intermediate schools in larger villages, and secondary schools in every province. Due to tight,

¹⁴⁷ Atkinson, *The Philippine Islands*, iii-iv.

¹⁴⁸ Bureau of the Census and Statistics, *Yearbook of Philippine Statistics* (Manila: National Census And Statistics Office, 1978), 233; *Committee Reports, Hearings, and Acts of Congress Corresponding Thereto*, 297.

congressionally imposed budgets, the Board of Education focused on the identifying its educational priorities and ruling out compulsory education for natives.¹⁴⁹

American educators and leaders in the Philippines viewed primary education as a way to offer Filipinos the progressive values of good citizenship, civic duty, and societal uplift. Superintendent Atkinson focused the school system on helping Filipino children to gain “a knowledge of English, clear ideas on a few subjects, and a receptive and awakened intelligence.”¹⁵⁰ Even with just a primary education, Root and others believed it furthered the chances of creating an “educated citizenry, capable of self-government.”¹⁵¹ Beginning in 1901, over six hundred American educators descended on the archipelago aboard the ship *Thomas*. These “Thomasites” brought with them the latest methods in American pedagogy, over a half million American textbooks, and an abundance of American optimism. Over the preceding months, the passion of the educators were tested by things as disparate as the horrid weather, outbreaks of illness, and steep cultural barriers. Atkinson tasked his band of American teachers with working alongside already established Filipino teachers. He clearly stated the intention was for American teachers to “prepare them [Filipinos] to take charge of their own schools,” not displace them.¹⁵²

¹⁴⁹ Karnow, *In Our Image*, 387. Due to a lack of substantive congressional budgeting for education, Karnow explained the “costs would be shared by the U.S. administration in Manila and municipal councils throughout the island.”

¹⁵⁰ Atkinson, *The Philippine Islands*, 387.

¹⁵¹ May, *Social Engineering in the Philippines* 138.

¹⁵² Atkinson, *The Philippine Islands*, 388.

The new curriculum stressed the teaching of English as a common, unifying language. Due to unique geography of the archipelago, no single *lingua franca* existed to facilitate communication across the islands. Within the region, Filipinos spoke eight different major dialects, with scores of village-to-village variations. Only the more educated Filipinos knew Spanish, while even fewer spoke or understood English. Instead of building on a language more people knew, Taft and his colonial counterparts decided that Filipino natives should learn the language that came easiest to American ears. Critics of the language policy argued that “foisting the English language upon the people” caused the “destruction of the national literature and tongue.”¹⁵³ To such a claim, Atkinson fired back that such a “confused number of tribes” lacked a common dialect or language and held “nothing of importance in the way of native literature existed.”¹⁵⁴ These ideas reflected a common view of Anglo-Saxon superiority, something shared by most progressives, especially those drawn to service in the Philippines. Others, such as Atkinson’s successor David Barrows, attempted to justify the need for English as the common language by arguing:

English is the lingua franca of the Far East. It is spoken in the ports from Hakodate to Australia. It is the common language of business and social intercourse between different nations from American westward to the Levant. It is without rival the most useful language, which a man can know. It will be more used within the next ten years, and to the Filipino the possession of English is the gateway into that busy and fervid life of commerce, of modern science, of diplomacy and politics in which he aspires to shine.¹⁵⁵

¹⁵³ Atkinson, *The Philippine Islands*, 403.

¹⁵⁴ Ibid. These comments were made in response to an editorial. For the full editorial that led to Atkinson’s response, please see *Dominicana: A Magazine of Catholic Literature* 4, no. 7 (Jul. 1903), 221.

¹⁵⁵ Brands, *Bound for Empire*, 86.

So for Atkinson and other American educators, the English language provided the unifying and civilizing vocabulary Filipinos needed to progress toward self-government.

Another way to prepare Filipinos with political education in America's image involved the reduction of Catholic Church involvement in state education. Historically, the Catholic Church in the Philippines exercised a great deal of political and economic power. Often, high-ranking church officials served as another extension of Spanish government power and oppression. In the eyes of some American officials, leaders of the Filipino Catholic diocese reminded them of the corrupt bosses back in major US cities. Both groups of religious men wielded a great amount of centralized political power, often they utilized their power for their own benefit instead of the public good, and it proved difficult to hold them accountable in any meaningful way.

In order to weaken some of the control the church exerted on society, American officials then pursued a policy of secularization in public institutions, especially schools. Some on the Taft Commission pushed for a complete break between the school and the Catholic Church, while others, including Taft, explored a more moderate approach. Despite its appearance as promoting Protestantism to the Filipinos, the commission was often at odds over the secular nature of its policies with the throngs of Protestant missionaries on the islands. In the report, Taft admitted, "With us the Church is so completely separated from the State that it is difficult to imagine cases in which the policy of a church . . . can be regarded as of political movement, or as a proper subject of comment in the report of a public officer."¹⁵⁶ The missionaries balked when Taft persuaded the rest of the commission that the school staff and the curriculum remained

¹⁵⁶ *Reports of the Taft Philippine Commission*, 23.

secular. Priests and religious leaders utilized school facilities to teach education to children after school three days a week. Superintendent Atkinson reaffirmed the secular nature of the school system by stating, “no public school teacher was permitted to teach religion, and no pupil was required to receive religious instruction.”¹⁵⁷ Again as part of his “policy of attraction,” Taft realized that this religious middle ground worked to show the commission “did not come here to change the religion of anybody.”¹⁵⁸ So despite the rabid anti-Catholicism back in the US, the Taft Commission’s report clearly took the position that the Catholic Church, “is and ought to continue a prominent factor in the life, peace, contentment, and progress of the Philippine people.”¹⁵⁹ Though Taft and the missionaries disagreed about the role of religion in public policy, they generally agreed on the need for removing old superstitions and reorienting the Filipinos toward a more American model of ideals.¹⁶⁰

Secretary Root explained to Taft and the other commissioners, in detail, that the new Filipino government system needed to protect the basic rights of its people, regardless of previous practice, custom, or policy. The scope of this order included the prior Spanish regime and all previous governmental systems, local or national. Root called on the Taft regime to create “small bastions of ordered liberty,” where over time, these local governments extended their authority further outward from the municipal

¹⁵⁷ Atkinson, *The Philippine Islands*, 386.

¹⁵⁸ May, *Social Engineering in the Philippines*, 141.

¹⁵⁹ *Reports of the Taft Philippine Commission*, 33.

¹⁶⁰ Brands, *Bound for Empire*, 88.

center.¹⁶¹ Under this vision of home rule, the Taft Commission established Filipino-led local and municipal governments as efficiently as they could. Reflecting a major concern back in major US cities, the commission focused its energies on attempting to eradicate corrupt local governments, political bribery, and public office patronage. David Barrows, then the director of the Bureau of Non-Christian Tribes, later explained the Taft Commission's actions "had in view the American country as a model, and were impressed with the evils of 'centralization' and 'autocracy.'"¹⁶² As a result, American officials focused on promoting locally led government autonomy and commission oversight to provide a bulwark against political corruption.

In order to conform to regional custom and local needs, Taft Commission based much of the new government on the old Spanish imperial government. Known as the *Real Audencia de Manila*, the *audencia* system stretched all the way back to its Spanish beginnings in 1584.¹⁶³ Fearing that a sudden shift to a new government system presented major problems, Taft and his commissioners adopted and adapted governmental practices well outside of American legal norms and traditions. The insular government in the archipelago conformed, one observer wrote, "very much in structure to the similar administrative branches under the Spaniards."¹⁶⁴ Instead of breaking significant ground institutionally, the commission modified some of the Spanish system in the hopes of

¹⁶¹ Crawford, "U.S. Colonial Sponsorship of Self-Government," 43.

¹⁶² David P. Barrows, *A Decade of American Government in the Philippines, 1903-1913* (New York: Yonkers, 1914), 17.

¹⁶³ Moses, *Spain Overseas*, 86.

¹⁶⁴ Forbes-Lindsay, *America's Insular Possessions*, vol. 2, 212.

eliminating the excesses and encouraging Filipino participation. Secretary Root included orders that added some new and important legal concepts in this new government such as due process before the law, a just and fair legal process, and a basic bill of rights.¹⁶⁵ He expected that the “good government” of the Philippines upheld the core concepts of the American legal ideal; while working for their fellow Filipinos and not merely American self-interest. According to a British journalist, the Taft Commission hoped to give “a greater share in the administration and a promise of honest and capable officials.”¹⁶⁶ An American official described it another way, writing, “Wherever the opportunity presents itself the natives are given a certain hand in the government.”¹⁶⁷ In September of 1901, President McKinley added three Filipinos, Pardo de Tavera, Benito Legarda, and José Luzuriaga, to the Taft Commission. These men represented the *ilustrados* classes, but

¹⁶⁵ Root, *The Military and Colonial Policy of the United States*, 291-92. Root compiled the complete list that included the following: “That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense, or be compelled in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall not be violated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or *ex post facto* law shall be passed; that no law shall be passed abridging the freedom of speech or of the press, or the rights of the people peaceably to assemble and petition the government for a redress of grievances; that no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed.”

¹⁶⁶ Forbes-Lindsay, *America's Insular Possessions*, vol. 2, 212.

¹⁶⁷ Atkinson, *The Philippine Islands*, 354.

more importantly provided a Filipino face to what had been a leadership dominated by whites.

As part of their effort to gain local support, the Taft Commission pushed ahead with local and regional elections in pacified parts of the islands. By the winter of 1901, a very restricted number of voters turned out for municipal elections. Initially the American military government, utilizing General Order No. 40, limited voter participation to those “all persons 23 or more years of age who had held municipal office under Spanish sovereignty, or who annually paid 30 pesos or more of the established taxes, or who could speak, read or write English or Spanish.”¹⁶⁸ The Taft Commission extended suffrage to “all owners of real property to the value of 500 pesos,” believing that this “liberal provision will prove entirely satisfactory to the people.”¹⁶⁹ Just ten months after the civil government transition, Taft happily reported to Root that for the “first time,” Filipinos exercised the “right of suffrage in the election of municipal officers.”¹⁷⁰ The Taft Commission entrusted the municipal council with the tasks of local collecting taxes, adopting local ordinances, and enforcing local laws.¹⁷¹

Despite the more restrictive calls for the restriction of suffrage by the earlier commissions, Taft and his men limited these restrictions to newly convicted felons, those

¹⁶⁸ *Reports of the Taft Philippine Commission*, 38. The value of the thirty pesos at the time is difficult to determine with any degree of accuracy. One source lists the American dollar value it as seven dollars and fifty cents (William Taft), while another lists it as fifteen dollars (*The International Yearbook*).

¹⁶⁹ *Ibid.* The value of five hundred pesos at the time was roughly two hundred American dollars, possibly less, in 1901.

¹⁷⁰ *Affairs in the Philippine Islands*, 112.

¹⁷¹ Traub, *The Freedom Agenda*, 14.

who took up arms against the new government, and the mentally challenged. Worcester, one of the committeemen, argued that limited suffrage provided an incentive for the people to “acquire the first elements of the knowledge necessary to enable them to govern themselves.”¹⁷² In General Order 40, Taft confidently reported that more municipalities stood ready for local self-government just as soon as Filipino villages would “demonstrate a fitness for self-administration.”¹⁷³

As the first polls for provincial gubernatorial elections opened up, local governments, from the ground up, spread slowly throughout the archipelago. Almost as quickly as the US military pacified outlying areas, the transition toward civil government began. By 1902, provincial governments stretched to more than thirty-seven provinces and continued to expand.¹⁷⁴ In July, Governor Taft with the help of Senator Henry Cooper pressured Congress to pass the Organic Act. After insurrectionist fighting ended, a census was completed, and two peaceful years passed, Congress allowed for the creation of a Filipino national assembly. By 1907, the first assembly convened, consisting mainly of *ilustrados*, though limits on its power still existed. By that point, the commission still held an American majority and veto power over the assembly.

Civil Service Reform on the Islands

Beyond the creation of the governmental system, the Taft Commission also rendered more practical legislation for the island. Almost immediately, the commission members focused its energy on passing a civil service law, something the Schurman

¹⁷² Moses, *Spain Overseas*, 88.

¹⁷³ *Affairs in the Philippine Islands*, 112.

¹⁷⁴ House Committee on Insular Affairs, *Committee Reports*, 244.

Commission recommended in its previous reports. One of Root's closest friends and the president of Harvard, A. Lawrence Lowell, contributed a book on the short history of the changes and reforms to European civil service procedures and programs in England, Holland, and France entitled *Colonial Civil Service*. In the opening sentence, Lowell proclaimed, "all thinking men are united in the opinion that the United States ought to establish in the Philippines a civil service which shall be thoroughly efficient and free from political pressure of every kind."¹⁷⁵ Root considered the creation of an "honest and efficient" civil service as one of the most important predictors of future progress. He noted in his 1901 War Department report that the experiment of this new Filipino government "will stand or fall upon its success or failure in getting competent men."¹⁷⁶ Other reports about the islands mirrored Root's powerful statement.

A US Civil Service report outlined the two possible narratives of government service in the islands, one based on the spoils system and the other on the merit system. The report identified the spoils system as a "system of exploitation which had led to the wreck of Spanish colonial government."¹⁷⁷ The author lamented that just such a system lingered in the US, providing what he interpreted as a clear warning about the poisonous tendencies of patronage. Even Roosevelt fretted in his writings that if "the curse of spoils

¹⁷⁵ A. Lawrence Lowell, *Colonial Civil Service: the Selection and Training of Colonial Officials in England, Holland, and France* (New York: The Macmillan Company, 1902), v.

¹⁷⁶ Philippine Information Society, "Secretary Root's Report For 1901," *The Philippine Review* 2, no. 3 (Jan. 1902): 97.

¹⁷⁷ U.S. Congress, House of Representatives, *Eighteenth Report of the Civil Service Commission, July 1, 1900, to June 30, 1901*, H. Doc 703, 57th Cong., 1st sess., (Washington, DC: Government Printing Office, 1902), 151.

politics ever fastens itself upon the administration of our insular dependencies, widespread disaster is sure to follow.”¹⁷⁸ In another address, he reinforced the need for the islands to be administered “with absolute honesty and with good judgment,” fearing the “prey of the spoils politician.”¹⁷⁹ In his first annual message, President Roosevelt declared, “The merit system is simple one method of securing honest and efficient administration of the government, and in the long run the sole justification of any type of government lies in its proving itself both honest and efficient.”¹⁸⁰ If the Philippine government had any chance of success, Root and his allies believed they needed root out inefficiency and corruption within the Philippine civil service.

On September 19, 1900, the War Department consented to the creation of what came to be known as the Civil Service Act. With the passage of the law, Root empowered the Taft Commission to set about the “establishment and maintenance of an efficient and honest civil service in the Philippines Islands.”¹⁸¹ The *New York Times* emphasized the commission’s desire of keeping the Filipino government “free from the stigma of political patronage” by showing “the qualifications of ‘efficient and honest’ in the title are real intentions well carried out, and not mere catchwords.”¹⁸² Roosevelt echoed

¹⁷⁸ Roosevelt, “Governor William H. Taft,” 168.

¹⁷⁹ Ibid.; *The Strenuous Life: Essays and Addresses* (New York: The Century Co., 1902), 19-20.

¹⁸⁰ Ibid., “Governor William H. Taft,” 168.

¹⁸¹ Philippine Civil Service Board, *Manual of Information Relative to the Philippine Civil Service* (Manila: US Government Printing Office, 1901), 43.

¹⁸² “Civil Service Rules In The Philippines: Provisions of The New Act To Establish The System There,” *New York Times*, November 1, 1900.

Root's desire for sending "only good and able men, chosen for their fitness, and not because of their partizan [sic] service."¹⁸³ Such men needed to administer "impartial justice to the natives," while remembering to serve their own nation "with honesty and fidelity."¹⁸⁴ Next to weakness, Roosevelt held "a lack of concern for their principles and prejudices" as one of the great crimes that plagued society at large and government in general.¹⁸⁵ Root worked to ensure the effectiveness of this new progressive act in the Philippines by instituting similar requirements and punishments as emerging civil service laws in America.

Reflecting concerns of "good government" progressives back in the US, Root and the commission members explained the focus of law as selecting and promoting civilian candidates "solely on the ground of merit," in order to "permit anyone, by a successful competitive examination, to enter the service . . . of the government."¹⁸⁶ Not surprisingly, Root and the others based the laws on those developed in his home state of New York, which were considered "the last and most perfect form adopted here."¹⁸⁷ The group created the Philippine Civil Service Board composed of two Americans on loan from the United States Civil Service Commission, Frank Kiggins and Walter Pepperman, and a

¹⁸³ Roosevelt, *The Strenuous Life*, 20.

¹⁸⁴ *Ibid.*

¹⁸⁵ *Ibid.*

¹⁸⁶ U.S. Congress Senate, *What Has Been Done in the Philippines: A Record of Practical Accomplishments Under Civil Government*, S. Doc. 304, 58th Congress, 2nd sess, (Washington, DC: Government Printing Office, 1904), 17.

¹⁸⁷ National Civil Service Reform League, *Proceedings at the Annual Meeting of the National Civil-Service Reform League, Dec. 12-13, 1901* (New York: Press of George Gottsberger, 1901), 98.

Filipino judge, Cayetano Arellano. The three-man board administered civil service exams and developed standards for appointment to government service. By 1902, the commission enacted three hundred forty-seven laws, including a seven hundred article civil code, along with municipal and provincial codes of three hundred articles in length each.¹⁸⁸ Beyond merely assessing candidates, the commission tasked the board with stamping out any signs of political corruption.

Upon the law's introduction, Governor Taft pointed out "the danger in any government, whether it by republican or monarchical, is that public office be used for private purposes."¹⁸⁹ The new act described the appointment process as well as the meting out of punishment to corrupting forces within the new system. Even the Civil Service board faced penalties for corruption by a fine not exceeding \$1,000, a year in prison, or both for anyone who "shall willfully and corruptly make any false representation."¹⁹⁰ The commission also included a section that outlawed the bribery of civil servants and prohibited them from receiving any political contributions. The language of the penalty requested that any fine no exceed "\$500 or imprisonment not exceeding six months, or both, and upon conviction he shall be removed from office."¹⁹¹ With much stricter penalties, the commission hoped to rid the civil service of undesirables and provide a new sense of professionalism to government service.

¹⁸⁸ House Committee on Insular Affairs, *Committee Reports*, 244.

¹⁸⁹ House of Representatives, *Eighteenth Report of the Civil Service Commission*, 151.

¹⁹⁰ Philippine Civil Service Board, *Manual of Information Relative to the Philippine Civil Service* 46.

¹⁹¹ *Ibid.*, 47; "Civil Service Rules in the Philippines," November 1, 1900.

Root and the Taft Commission held high hopes for new civil service standards. A major political and social science journal commented that Filipino civil service reform in the Philippines “is sure to beget good results when contrasted with the inefficiency and corruption that flow from the remnants of the spoils system here at home.”¹⁹² In his testimony to Congress in 1901, Commissioner Felipe Buencamino told the committee that under the Spanish system, the officials forced the poor citizenry to pay bribes or in lieu of funds, take what livestock they had. Under the new Philippine civil service, he testified, “all the charges and authorities have disappeared, so that now the poor man does not recognize any authority in the town or municipality except the municipal president.”¹⁹³ Additionally, Buencamino only knew of only ten civil servants out of eight thousand who had been suspended as of 1902 for corrupt behaviors. This, concluded Buencamino, served as “evidence that the law is being complied with faithfully,” while also showing “the full capacity of the Filipino for [local] self-government.”¹⁹⁴ A year after the initial introduction of the civil service law, the Taft Commission continued to maintain that “without this law American government in these Islands is, in our opinion, foredoomed to humiliating failure.”¹⁹⁵

¹⁹² William Dudley Foulke, "The Civil Service of Our New Dependencies," *The Annals of the American Academy of Political and Social Science* 19, (Jan.-May, 1902): 342.

¹⁹³ House Committee on Insular Affairs, *Committee Reports*, 235.

¹⁹⁴ *Ibid.*

¹⁹⁵ Worcester, *The Philippines Past and Present*, vol. 1, 377.

Throughout Root's career in the War Department, he stressed the need to break down the spoils system in government. Additionally, the US Civil Service Commission's report described the merit system as "a system of government for the benefit of the governed."¹⁹⁶ Accordingly, Taft hoped such legislation passed by the commission created the ability for "one entering the lowest ranks to reach the highest upon tenure based solely upon merit."¹⁹⁷ Salaries for the topmost positions, largely scientific, professional, and technical, ranged from \$1,200 downwards. The commission established the maximum work hours at six and a half per day, except during the hottest time—April 1 to June 15—when they reduced meeting times to five hours. These positions also carried the added benefit of having medical care "furnished gratis," or for free.¹⁹⁸ The Taft Commission even established government-housing rentals, referred to as "civil service quarters," which a New York newspaper described as "a collection of good dwelling houses in some cool suburb convenient to the city."¹⁹⁹ Additionally, the new act adopted a system of cooperative stores so that members of the civil service garnered the same financial benefit as the army commissary system.²⁰⁰ All of the components of the civil service system—meritocracy, maximum working hours, universal healthcare, government subsidized housing, and cooperative businesses—reflected progressive

¹⁹⁶ House of Representatives, *Eighteenth Report of the Civil Service Commission*, 151.

¹⁹⁷ *Ibid.*

¹⁹⁸ Foreman, *The Philippine Islands*, 565.

¹⁹⁹ "Civil Service Rules in the Philippines," November 1, 1900.

²⁰⁰ *Ibid.*

experiments either untried or already underway back in the United States and Europe. Newspaper writers, along with the secretary of war, believed that such a system and the right kind of incentives might “tend to make the service attractive” to Americans and Filipinos alike.²⁰¹

Ultimately, Secretary Root wanted the civil service bill “attractive enough to draw the class of men wanted.”²⁰² He suggested preferential appointments given to qualified, local natives, if possible first and secondly to honorable discharged US military men. Though expediency and language issues forced the commission to choose Americans to fill a number of these positions early on, Root clearly laid out the expectation that as quickly as capable natives could be found, they needed to receive the position. Even though he supported preferential treatment for natives, Root reinforced the good government concept by demanding ultimately that such a decision be based on merit, experience, and character rather than status, wealth, or any type of patronage.²⁰³ By 1903, the civil service in Manila alone employed eight thousand natives.

Even civil service reformers and organizations admitted the Philippine civil service practices ranked far superior to their American counterparts as a model. The president of the United States Civil Service, Professor John Procter, admitted the “law has very many improvements over the national law, so that in the Philippines they begin with a better law than the United States has secured after a struggle of a hundred

²⁰¹ “Civil Service Rules in the Philippines,” November 1, 1900.

²⁰² Ibid.

²⁰³ Colby, *The International Yearbook*, 725. In this work, the authors credited candidates for “the length of time the applicant had held the office, and to the efficiency and faithfulness of his work.”

years.”²⁰⁴ At its annual meeting in 1901, the National Civil Service Reform League described the civil service safeguards in the Philippines as “much the more satisfactory more extended and complete.”²⁰⁵ That very same year, the author of the United States Civil Service report, William Foulke, credited the Taft Commission with “filling the gaps . . . for as complete a system as is possible,” something “much more comprehensive than our own law.”²⁰⁶ So in many ways, the Philippines became an effective testing ground for expansive civil service reform.

In a three-year period, the results of the new civil service system seemed promising. Just above two thousand English speakers took and passed the exams, while just over three thousand Spanish speakers successfully completed the exams. Of those groups, the board appointed around thirteen hundred English speakers and over fifteen hundred Spanish speakers.²⁰⁷ Such a practice, according to Foulke, insured “a high standard in the service, while it allows a fair presence in selecting natives or soldiers.”²⁰⁸ Even seven years after the Taft Commission inaugurated a regime of progressive civil service reform. The leader of the provisional government in 1908, Gov-Gen. William Cameron Forbes still strove for quality civil servants. In his inaugural address Forbes proclaimed, “I want no better men than the present officers and employees of the

²⁰⁴ National Civil Service Reform League, *Proceedings at the Annual Meeting* 93.

²⁰⁵ *Ibid.*, 35.

²⁰⁶ House of Representatives, *Eighteenth Report of the Civil Service Commission*, 151.

²⁰⁷ Parker, *Our Philippine Problem*, 54.

²⁰⁸ Foulke, "The Civil Service of Our New Dependencies," 347.

Government, Americans and Filipinos. They compare favorably with any set of men I have ever seen both as regards ability and fidelity to duty.”²⁰⁹ These glowing remarks about civil service reform reinforced the progressive nature of Root and Taft’s program in the Philippines.

The reforms stressed by Root and Taft to the Philippines system served not only as a place of experimentation in “good government” and civil service reform, but also formed one end of the intellectual pipeline for similar progressive reforms back in the United States. By 1903, a War Department report announced that “with the progress they [Filipinos] have made in acquiring knowledge of American methods, a large number now fulfill the civil-service requirements, and the proportion of places given to Filipinos in the general government is becoming much greater.”²¹⁰ Some commentators referenced the development of metropole-periphery relationships in other imperial cases as a pipeline for civil service reform. Foulke ended his report by remarking that “inasmuch as the beginnings of this reform came from Calcutta to London, it is not impossible nor

²⁰⁹ Worcester, *The Philippines Past and Present*, vol. 1, 366.

²¹⁰ U.S. Congress Senate, *What Has Been Done in the Philippines*, 18. It is to be noted that critics of high-minded claims such as these have pointed out that most of the Filipino appointments were to the lowest rung of civil service positions. As Henry Willis Parker pointed out, “the vast majority of Filipino civil servants are in strictly subordinate places—office boys, typewriters, third-class clerks, etc.” and “lower salaries are paid Filipinos than are received by Americans for work of the same grade.” For a further discussion of this, see Henry Willis Parker, *Our Philippine Problem: Study of American Colonial Policy*. New York: Henry Holt and Company, 1905. p. 52-70. Parker claims don’t necessarily stand at odds with the progressive notions in the policy. It definitely reflected racialized beliefs in superiority, hence better salaries, and reinforced the notion of meritocracy, working one’s way up to what Root referred to as “good and well-paid position in the service.” (*New York Times*, November 1, 1900.). Regardless of their progressive agenda, such claims against the civil service definitely reinforced a dependent status to Filipinos workers in civil service positions.

unreasonable to expect that its perfect consummation may come from Manila to Washington.”²¹¹ The Root and Taft reforms both ascribed and reflected the concerns with good government in both the United States and the Philippines. Progressive reformers on both ends of the pipeline worked to try and construct policies that promoted honest, efficient, and responsive government in both nations.

Conclusion

During his tenure as war secretary, Root attempted to graft American reforms and ideas onto the Filipinos and the Philippine system. He developed, and then utilized, several progressive reforms for the Philippine government that he witnessed and participated in back in his native New York City, one of the hubs of urban progressive reform in the period. Many of the urban reforms bandied about by reformers back home remained incompletely installed, weakened by anti-reform elements, or ultimately untried. Root believed the Philippines and its people provided a testing ground for American political reforms along with a way to attempt the exportation of American ideals and values. In the same way reformers attempted to assimilate Native Americans in the decades past, Root’s attempt furnished a new, more efficient, and supposedly benevolent means of “civilizing” Filipinos along American ideas and aims. In order to accomplish this goal, Root and his subordinates implemented a wide array of progressive methods, primarily from modern advances in the social sciences and business models of efficiency, to achieve their ends. From the very beginning, however, Root’s colonial project faced several obstacles.

²¹¹ Foulke, "The Civil Service of Our New Dependencies," 350.

Several factors posed obstacles to Root's long-term success. First, just as the War of 1898 wound down, US troops faced the forces of Aguinaldo and other *nationalistas* in the preceding Philippine-American War. Though he took on the task of reorganizing the Philippine system, Root faced a continuing insurgency that threatened to stall or defeat American progress. For a man with no military experience, he successfully aided in the organization and deployment of military forces to the archipelago. As village after village surrendered or submitted, Root realized the importance of installing a civilian government as quickly as possible. So while he oversaw continuing military developments, he simultaneously pressed for a quick transition toward a successful civilian government; a tough task for anyone. Related to this, American troops committed documented scenes of torture and atrocity on an ultimately unknown number of Filipinos.²¹² The actions of a small group of American troops only hurt Root's reform efforts, served to question the ultimate aim of American involvement in the Philippines, and raised significant questions. Ultimately, the question quickly arose about who was the savage and who needed to be civilized.

A definite lack of cultural awareness also threatened the long-term success of Root's efforts in the Philippines. As discussed earlier, American officials focused their efforts at building up good government with an emphasis on co-opting on the *ilustrados* and the professional elites. Although the Taft Commission found a group of Filipinos

²¹² For a complete discussion, please see Christopher J. Einolf, *America and the Philippines, 1899-1902: The First Torture Scandal*. New York: Palgrave Macmillan, 2014; Richard E. Welch, Jr. "American Atrocities in the Philippines: The Indictment and the Response," *Pacific Historical Review* 43, no. 2 (May 1974), 233-53. For a discussion on the court martial proceedings, see U.S. Congress Senate, *Trials or Courts-Martial in the Philippine Islands in Consequence of Certain Instructions*. S. Doc. 213, 57th Cong., 2nd sess. Washington, DC: Government Printing Office, 1903.

willing to accept American leadership, it also placed the powers of the emerging civil government in the hands of one party, the *Federalistas*. Root and others failed to notice the role that the very patronage system they sought to dismantle played in Filipino culture. For a long while, Filipino leaders conducted politics through a medium that used patronage as way to cement political ties and loyalties. Any attempt by Root and Taft to create a formidable, corruption-free, and long term civil service failed to see this reality. Early on, the Taft Commission removed compromised officials, but as time passed and more Filipinos entered government, toleration for the practice developed and largely went unquestioned. So developed the irony that the very “good government” Root and others hoped to anchor into Filipino political life became, over time, overran with the very corruption and political bossism that resembled political machines they loathed back home.

Additionally, Root’s reform efforts lacked a steady stream of economic and political support at home. Ultimately, Congress drove the economic engine in the reconstruction and reorganization of the Philippines. Though the Taft Commission announced policy on the island, Congress still greatly influenced what happened since it controlled the financial purse strings. As a result,, the Philippine issue became a political football for the vying political parties. The Republicans in Congress employed events in the Philippines as a moral crusade of sorts and a mile marker for American success at home. On the other hand, Democrats promoted the view of American involvement as an unconstitutionally unwieldy attempt at imperialism run amuck. For both parties, the Philippines took center stage during election time, and as such, it became a tool of political control in the Congress. Democrats repeatedly either attempted or succeeded at

blocking funding or weakening legislation, leaving Root and Taft with big ideas, little funding, and limited ability. Equally, Republicans faced pressure to cut back assistance to the Philippines either based on moral objection or the simple fact they lacked the will to invest any more American dollars than they had already. Root and Taft scaled back on projects such as creating universal education and others that relied on local taxes in a shaky Filipino economy for their budgets. As a result of needing more local streams of revenue and trying to create a stable business environment, Root and the Taft Commission reneged on their early efforts to create a progressive system of taxation in the Philippines. The Spooner Amendment also suffered as the result of political infighting. The law granted the Taft Commission more local control, reduced budgets, and inhibited the ways in which businesses could invest in the Philippines to build additional funds for local projects.

Within the colonial government, shifting bureaucracies also tended to create problems of continuity for Root's policies. Though policy originators such as Root and Taft stayed with these policies for considerable amounts of time, the same could not be said for those throughout the American civil service bureaucracy in the Philippines. Those who took jobs in the Philippines found the weather uninviting, the outbreaks of disease all too common, the culture distinctly foreign, and the pay quite low. Officials often exited the archipelago after a year or so, choosing not to go back or finding other avenues of employment better suited to their needs. In finding the "right men" for the colonial bureaucracy, Root meant not just the men and women with the proper morals and high-minded ideals, but with a sincere commitment and dedication to the overall

goal. Such people remained hard to find and even harder to keep. This inability to retain a steady group of people also applied to higher officials as well.

Commissioners and their deputies served relatively short tenures at their positions, only to then pass from them on to someone else. Additionally, Root left his cabinet position in 1904 only to have Taft assume his former secretary of war position. The governorship of the Philippines changed four times in only five years. With Taft's presidential re-election bid defeated in 1912, the reformist Democrat Woodrow Wilson appointed Francis Harrison, representing a total shift in the direction of leadership for the Philippines. The constant revolving door of new faces and differing levels of commitment limited the effectiveness of colonial reforms in the Philippines. No matter how dedicated high-level officials were in outlining their policy objectives for the Filipino government, a shifting workforce of lower-level officials almost guaranteed inconsistency in the implementation of policies over time. With such an inconsistent standard, Filipinos working for the civil government received mixed messages about political expectations from American authorities. This steady lack of oversight allowed Filipinos to start using civil service appointments for their own personal or political agenda.

Much like his contemporary urban reformers back in the United States, Root faced a whole host of milestones in his implementation of progressive reforms in the Philippines. He shared a view common to many of the time that the great experiment in Filipino self-government demanded a necessarily slow and guided approach in order to be successful. One writer declared, "ultimate independence is the aspiration and goal of the intelligent natives, —and yet an object which they [Root & Taft] are convinced is not

possible of early realization.”²¹³ Self-rule represented the destination and to Root, the Filipinos had merely begun the arduous journey. Colonial administrators attempted to promote the gradual expansion of democratic practices through education, while they also tried to slowly transfer American authority to the Filipinos.²¹⁴ Just as in any long trek, American leaders often faltered, delayed, and sometimes even backtracked. In some instances, they ignored the very interests of Filipinos they claimed to uplift. Instead, when US military leaders sanctioned torture, such behaviors revealed the dark side of imperialism and baser aspects of the human condition. Imperial interests explained much in the way of interests, but never monolithically defined it. Root and most of his progressive counterparts ultimately believed that their actions improved the lives of Filipinos in a much greater numbers than it abused them. Additionally, many of the major components of the emerging Filipino system crafted by Root and Taft embraced the progressive struggles ongoing in American cities. As the United States struggled with shortcomings of its own system, Root ultimately attempted to utilize the Philippine experiment not merely as a way to fix the institutional defects, but to reaffirm America’s moral mission in the world. He saw the Philippines as an opportunity to better the judicial, educational, and political system. In true progressivism form, he held great faith that the reform of the institutions would then bring about massive and positive change in the lives of everyday people. In an article following his departure from the War

²¹³ Atkinson, *The Philippine Islands*, 345.

²¹⁴ Tony Smith, *America's Mission: The United States and the Worldwide Struggle for Democracy in the Twentieth Century* (Princeton: Princeton University Press, 1994), 46.

Department one of Root's colleagues, Maj. Gen. William Carter, wrote about his tenure that the verdict of history "will doubtless give credit to where credit is due."²¹⁵ However, many of Root's critics focused on only parts of his record, conveniently ignoring the progressive undercurrent that ran just below the surface of his Philippine policy.

Confident that establishing the structural elements of government in the Philippines would ultimately yield success, Root walked away from his cabinet position in 1904 only to once again serve the nation. After tendering his resignation on August 19, he readied for his trip across the Atlantic to serve as America's chief legal expert regarding the Alaskan Boundary Dispute between the United States and Great Britain. Five days later Roosevelt sent Root a telegram that praised his efforts in the "performance in fullest fashion of a great public duty, the doing of which was of vital importance to the nation's welfare."²¹⁶ At noon on February 1, 1904, Root's resignation became official. In short order, the War Department's chief of staff prepared for the ceremony of Root's replacement, none other than William Taft. The same day President Roosevelt wrote to Mrs. Root praising her husband for a job well done. Among the things he said, Roosevelt lamented that the government would never "be served by any man with greater zeal, efficiency, and success."²¹⁷ Never in politics for his material benefit, Root spent the next two years giving speeches in favor of Roosevelt's policies and rebuffing requests that he run for the governorship of New York or the Republican

²¹⁵ William H. Carter, "Elihu Root: His Services As Secretary of War," *The North American Review* 178, no. 556 (Jan. 1904): 112.

²¹⁶ Root to Roosevelt, August 19, 1903. Elihu Root Papers; Roosevelt to Root, August 24, 1903, Theodore Roosevelt Papers.

²¹⁷ Jessup, *Elihu Root*, vol. 1, 411.

nomination for president in 1908. He re-entered his legal practice for what proved to be a short time.

On July 1, 1905, Root and his old confidant Theodore Roosevelt received crushing news. John Hay, their close friend and devoted public servant, died as a result of what appeared to be pulmonary embolism following a sudden illness at his Newbury, New Hampshire home.²¹⁸ Hay had served as Lincoln's personal secretary, ambassador, and most recently as the secretary of state for McKinley and then Roosevelt. Reeling from this significant loss, President Roosevelt looked to only one man to fill the shoes of his fallen friend. A little over two weeks following the death of Hay, Roosevelt appointed Root as secretary of state. Within his new capacity, Root once again applied progressive ideals as part of his statecraft in a variety of situations from 1905 to 1909.

²¹⁸ "Secretary of State John Hay Is Dead," *New York Times*, July 1, 1905.

CHAPTER V

ROOTING OUT CORRUPTION: REORGANIZING THE US CONSULAR SERVICE

“We are trying now to create a system under which there will be permanent careers by insisting upon promotions of the men who show that they have good stuff in them . . . this is a complete reversal of the former system, under which Senators owned the places.”

Elihu Root

Letter to Seth Low, December 24, 1906

Formed shortly after the founding of the nation, the US Consular Service has long served as an important mechanism of diplomacy and trade with the outside world. Though they often labored under a single title, the American government required consular officials to fulfill a multitude of duties. According to one writer, a consular official served as a “notary public, public defender, bureaucratic infighter, and trade promoter,” while also representing his country’s interests abroad.¹ Despite the need for “good consuls” abroad, the consular service more often than not acquired the services of men, either intellectually or morally, unfit for such diverse tasks. From its very inception, the consular service remained awash in a sea of corruption and inefficiency. As early as 1834, a member of Congress characterized the consular office and diplomatic corps as the “reward of partisans” and “places of refuge for worn-out, useless, second-rate

¹ Charles Stuart Kennedy, *The American Consul: A History of the United States Consular Service, 1776-1914* (New York: Greenwood Press, 1990), 145.

politicians.”² Prior to Root’s tenure in the State Department, his biographer referred to the service as a “poor instrument” that failed to “make work any easier.”³ By the time Root arrived, the consular office desperately needed a thorough reorganization after, what one department official confessed was, “long years of neglect.”⁴ This neglect reflected several decades’ worth of faulty administrative oversight and failed personal accountability that could no longer be ignored if the nation’s leaders expected to grow their fortunes domestically and their reach internationally.

In the decades following the Civil War, Washington officials engaged in military intervention, imperial extension, and economic expansion as ways to ensure the nation’s growth domestically while establishing its prominence on the world stage.⁵ Americans gradually paid more attention to international affairs than in times past, largely because it mattered to more people, especially to those in politics and business. Americans abounded with optimism about the nation’s new economic and political position in the world. They watched international rivals with suspicion, while they looked to further relationships with their international allies. Not surprisingly then, controversies that arose regarding international commerce and diplomatic relations often commingled and

² Warren Frederick Ilchman, *Professional Diplomacy in the United States, 1779-1939* (Chicago: University of Chicago Press, 1961), 41.

³ Philip C. Jessup, *Elihu Root*, vol. 2, (New York: Dodd, Mead And Company, 1938), 100.

⁴ Francis Loomis, "The Proposed Reorganization of The American Consular Service," *North American Review* 182, no. 592 (Mar. 1906): 356.

⁵ Waldo Heirichs, "Bureaucracy And Professionalism In The Development of Career Diplomacy," in *Twentieth Century American Foreign Policy*, ed. John Braeman (Columbus: Ohio State University Press, 1971), 128.

converged with the domestic concerns of the day. As was often the case during the Progressive Era, American reformers borrowed ideas and efforts from transatlantic partners across the Atlantic. In the specific case of consular reform, progressive-minded American reformers mirrored much of the British effort at changing and professionalizing its Foreign Office with a “view to the improvement of its efficiency,” starting with the 1854 Northcote-Trevelyan Report and additional efforts at reform up through 1916. Additionally, reformers and businessmen alike looked at Germany as the “model of the type of state the gospel of efficiency could create in the United States.”⁶ Almost simultaneously, aspects of the domestic civil service reform started taking shape. Leaders of this movement attempted, in a variety of ways and with differing degrees of success, to transform systems, policies, and behaviors of both the appointers and the appointed.⁷ As an outward extension of this domestic shift, “good government” and civil service reformers, and, to a greater degree, the American public, demanded greater accountability and openness within the widening number of government departments,

⁶ Henry White, “The Consular Service,” in *Harper's Encyclopedia of United States History from 458 A.D. to 1906*, ed. Benson John Lossing (New York: Harper And Brothers Publishing, 1907), 350. For a detailed study of the British civil service reform during the period mentioned, please see Rodney Lowe. *The Official History of the British Civil Service: Reforming the Civil Service, vol I*. (New York: Routledge, 2011), 18-41; Burton I. Kaufman. “The Organizational Dimension of United States Economic Foreign Policy, 1900-1920,” *The Business History Review* 46, no. 1 (Spring 1972): 24.

⁷ Rakesh Khurana, *From Higher Aims to Hired Hands: The Social Transformation of American Business Schools and the Unfulfilled Promise of Management as a Profession* (New Haven: Princeton University Press, 2011), 78. Khurana aptly states the civil service reform movement “began immediately following the Civil War.” Ultimately the movement sought to turn the “patronage system that had characterized civil service hiring under Jacksonian democracy into a merit-based approach with publicly defined standards,” bringing with it “professionalism and professionalization.” He refers to these two ideas as the “major pillars” that supported the “search for order.”

including the American Consular Service.⁸ Thus, the struggle to reform and clean up external government agencies mirrored the internal push toward the same goal, while utilizing knowledge from the experiences of their European counterparts.

The reform of the US Consular Service coincided with a number of progressive impulses within the nation. The reorganization of the department embodied ongoing efforts at civil service reform, shifted significant political power away from Congress to the executive branch, professionalized the service, and paralleled the means and methods of other signature progressive movements.⁹ Thus, the transition toward professional diplomacy displayed all of the hallmarks of progressive movement, while Root embodied the progressive character and reform-minded conviction of the movement's practitioners. Just as he had in the War Department, Root took the lead at trying to reform the American consular system, targeting corruption, increasing efficiency, eliminating patronage, and reducing waste. In effect, he professionalized and legitimized the Foreign Service by making it a career rather than just a political reward.¹⁰ In the larger view, the State Department needed reorganization as well, but Root lacked the ability and the time to make major changes to it. He sowed the seeds of reform within the consular service, hoping that the benefits reaped would cause those principles to spread into other areas of

⁸ Donna Hamilton, "The Transformation of Consular Affairs," *Diplomatic Studies: Consular Affairs and Diplomacy* 7, (Jan. 2011): 148. In her article, Hamilton argued that during the Progressive Era the "public demanded government reform, including the elimination of corruption and favouritism (sic) in government employment," adding the consular service was "ripe for reform."

⁹ Ilchman, *Professional Diplomacy in the United States*, 82.

¹⁰ Graham Stuart, *American Diplomatic and Consular Practice* (New York: Appleton-Century-Crofts, 1952), 30.

government. Therefore, Root focused his attention where he could, but also needed to address other issues of the state. Where officials in previous administrations failed, Root ultimately succeeded at giving the US Consul Service a progressive makeover by piloting successful legislation through Congress with the support of the president and his friend, Theodore Roosevelt. Both he and Roosevelt agreed the consular service's policies no longer served American interests, both political and economic needs, in the new century.¹¹ Both men considered a strong consular service as an extension of American power that contributed to the overall success of the nation's commerce and prestige abroad.¹² In prior decades, American politicians viewed the very same political failings of corruption, patronage, and waste as political assets to gaining and maintaining power.

Inheriting the "Spoils System"

Given the style of "Jacksonian" nineteenth century politics, American political practitioners at all levels heavily relied on the spoils systems to guide selections for political appointments. These types of political appointments defied political party designation, leaving virtually no politician or president of the period immune from its practice or sway. A former consulate official described to the use of the spoils system in

¹¹ Theodore Roosevelt, *Addresses and Presidential Messages of Theodore Roosevelt, 1902-1904* (New York: G.P. Putnam's Sons, 1904), 336; William R. Corwine. "Consular Service Reform," *Proceedings at the Annual Meeting of the National Civil-Service Reform League*, (New York: Press of Good Government, 1901), 72. Roosevelt said in his speech, "The consular service is now organized under the provisions of a law passed in 1856, which is entirely inadequate to existing conditions."

¹² Thomas G. Paterson, "American Businessman And Consular Service Reform, 1890s-1906," *Business History Review* 40, no. 1 (Spring 1966): 91.

the consular office as “brutal and barbarous.”¹³ As a result, a large number of diplomatic selections and consul officials lacked any qualifications for the position, aside from political or, in some cases, familial connections to the politician who put forward their names. During the scandal-ridden Grant Administration, desperate office seekers, by the throngs, descended on the White House, collected signed appointment cards, and then presented them to State Department officials as if they were “at a teller’s window—as a voucher good for one diplomatic office.”¹⁴ One critic of the spoils system claimed that corrupt politicians continued to appoint many of these “men of low caliber” into consular positions, even though “no reputable mercantile house in this country would think of employing [them].”¹⁵ Despite such increasing criticism, political leaders still nominated and appointed less than sterling consul representatives. In some instances, however, they even appointed such incapable, unqualified, and inefficient men on purpose.

Politicians often utilized consular appointments as a way of getting rid of political rivals, enemies, or merely burdensome undesirables.¹⁶ Even Root understood that such a corrupt process allowed a man “the best way” to get rid of troublemakers due to the fact such an outpost that “ordinarily pleased his wife,” while placing the troublemaker in a

¹³ John Osborne, "The Glamour of A Consulship: Reminisces of An Ex-consul," *Atlantic Monthly* 91, (Jun. 1903): 806.

¹⁴ Allan Nevins, *Hamilton Fish: The Inner History of the Grant Administration* (New York: Dodd, Mead And Company, 1937), 119.

¹⁵ Garrison Wendell Phillips, ed., "Our Consular Disgrace," *Nation* 82, no. 2127 (Apr. 5, 1906): 276.

¹⁶ Paterson, "American Businessman and Consular Service Reform," 81.

faraway land, no longer able to cause direct problems.¹⁷ Ironically, machine politicians in New York utilized a domestic version of the same practice when they originally nominated Roosevelt for the vice presidency in the election of 1900. They wanted to get rid of a reform-minded governor and believed the best way meant nominating him for an office that provided great distance and little power. A Boston reporter described the consular version of this process as the president putting “the worst material that they are compelled to accept in places the farthest off, where the disgrace will be least seen, just as the old horsecar companies used to put their worst looking animals on the night runs.”¹⁸ As one might expect, the “troublemakers” continued their ways, though this time they frustrated foreign governments and trade partners, while representing American interests economically and politically in a less than gracious manner. Such selection methods almost guaranteed an inept presence abroad in the post-Civil War era.

Given the limited nature of America’s international economic and political might during the first half of the nineteenth century, American officials, most businessmen, and even the public, overlooked the ingrained failings in the selection and accountability of consul officials. Despite the seeming inattention, the consular office garnered a “bad reputation” amongst those who had interaction with the office, leading to the men within it being portrayed not as exceptional talents, but rather as “failure figure[s]” and “unsympathetic bureaucrat[s].”¹⁹ A private investigator and skip tracer wrote to his

¹⁷ Paterson, “American Businessman and Consular Service Reform,” 81. This troublemaker often represented political undesirables viewed by their colleagues as personal annoyances, political liabilities, or possible competition for elected office.

¹⁸ “An Incident In Consular Reform,” *Boston Evening Transcript*, May 4, 1906.

¹⁹ Kennedy, *The American Consul*, viii.

friend, a vigorous advocate for consular reform, Harry Garfield, informing him that out of twenty consul agents he encountered in his travels abroad “fully half were unfit for the position and some of them were disreputable.”²⁰ All throughout the service, stories abounded about the appointment of men who were “sometimes dishonest, and sometimes drunkards.”²¹ Echoing the same sentiment, American businessmen and foreign officials unleashed a torrent of complaints, describing American diplomats and consular officials as “incompetent, corrupt, unregenerate alcoholics, or, at best, political hacks.”²² One disgruntled businessman depicted the consul he interacted with as “a large, thick set man with the face of a retired bartender who spoke no foreign language and affected to despise all but his own.”²³ So in general, consul appointees performed their duties poorly, if at all. At their worst, consul officials conducted themselves in such a manner that led to disastrous political embarrassments.

Quite often scandals erupted in foreign cities due to a consul’s errant words or detrimental actions. A reporter for publication of *The Independent* asserted that “some of the most disgraceful scandals abroad have come from incompetent consuls appointed by political favor.”²⁴ An unnamed American admiral, who had interacted with numerous

²⁰ Stuart, *American Diplomatic and Consular Practice*, 92. A skip tracer was someone hired by creditors to search for people who skipped town to avoid paying debts much like a debt collection service today.

²¹ Hamilton Holt, ed., "Consular Reform," *The Independent* 61, no. 3105 (Jul.-Dec., 1906): 54.

²² Kennedy, *The American Consul*, viii.

²³ Stuart, *American Diplomatic and Consular Practice*, 92.

²⁴ Holt, "Consular Reform," 54.

American consuls, summed up the prevailing attitude when he told a State Department official, “half our consuls . . . had been in jail, and that the other half ought to be there.”²⁵ Despite the manner of disgrace, flawed consular appointees held positions as “official representatives of this Government whose misconduct,” another writer concluded, “reflects upon the entire country.”²⁶ The effect of “our wretched consular system,” the same writer noted, served as the main factor that “helped to give foreigners a poor opinion of the United States.”²⁷ He lamented that the “proof is unending.”²⁸ As international misunderstandings and the possibility for conflict escalated, American leaders slowly started to value the image of their officials abroad.

Dating back almost five decades, the rules governing the consular service had changed little since Congress created them in 1856.²⁹ Officials in past administrations tried their hand at reforming the consular service, but their efforts consistently fell short. Either the politician lacked the sincerity and intention to see such efforts through or they faced too much opposition in Congress. Infrequently in the years following, congressional leaders instituted small modifications, although the adjustments did little in the way of curbing corruption and keeping out those who lacked qualifications. In 1870,

²⁵ Phillips, "Our Consular Disgrace," 275.

²⁶ Ibid.

²⁷ Ibid., 276.

²⁸ Ibid., 275.

²⁹ David Dozer, "Secretary of State Elihu Root And Consular Reorganization," *Mississippi Valley Historical Review* 29, no. 3 (Dec. 1942): 339; Paterson, "American Businessman And Consular Service Reform," 88. In his work, Paterson noted, "from 1889-1894 no reform bills were presented in Congress," affecting the consular service.

Congress authorized a special agent, De Benneville (D.B.) Randolph Keim, to investigate consuls across the globe. For over a year, he visited consuls throughout Asia, the Pacific islands, and much of Latin America, traveling some 47,685 miles to compile what became known as the “Keim Report.” In his findings, he categorized the consular service as being in “disrepute into which it has been dragged after years of more or less speculation and personal impropriety.”³⁰ Keim drew up a proposal for eliminating corruption and inefficiency in the system by instituting a mandatory examination for all nominees, requiring the individual pass a character screening by the examination board, and creating permanent consular inspectors to ensure consuls effectively and morally represent the US abroad. In 1872, the Senate passed a bill that included several of Keim’s recommendations, but the House rejected the measure outright, choosing patronage over impartiality. Over a decade later, in the wake of President James Garfield’s assassination, Congress passed the Pendleton Act that created the Civil Service Commission and implemented competitive examinations for public service positions. However, Congress failed to apply these stipulations to the consular service and the diplomatic corps, which were considered separate entities that still heavily relied on the spoils system. So four decades after the passage of the first rules governing the US Consular Service, little had changed in the way politicians chose appointees or the rules that guided them.

In 1894, leaders in Washington once again provided mere lip service to the idea of reforming the consular system. Journalists and reformers sounded off in favor of reform in almost every major journal, including the *Outlook*, the *Nation*, *Harper’s Weekly*, the *North American Review*, *Century*, the *Forum*, and the *Review of Reviews*. In

³⁰ Kennedy, *The American Consul*, 172.

fact from 1894 onward, editors for these publications ran at least one major story about the need for consular reform annually, sometimes even more often.³¹ Congressional leaders believed remaining silent on consular service reform served as their “most effective means of opposition.”³² Rather than making any permanent changes in the law, President Grover Cleveland, in 1895, utilized the power of the executive order. He attacked the appointed consuls of the rival Republican political party as corrupt, drastically cleaned out much of the consular service via executive order, and ended up merely filling those consular positions with his own Democratic supporters. The very next year in 1896, Congress again balked on passing another consular reform bill. During the next presidential term in 1897, William McKinley, a Republican, held a more traditional view that his “corps of the party faithful” provided the best place to search for effective appointees.³³ He ended up returning the political favor to the previous administration by recalling two hundred fifty nine of the three hundred twenty consuls, consisting largely of Democrats. He then appointed his own loyal party members as replacements.³⁴ As a result, these so-called reforms lacked any real substance, failed to enhance consular efficiency, and fell short in the prevention of corruption both in the appointment process and the behavior of appointees while at their post. Continued attempts at reforming the consular service persisted although every proposal collapsed

³¹ Ilchman, *Professional Diplomacy in the United States*, 63.

³² Paterson, “American Businessman And Consular Service Reform,” 89.

³³ *Ibid.*, 90.

³⁴ Kennedy, *The American Consul*, 178.

beneath an ever-changing mixture of insincere congressmen, pro-patronage executives, an apathetic public, and questions of constitutional authority.

Root's View from the Inside

Upon his entry into the State Department in 1905, Root discovered the staggering levels of corruption within the consular service. He lamented to his friend, Henry Cabot Lodge, that the “organization is defective,” demanding, “We must get the defect cured.”³⁵ Unqualified applicants continued to apply shamelessly for consul posts, while reports regarding the shady behavior of sitting consuls hit the front headlines of the press. In a 1906 letter from a “potential applicant,” a young man inquired, “if there are any nice berths like the Consulate of Bordeaux France, or at Buenos Ayres (sic) lying around loose.”³⁶ The young office seeker cited his primary motivation for post as his desire to “rest for a while.”³⁷ Letters, such as the one described, arrived with stunning regularity to the State Department, demonstrating the caliber of the candidates often drawn to the office and fueling Root's desire to reform the process. He quickly identified the key defect within the entire system as the service being “used as refuge for a great number of men who have lost their chance in life, and whose friends get them in here because they have to be supported in some way.”³⁸ Even President Roosevelt told Assistant Secretary

³⁵ Root to Henry Cabot Lodge, October 25, 1906, Elihu Root Papers, Library of Congress, Washington, DC.

³⁶ Paterson, “American Businessman And Consular Service Reform,” 81.

³⁷ Ibid.

³⁸ Root to Charles W. Eliot, December 5, 1905, Root Papers; Root to George Hastings, December 11, 1905, Root Papers.

of State Francis Loomis Nelson that if he had viewed consular candidates prior to appointment, then most of them “would never have been commissioned.”³⁹

Attempting to see the depth of the depravity within the service, State Department officials commissioned an inspection of select consuls throughout Europe and Asia. Former Secretary John Hay dispatched Assistant Secretary of State Herbert Pierce on a fact-finding mission to discover the efficiency and efficacy of American consul officials. Pierce’s assignment lasted for two years, touring and critiquing well over two dozen US consul locations. Upon his arrival back to Washington in 1905, Pierce submitted his findings in a report to Root and President Roosevelt. In it, he uncovered major instances of corruption and duty dereliction that could not be dismissed as merely incidental. In fact, Peirce’s thorough investigation showed these problems to be systemic, causing one writer to refer to him as “our own Sherlock Holmes among the consulates east of the Suez.”⁴⁰ Especially in the Far East, Peirce leveled allegations against consular officials, leading news writers to label the men named as “drunkards or grafters,” who used their office to “merely fill their own pockets, legally or illegally.”⁴¹ A *Literary Digest* writer, while concurring with these characterizations, feared these reports merely scratched the surface about the levels and type of corruption engaged in by other unscrupulous

³⁹ Loomis, "The Proposed Reorganization of The American Consular Service," 358.

⁴⁰ Isaac Funk, ed., "Yankee Consuls East of Suez," *Literary Digest* 32, no. 15 (Apr. 14, 1906): 558.

⁴¹ Phillips, "Our Consular Disgrace," 275.

consuls.⁴² The writer's hunch proved true as newspapers across the nation jumped all over the story.

Newspapers buzzed with tales of consular malfeasance and mischief as the contents of Peirce's report spilled out into the headlines. American officials, along with the public, soon realized the true extent of the problem within the consular service. Peirce's report chastised the poor performance of consuls, ranging from rather tepid rebukes to statements calling for outright prosecutions. In one instance, the report vaguely described the habits of Dr. Richard Greener, the first consul appointed to Vladivostok, as "extremely bad."⁴³ Greener, a native Pennsylvanian and the first African American graduate of Harvard, came under fire for reportedly treating the instructions of his department "with contempt and utterly to disregard them."⁴⁴ Peirce concluded his appraisal of Greener by characterizing his appointment to that position as "unfortunate."⁴⁵

⁴² Funk, "Yankee Consuls East of Suez," 558.

⁴³ U.S. Congress, House of Representatives, *Report on the Inspection of the United States Consulates in the Orient*, 59th Cong., 1st sess., H. Doc 4, (Washington, DC: Government Printing Office, 1906), 320.

⁴⁴ Ibid. There is some suggestion the controversy surrounding Greener had more to do with racial animosities than actual job performance. A few sources described the charges that led to his departure from the Consular Service as "manufactured," while another referred to them as "unsubstantiated." Little about this specific period from his perspective is known. His papers were discovered in an abandoned Chicago house in 2009 prior to its demolition and have been in the possession of the construction contractor, Rufus McDonald. McDonald has attempted to sell the papers to Harvard after they were appraised for \$65,000, but felt the supposed offer of \$7,500 too modest. In one instance in October 2013, McDonald threatened to burn the papers if Harvard refused to offer him more money, though within a few days he backed off from that stance. In August of 2014, McDonald offered the collection for public auction, netting \$12,500 to a yet unknown buyer.

⁴⁵ U.S. Congress, House of Representatives, *Report on the Inspection of the United States Consulates in the Orient*, 320.

Another consul, Dr. Levi Wilcox of Illinois, held the position of Consul-General at Hankau, China. Peirce plainly explained that Wilcox “can not be said to be a useful consular officer” in that location or any other.⁴⁶ At the same time, the US government pursued charges against another consular official, Robert McWade, at Canton for seven counts of corruption, including the improper granting of certificates for Chinese citizens to enter the United States.⁴⁷ A news writer further described his character as “detestable,” by providing evidence that McWade was “disgracefully drunk” in public at a public event. If that were not enough, he again drank to a stupor, swore, and wanted to fight while in his official capacity.⁴⁸ Still another consul, John Goodnow, stood accused of much more serious charges than mere dereliction of duty or lack of ability. Goodnow, the consul to Shanghai, faced a grand total of eighty-two charges relating to his “corruption and misconduct.” Peirce suggested that some of these allegations were baseless, though “it is unfortunate that an official occupying so conspicuous position . . . should be the subject of such a scandalous report.”⁴⁹ According to the written testimony of several witnesses, Goodnow ran the Shanghai consulship much like political bosses controlled American cities, engaging in everything from blackmail and bribery, to theft and document forgery over a four year period.⁵⁰

⁴⁶ Ibid., 319.

⁴⁷ "Mr. Root's Reforms: American Consular Service," *Manchester Guardian* (Manchester, UK), March 29, 1906.

⁴⁸ Phillips, "Our Consular Disgrace," 275-76.

⁴⁹ *Report on the Inspection of the United States Consulates in the Orient*, 271-72.

⁵⁰ "Mr. Root's Reforms: American Consular Service," *Manchester Guardian*

Peirce's claims, though varying in nature and veracity, struck a common chord with the American readership, both citizen and politician alike. In an atmosphere of continued political corruption, his findings reinforced the rapidly growing distrust many Americans had in their public officials. To "good government" progressives such as Root, such allegations lessened the government's effectiveness and efficiency in performing necessary and uplifting tasks. In a *Chicago Daily Tribune* article, he argued that if no changes were made to the consular service, "the development of our foreign commerce will be seriously retarded, to the great detriment of our people."⁵¹ If corrupt public officials continually eroded public trust, Root and others like him believed very seriously that the American economy, amongst other societal institutions, stood the very real risk of crumbling. In his assessment of Peirce's report, Root admitted these findings "must everywhere evoke a sense of shame."⁵² In an aptly titled article "Our Consular Disgrace," a journalist for *The Nation* quickly clarified that such sentiments represented "not the testimony of a sensational writer, or of a politician in search of notoriety," but instead what he called a "sober, official statement filed with the Secretary of State."⁵³ Additionally department officials under Root, including John Bassett Moore, Henry Loomis Nelson, Francis Huntington Wilson, Oscar S. Straus, Andrew D. White, Henry White, and John W. Foster spoke openly and wrote publically about the need for effective

(Manchester, UK), March 29, 1906.

⁵¹ "Consular Reform, Indorsed By Roosevelt," *Chicago Daily Tribune*, March 5, 1906.

⁵² Phillips, "Our Consular Disgrace," 275.

⁵³ Ibid.

consular reform.⁵⁴ Even as these men made their plea, continued allegations of consular impropriety or ineffectiveness continued to emerge. No longer could the issue be sidestepped or ignored as conditions necessitated a government response.

At the urging of Root, the Roosevelt administration made “no secret” of its desire to “remove officials of this type whenever proper information concerning them is brought to the attention of the Department of State.”⁵⁵ As the *Los Angeles Times* called for, Root engaged in a “thorough house cleaning,” ridding the department of blatant offenders.⁵⁶ In a letter attached to Peirce’s report, Root reassured President Roosevelt that two of the consuls named in the report for committing “grave misconduct,” McWade and Goodnow, no longer worked for the department. After 1903, Wilcox stepped down from his position and Greener parted ways with US Consul Service in 1905. Beyond those named in the press specifically, Root lamented that Pierce's report showed "indications of other cases of misconduct or inefficiency among consuls in various parts of the world.”⁵⁷ The removal of flawed individual consuls served as a good first step, but Root and those in his

⁵⁴ John Bassett Moore, "American Diplomacy: Its Influence And Tendencies," *Harper's Weekly* 11, (Oct. 1905): 690-96; Henry Loomis Nelson, "The Need for Trained Diplomats and Consuls," *Harper's Weekly* 45, (Jun. 15, 1905): 599; Francis Huntington Wilson, "The American Foreign Service," *Outlook* 82, (Mar. 1906): 499-504; Oscar Straus, *The American Spirit*, (New York: The Century Company, 1913), 141-46; Andrew Dickson White, *Autobiography of Andrew Dickson White*, (New York: The Century Company, 1905); Henry White, 350-61; John W. Foster, *Practice of Diplomacy*, (Boston: Houghton, Mifflin and Company, 1906).

⁵⁵ Loomis, "The Proposed Reorganization of The American Consular Service," 362.

⁵⁶ John Elfret Watkins, "Reform In Our Consular Service," *Los Angeles Times*, December 11, 1905.

⁵⁷ *Report on the Inspection of the United States Consulates in the Orient*, 271-73.

department realized that unless they reformed the entire apparatus, similar negative results would follow.

Efficiency and Consular Reform

Beginning in the 1890s, a number of political reformers and business owners had embraced the possibilities of what was eventually known as the “efficiency movement” or the “efficiency craze.” Organizational structures in government started to mirror its business counterparts, transforming the spoils system environment of the consular experience into a more stable, nonpartisan bureaucratic or management model. Within this new system, government officials and reformers utilized the yardstick of “scientific management,” in order to discern the worthiness and ability of a political appointee.⁵⁸ The followers of the efficiency model concluded that expertise and efficiency balanced the needs of “the polity with the economy,” while reducing the “tide of social disintegration,” especially in how Americans viewed their government and its leaders. Developing such a model for the consular service involved constructing a system that promoted the ideas of “continuity, flexibility, predictability, expertness, and efficiency in a complex and fluid urban-filled society.”⁵⁹ Reformers contended that such a new model

⁵⁸ Louis Gawthrop, *Rethinking Administrative Theory: The Challenge of the New Century* (Westport, CT: Praeger, 2001), 81. Gawthrop posited that reformers hoped the convergence of public sector management with the scientific method was “basic to the attainment of operating efficiency.” This efficiency, they hoped, spelled the end government and bureaucratic corruption by creating a “value-free administrative system.” He concludes that these systems “governed by the objective tenets of scientific management and were as dehumanized as they could be.” Regardless he concedes that the “new mindset” that helped to conquer the old ways of patronage and regional economies, “marking a radical departure from the past and the beginning of a new mentality that animated our administrative systems.”

⁵⁹ Heirichs, "Bureaucracy And Professionalism In The Development of Career Diplomacy," 121.

held officials accountable for their actions, discouraged the shirking of responsibility, and lessened the likelihood of corruption. According to Root and his supporters, such behaviors threatened the success of America's international efforts by lessening the institutional effectiveness and hindering the operational efficiency of the consular service. Root, just like the president he served, championed the ideas of "organizational efficiency" and an independent, professionalized civil service system.⁶⁰ From his previous work as head of the War Department, Root had learned the need to "modernize outdated administrative machinery" and had witnessed the "the possibilities of merit service" in some of American insular possessions.⁶¹ Thus, his previous progressive efforts at reform provided him with a broad understanding of what it fundamentally took to achieve successful and systemic government reform. In order to accomplish his goals, however, he needed to overcome a growing chorus of complaints.

For more than a few years, American businessmen and trade organizations consistently complained about a multitude of imperfections within the consular service. These groups, however, relegated their major critiques to those that "contributed to corruption, inefficiency, waste, and loss."⁶² Embracing the ideals of what came to be known as scientific management or "Taylorism" (after its best-known theorist, Frederick W. Taylor), Root hoped to eliminate waste and inefficiency within the service, while also

⁶⁰ William H. Becker, *The Dynamics of Business Government Relations: Industry and Exports, 1893-1921* (Chicago: University of Chicago Press, 1982), 100.

⁶¹ Ilchman, *Professional Diplomacy in the United States*, 83; Jessup, *Elihu Root*, vol. 1, 240-64; *Ibid.*, vol. 2, 100.

⁶² Paterson, "American Businessman And Consular Service Reform," 80.

developing a standard “best practices” in the selection of its officials. He greatly disliked the practice of the “spoils” politics and blind partisanship something he spent the majority of his public career crusading against. In a letter to a friend, he warned that a “[consular] service composed of men who have used up all their enthusiasm and energy and ambition upon something else, cannot be very effective at best.”⁶³ If government officials continued to appoint consuls who lacked purpose, ambition, or a sense of duty meant, Root feared the consular service would consist of people “who have always been weak and inefficient.”⁶⁴ In a newspaper article, Root expounded on his goal to “bring the service up to the high plane which the present vast and complex interests of the United States require.”⁶⁵ Another advocate of the consular reform movement explained that in order to be an efficient consul “a man must have a wide range of knowledge, an inquiring mind, [and] an eagerness for information pertaining to his calling.”⁶⁶ Root responded, as he had in previous efforts, by adapting the concepts of “scientific management” theory to government as a way to depoliticize a highly corrupt and partisan consular system. While he hoped to seek out professionals, Root also desperately needed to professionalize the system within the consular service for any change to become a lasting reform.

⁶³ Root to Charles W. Eliot, December 5, 1905, Root Papers; Root to George Hastings, December 11, 1905, Root Papers.

⁶⁴ Root to Charles W. Eliot; Root to George Hastings.

⁶⁵ John O’Laughlin, “Politicians Kill Consular Reform,” *Chicago Daily Tribune*, January 6, 1906.

⁶⁶ John Proctor, W.D. Foulke, and James R. Garfield, “The Consular Service,” in *Annual Report of the United States Civil Service Commission* (Washington, DC: Government Printing Office, 1902), 32.

So beyond merely removing questionable officials, Root accepted that the entire organization needed an overhaul. He prescribed “drastic Consular reforms” if the institution was to recover from the illness of corruption and the acceptability of idleness.⁶⁷ Despite the fad that political reform had become in some administrative corners over previous decade, he remained committed to exorcising the consular service from its past demons. Along with other progressive reformers, Root hoped to create, in his department, one part of a larger “engine that would eradicate the cesspools of political corruption suffocating the nation.”⁶⁸ In this sense, Root’s transformation of the consular service served as a microcosm of larger efforts at home to free the public sector, at virtually every level, from the past illusions about the role of government in an increasingly complex and dynamic world.⁶⁹ With such a herculean task before him, Root searched the State Department for allies to provide much needed insight and assistance.

Just as he did when he attempted to reform the military, Root surrounded himself with other like-minded, progressive officials to help him devise a strategy moving forward. In this case, Root relied on a young and upcoming star within the State Department, Wilbur J. Carr. Just like his boss, Carr spent the majority of his career, as one writer described it, in a “search for maximum efficiency.”⁷⁰ From his humble beginnings in Taylorsville, Ohio with its population of fifty-two, Carr very quickly

⁶⁷ "Mr. Root's Reforms: American Consular Service," *Manchester Guardian* (Manchester, UK), March 29, 1906.

⁶⁸ Gawthrop, *Rethinking Administrative Theory*, 79.

⁶⁹ *Ibid.*, 81.

⁷⁰ Heirichs, "Bureaucracy And Professionalism In The Development of Career Diplomacy," 133.

showed a great deal of aptitude in business. While other civil servants had hailed from wealthy families and went to prestigious Ivy League schools, Carr attended the small and relatively new Commercial College of Kentucky University, graduating at age eighteen in 1889. The very next year, after seeing a newspaper advertisement, he travelled to Oswego, New York in order to take classes in stenography and typewriting at Professor W.G. Chaffee's Phonographic Institute. According to a journal devoted to only phonography, the unnamed writer declared the graduates of this institute "are recognized everywhere for their efficiency," a quality that would serve him well and something that he sought out in others.⁷¹ By 1892, Carr entered the civil service as a stenographer in the State Department. Though others typically relied on family or political connections to get such a position, Carr lacked both. He owed both his start and continued success to his raw talent, dedication, and job performance. Carr's path into the department and his trajectory up through its ranks exemplified the very definition of meritocracy and professionalism Root wanted to instill into America's modern consular service. Throughout his forty-seven years in the department, Carr served ten different presidents and seventeen different secretaries of state, culminating with his eventual appointment as assistant secretary of state. While in the State Department, his efforts to reform the system earned him a reputation among his contemporaries as the "father of the Foreign Service."⁷²

⁷¹ Andrew Jackson Graham, "The Chaffeeites," *Student's Journal* 34, no. 12 (Dec. 1905): 13.

⁷² Elmer Plischke, *U.S. Department of State: A Reference History* (Westport, CT: Greenwood Press, 1999), 314; Roy M. Melbourne. *Conflict and Crises: A Foreign Service Story* (Lanham, MD: University Press of America, Inc., 1997), 18.

Despite his modest beginnings, Carr spent his career in the State Department, attempting to reform it from the inside out. For his ten years of dedicated service, former Secretary of State John Hay appointed Carr as chief of the Consular Bureau on February 1, 1902. Just shy of his thirtieth birthday, Carr realized the growing importance of the consular service as America and its economy expanded its presence in the wider world. Carr's biographer, Katharine Crane, described this period as a time that "the body politic was bound up with the efficiency of consular management."⁷³ Such support provided him with the "practical basis for support" for reform of the service.⁷⁴ A staunch advocate of scientific management, Carr envisioned the government as a complex and interrelated machine. As such, his job consisted of making the consular service, at the very least, "run smoothly."⁷⁵ Within his department, Carr looked toward a future in which it "played a more active role in areas affecting its own interests."⁷⁶ To him, the expansion of the economy elevated the importance of the department, necessitating the professionalization of its staff. He remained cautiously optimistic that he could affect such a change or shift in the consul, despite a long track record of seemingly endless congressional defeats in the past. He retained an optimistic attitude, believing that "if you gain an inch a day, at

⁷³ Katharine Elizabeth Crane, *Mr. Carr of State: Forty-Seven Years in the Department of State* (New York: St. Martin's Press, 1960), 68.

⁷⁴ *Ibid.*

⁷⁵ Heirichs, "Bureaucracy And Professionalism In The Development of Career Diplomacy," 133.

⁷⁶ Becker, *The Dynamics of Business Government Relations: Industry and Exports*, 100.

year's end you will have gained 365 inches."⁷⁷ As Root's right hand man and fellow reformer at the State Department, Carr demonstrated a dogged determination in the way he approached Congress.

Carr carefully avoided falling into old political traps and applied what he learned from his predecessors. Despite witnessing a multitude of consular reform efforts fall flat or fizzle out, he gained valuable insights into the importance of patience, timing, and tact. He correctly surmised that any full-scale assault on the patronage system threatened to draw the ire of those he ultimately needed to change it, the Congress. Instead, Carr viewed any attempts at overcoming such a corrupted system required change "only by degrees."⁷⁸ This approach required the incorporation of incremental changes over time in order to affect wholesale systemic reform. With Root as the head of the department, Carr found a common cause, a belief in similar methodology, and shared goals. Both men embraced the concepts of efficiency, scientific management, and nonpartisan expertise, all emblematic of the progressive movement. With a fellow progressive-minded reformer like Carr by his side, Root possessed an important ally in his consular reform effort.

Upon his return to Washington in September of 1905, Root devoted himself to understanding the inner workings of the consular service. In much the same spirit he had prepared for legal cases, he worked day and night, alongside Carr and other supporters of consular reform, building a virtual database of information about the consular corps.⁷⁹

⁷⁷ J. Robert Moskin, *American Statecraft: The Story of the U.S. Foreign Service* (New York: St. Martin's Press, 2013), 234.

⁷⁸ Crane, *Mr. Carr of State*, 69.

⁷⁹ Richard Hume Werking, *The Master Architects: Building the United States Foreign Service* (Lexington: University of Kentucky Press, 1977), 93.

Leaders within the consular reform movement, such as Gaillard Hunt, briefed Root on the major history of the reform effort, its successes and its pitfalls. Hunt, a disillusioned former officer, played a key role in building up support for reform between the National Civil Service League and business organizations such as the Chamber of Commerce in several key cities such as Boston, Cleveland, New York City, and Philadelphia.⁸⁰

Additionally, Hunt co-wrote the previous 1894 reform bill, which he hoped lessened the ability of politicians to influence appointment selections whom, according to him, “always regarded them as their personal property to give away to their henchmen and friends.”⁸¹ However, Hunt lamented that the 1894 bill failed to achieve its overall goal of cleaning up the civil service. Despite its failure to do away with the “spoils system” completely, Hunt’s contribution provided a foundation that Root later built his 1906 reform effort. Aside from Hunt, Root consulted the advice of still more proponents of change.

Reformers inside the State Department, along with those in outside “reform agenda” organizations, formulated a strategy for moving forward with their collective efforts at fixing the consular service. Fellow New Yorker and reform advocate Ansley Wilcox provided Root with copies of previous congressional bill proposals for consular reorganization as written by himself and fellow reformers, Harry Garfield and George McAneny. Wilcox, a close friend to both Roosevelt and Root, chaired the Committee on Consular Reform within the rather large organization called National Civil Service

⁸⁰ Moskin, *American Statecraft*, 218-19.

⁸¹ Gaillard Hunt, "Reform In The Consular Service," *The Independent* 51, no. 2 (Oct. 26, 1899): 2881.

Reform League. Garfield, a prominent Cleveland lawyer, the son of the former president, and a leader of the Cleveland Chamber of Commerce, chaired the National Committee on Consular Reorganization and previously dedicated his efforts to “promoting efficiency in municipal government.”⁸² He quickly provided Root with the membership list of his organization. This quickly extended the number of reformist allies and supporters Root had to aid in his efforts. Created in 1901, the National Committee on Consular Reorganization met with the purpose of representing “interests of nearly all the chambers of commerce and similar commercial bodies throughout the country.”⁸³ McAneny, who served as a former secretary of National Civil Service Reform League, epitomized the progressive civil reformer, devoting “his career to the principled application of efficiency, rationality, and fairness in public affairs.”⁸⁴ These men provided Root and Carr with a wealth of knowledge and experience regarding the movement, the views of their organizations, and the broad aims they hoped to accomplish.

The previous draft proposals to Congress sketched a rough outline of what Root and Carr’s bill needed to contain. On the other side, these drafts spoke volumes as to what aspects of the reform encountered the strongest push back from Congress. These men realized they needed to make their proposal more palatable to a Congress, who in past, remained staunchly entrenched against any meaningful change to the status quo. With a clearer picture of what the consular reform movement had been and where it

⁸² Becker, *The Dynamics of Business Government Relations*, 98.

⁸³ James Gustavus Whiteley, "Ambassadors of Trade," *The Forum* 33, (Mar. –Jun. 1902): 86.

⁸⁴ Randall Mason, *The Once and Future New York: Historic Preservation and the Modern City* (Minneapolis: University of Minnesota Press, 2009), 105.

needed to go, Root and Carr quickly moved toward action. Though instituting large-scale change required the outside assistance of Congress and the president, Root first instituted a number of in-house changes within the State Department.

As head of the department, Root possessed the power to make some changes to the consular service framework on his own. In order to better streamline consular performance and alleviate outside criticism of the department, Root instituted performance evaluations of his employees, starting in October of 1905. Following his guidelines, the consular service compiled and reviewed a “record of efficiency” on each officer, grading the “ability of the officer, his promptness, diligence and general conduct and fitness” each year.⁸⁵ According to new guidelines, the department appraised each consular official “judged according to the degree of ability, painstaking, discrimination, knowledge, and interest in the subject exhibited by him.”⁸⁶ Carr and Root focused much of the process on the value, accuracy, and depth of the trade reports published by consuls. Such a system, based on job performance, established a baseline for Roosevelt, Root, and Carr to make objective judgments regarding promotion up through the service to better paying jobs within the department. Root enlisted the help of the newly established Department of Commerce and Labor, along with the Bureau of Trade Relations, to provide sufficient information relevant to employee performance that could then be placed in departmental efficiency records. This transition toward efficiency credentialing showed for all to see, that Root’s State Department demanded more from their consular

⁸⁵ Wilbur J. Carr, "The American Consular Service," *American Journal of International Law* 1, no. 4 (Oct. 1907): 911.

⁸⁶ Werking, *The Master Architects*, 94.

appointments than the bare minimum. For Wilbur Carr, consular officials who “merely exhibit a clean record free from criticisms and complaints,” fell woefully short of their potential and the department’s expectations of them.⁸⁷ On its own, these changes created by Root and Carr represented a start to the reform process. For true reform, at the depth they desired, both men remained painfully aware that it required the assistance and approval of both the executive and legislative branches.

After initiating changes within the confines his department, Root then enlisted the help of President Roosevelt in his endeavor to reorganize the consul. Dating back to his days as police commissioner in New York City, Roosevelt long supported efforts at reforming the civil service and cleaning up government. In an article from the period, he denounced patronage or the spoils system as a “wholly and unmixedly evil” designed “primarily for partisan (sic) plunder,” going so far to call it “emphatically un-American and un-democratic” and “so potent a force for degradation in our public lives.”⁸⁸ So, no doubt, the president detested the status quo regarding appointments and desired a dramatic shift in the way in which it was done. So with president’s full confidence, Root drafted several executive orders that Roosevelt then issued on November 10, 1905. The first of these, Executive Order 367, reauthorized President Grover Cleveland’s previous 1895 order for a merit-based appointment process for consulships that paid \$1000 or

⁸⁷ Carr, "The American Consular Service," 912. Unlike some of the complaints about the use of Taylorism at the industrial level, Root and Carr’s model focused on using a record to justify continued service or advancement, not as a cost control device or to take power out of the hands of consular officials. If anything, the measure attempted to be a moral gatekeeper or guard of the public interest in regard to public officials.

⁸⁸ Theodore Roosevelt, "Lest We Forget: The Merit System In Government Appointments," *Cosmopolitan* 37, (1904, May 1): 70.

more in salary. Additionally, Root added to the order that new consular candidates, those at the junior level, be selected either by a written and oral examination process. So with the exception of ministers and ambassadors, Root's order now required all diplomatic and consular positions to take competitive examinations for entry and gain promotion through a merit-based system.

Now that these positions required competitive testing to enter, Root pressed for entrance exams to focus on testing for the skills necessary to do the job effectively. Upon his entry to the office, he found the quality of examinations given under previous administrations to be abhorrent. In November of 1905, Root wrote to Roosevelt that on a scale of ten, "a man who rates a seven is passed." He then exclaimed, "It has evidently come to be regarded as cruel and inhuman punishment not to pass a man. In view of the character of the examination," he continued, "a rejection would practically be an imputation of idiocy."⁸⁹ Upon the issuance of the president's order, Root created an examining board, which consisted of an assistant secretary of state, an officer from the Civil Service Commission, and the head of the consular bureau. He charged this three-man board with determining each candidate's qualifications and strengthening the examination process.⁹⁰ All candidates responded to questions dealing with international law, diplomatic usage, and modern languages. To be considered for a position, the order required the candidate have knowledge of at least one foreign language. Ideally, Root and his examiners desired the candidate have a mastery of the native language that corresponded to the country of appointment. At the very least, they demanded proficiency

⁸⁹ Root to Theodore Roosevelt, November 29, 1905, Root Papers.

⁹⁰ Moskin, *American Statecraft*, 233; Jessup, *Elihu Root*, vol. 2, 104.

in the international language of law, French. These changes provided clear evidence of a new dynamic in the selection process.

Instead of patronage as primary qualifier for the position, the board selected candidates based on a number of key indicators that hopefully reflected future job performance. On the same day, Roosevelt also instituted Executive Order 368, an order written by Root. This order required new legation or embassy candidates to either pass the same type of examination or apply for departmental transfer if found to be qualified for the position. The president's desire for reform, along with his secretary's ability at reorganizing procedure, laid the foundation for deeper changes to come. Collectively, these orders moved the reform process forward, providing an immediate change in departmental policy and procedure. The actions of the president, at the behest of Root, provided the necessary space for the professionalization of the consular system.

Though changes in procedure represented a significant victory, Root understood that there needed to be a change in the culture surrounding political patronage. In order to accomplish his task, he needed the support of a much larger and often very partisan group. Reform of the consular service, on this scale, required the assent of Congress. A few years earlier at a meeting of the National Civil Service Reform League William Corwine, a member of the Merchant's Association of New York, argued that earlier politicians who attempted to reform the consular service did so "from the wrong end," making their efforts "doomed to failure." He urged that the "axe must be put at the root of the evil," allowing reformers to strike a "combined blow" at consular corruption and

inefficiency.⁹¹ For Corwine and other reformers, cosmetic changes from the top failed to rectify deeper structural problems.

Reform-minded leaders and organizations, those most cognizant of the systemic nature of these problems, recognized that success lay in the ability to restructure the process from the ground up, while reformulating how politicians and the public viewed these positions and their importance. Within the appointment process, the political considerations of the executive and legislature needed to be completely divorced from the consular service. Corwine underscored this point when he said in that same speech, “A wedge has been thrust into it.” He told the crowd, “let us drive it clear through.”⁹² If Root wanted to reform the service, he understood such an endeavor required facing opposition from those politicians who thrived off of using patronage as a political tool. In October of 1905, Root admitted in a letter to his friend, Henry Cabot Lodge, that reorganization “is going to take money, and it is going to take affirmative legislation.”⁹³ Massive reform of the consular service required the backing and ultimate approval of Congress.

The Lodge Act and Congressional Resistance

In previous administrations, the relationship between Congress and State Department leaders fluctuated from cool to contemptible. Wilbur Carr described the relationship of Root’s direct predecessor, John Hay, with Congress as “dismal,” while another official labeled their interactions “in no humorous sense of the word, foreign

⁹¹ Corwine, “Consular Service Reform,” 68.

⁹² Ibid.

⁹³ Root to Henry Cabot Lodge, October 25, 1905, Root Papers; Becker, *The Dynamic of Business Government Relations*, 100; Werking, *The Master Architects*, 94.

relations.”⁹⁴ In fact, Hay flatly refused to meet with congressional committees or reach out for broad congressional support. His attitude drew a great deal of ire from congressional leaders who often viewed themselves as his political gatekeepers. Additionally in his last few years of service, Hay’s health continued to deteriorate, causing him to be regularly absent from his post. Several of historians conclude that despite his physical ailments, Hay either lacked the interest, administrative talent, or ability to reform the service.⁹⁵ During his time as head of the War Department, Root honed his congressional “politicking” skills, building steady, bipartisan rapport with the majority of congressmen. He desperately needed to persuade Congress to finally act decisively on consular reform, an issue it seemed content to skirt for well over two decades or more.

Secretary Root utilized a number of subtle and not-so-subtle methods to push Congress toward the support of consular reform. To raise an initial public outcry, State Department officials openly admitted in newspaper interviews and letters to the editor that “some undesirable men get into the Service,” causing a considerable source of “humiliation and discomfort” to fellow Americans they serve abroad.⁹⁶ Just as he mobilized congressional support for the military reorganization, Root reached out to major magazine and newspaper editors to provide the necessary pressure. He sent letters explaining the bill and asking for their support, if they, in fact, favored it. He hoped the

⁹⁴ Werking, *The Master Architects*, 90-1.

⁹⁵ Crane, *Mr. Carr of State*, 74; Ilchman, *Professional Diplomacy in the United States*, 81; Kennedy, *The American Consul*, 217; Werking, 91.

⁹⁶ Loomis, "The Proposed Reorganization of The American Consular Service," 362.

influence of these journalists could be harnessed to sway both the public and politicians toward supporting his reform efforts. Far from accidental, such admissions represented a calculated effort to focus public pressure on consular reform and the need for the national legislature to act.

Additionally, Root borrowed some of his tactics against Congress from his fellow reformers such as Gaillard Hunt and Harry Garfield. In early December 1905, he sent a copy of the Lodge Act, along with a plea for its support, to commercial and reform groups across the country. Such an action, he hoped, forced legislators to reconsider their position under the political weight of these interest groups. In fact, Root and Lodge even encouraged leaders and reformers to organize a national convention in the nation's capital, while Congress scheduled debates over the Lodge's bill in the early spring of 1906.⁹⁷ Elias S. A. de Lima, William McCarroll, Charles Schieren, Oscar Straus, Charles Moore, and Henry Peabody organized what became known as the National Consular Reform Convention on March 14, 1906.⁹⁸ Business heads, reform organizers, and political leaders from across the nation gathered to lend their voice to the cause.

⁹⁷ Becker, *The Dynamic of Business Government Relations*, 101.

⁹⁸ Elias S.A. de Lima was a well-known name in the New York business and Republican political circles such as the New York Board of Trade and Transportation. Additionally, he ran companies with an interest in Latin American trade and several banks such as the Hungarian Bank and the *Banco Mexicano de Comercio e Industria*. William Carroll was the president of the New York based American Leather Company. Charles Schieren, who came to New York City from Prussia at the age of fourteen, ran a leather belt trading firm, established the Hide and Leather Bank, and served as Republican mayor in Brooklyn. Prior to his becoming Secretary of Commerce and Labor, Oscar S. Straus, practiced as a lawyer while helping his father in the family's glass manufacture and importation business in New York. Charles A. Moore, yet another New York Republican and successful businessman, headed the American Protective Tariff League from 1901 to 1909. Henry W. Peabody, a successful Massachusetts merchant started his import-export company in 1867. Root knew most of these men and travelled in many of the same circles

Although Root, Carr, and their reform minded allies primarily called on the business community in their efforts to reform and professionalize the service. No doubt the actions of the State Department indirectly assisted business interests in its effort to expand trade. Without the support of the business community, Root's efforts lacked sufficient public interest, along with the necessary political pressure, to get Congress to do the right thing. This combination, in no way, held one group was beholden to the other. Instead, Root's reformers and the business community came together to press their disparate ends in the same direction.⁹⁹ In a word, the specific discussion of consular reforms bored average Americans not intimately tied with international business or affairs, despite a growing interest in those fields since the beginning of the twentieth century. Though convention attendees represented numerous of business interests, Root urged them to focus singularly on consular reforms, something he considered of "immediate and vital importance."¹⁰⁰ As a result, Root scheduled some of the most powerful, and well-liked politicians in Washington to attend the convention for the sole purpose of winning over the crowd. Secretary of Commerce and Labor Oscar Strauss, Secretary of War Howard Taft, and President Roosevelt each presented speeches to the gathered, reinforcing the necessity of congressional action.

both politically and socially.

⁹⁹ Becker, *The Dynamic of Business Government Relations*, 97. Becker explains the "motives of these men, like those of most people, were complex." He goes on to explain the combination of "a fortuitous mix of self-interest with the broader needs of their institutions and the business community." He ends by noting that to "make the department more professional, and less the plaything of patronage and politics, they needed the support of the business community."

¹⁰⁰ "Consular Reforms, Pleas Indorsed by Roosevelt," *The Chicago Tribune*, March 15, 1906.

In his speech on March 14, 1906, Roosevelt utilized the weight of his “bully pulpit” to help Root’s agenda gain the critical mass it needed to force the legislators’ hand on the issue. President Roosevelt emphasized the need for appointments to the service to be “as far as possible nonpartisan.”¹⁰¹ Most of the attendees supported the president’s call for an apolitical consular service that judged personnel for job performance rather than their party affiliation. Additionally, he underscored the transformative power of the Lodge proposal. Though the merit system started at lower level positions, the move effectively created a new set of values within the consular service. These men entered as new appointees based on merit and any vertical movement within the department depended on a proven track record of efficiency and dedication. The president alluded to this when he declared if new appointments performed their duties well, “they will have a long and worthy career ahead of them.”¹⁰² Such a view reflected this new relationship with the old notions of the “protestant work ethic,” blended with the new progressive ideas of Taylor’s “scientific management.” Under this set of ideals, a person’s work, and their commitment to it, took on moralistic overtones as it did many progressive causes of the period. Accordingly, Roosevelt and for that matter Root, accepted the Taylorite maxim that “hard work yields morality and well-being.”¹⁰³ In this way, Taylorite and progressive ideas influenced each other in a way described as

¹⁰¹ “Consular Reforms, Pleas Indorsed by Roosevelt,” March 15, 1906.

¹⁰² Ibid.

¹⁰³ Samuel Haber, *Efficiency and Uplift: Scientific Management in the Progressive Era, 1890-1920* (Chicago: University of Chicago, 1964), 20.

“important, long-lasting, and . . . still with us.”¹⁰⁴ Responding to Root and Roosevelt’s efforts, the convention adopted an official response that demanded the “consular service be placed on a higher plane which comports with the dignity and the increasing need of the country.”¹⁰⁵ One journal, *Dun’s Review*, described the convention and the speeches given as “largely instrumental in focusing public attention upon the importance of consular reorganization.”¹⁰⁶ Root and Roosevelt’s participation in and use of the convention as a way to drum up support for the Lodge Act displayed their dedication to consular reform despite congressional resistance and apathy.

Congress finally passed the Consular Reorganization Act in April of 1906, though Root viewed the results as decidedly mixed. The bill approved by Congress failed to fully embrace the merit system and competitive examinations, which Root believed to be the heart of the bill. He wrote to his good friend Seth Low on Christmas Eve, just months before, that the entire purpose of the reform effort was in “trying to create a new system under which there will be permanent careers by insisting upon promotions of the men who show that they have good stuff in them.”¹⁰⁷ Even with the legislative weaknesses of the Lodge Act in its final form, all was not lost.

¹⁰⁴ Haber, *Efficiency and Uplift: Scientific Management in the Progressive Era, 1890-1920*, 20.

¹⁰⁵ “Consular Reforms, Pleas Indorsed by Roosevelt,” *The Chicago Tribune*, March 15, 1906.

¹⁰⁶ “Broader Markets for American Goods.” *Dun’s Review: A Journal for the Promotion of International Trade, International Edition* 8:6, (Feb. 1907), 19.

¹⁰⁷ Root to Seth Low, December 24, 1906, Root Papers.

The emasculated version of the Lodge Act still contained a number of progressive accomplishments. Congress established a fixed and better salary for consular officials rather than basing incomes on fee or commission. Since the establishment of the Consular Service, American officials abroad operated on a fee system for a number of services to businesses and business leaders, from preparing trade reports to providing legal services to lobbying foreign leaders on their behalf. Thanks to a real lack of oversight and failed accountability back in Washington, the fees simply went beyond reasonable payments for services rendered and instead began to resemble the more familiar bribe. This type of “fee system” bribery represented something that everyday Americans in large cities understood and despised.

During the progressive period at home, progressive reformers faced off against a similar style “fee system” in a number of occupations, leading to what one observer called the “easy going means of legalized public graft.”¹⁰⁸ Nowhere was “fee system” corruption so engrained, engulfed, and in your face than in public service and public office. Many of low level bureaucrats and city administrators, themselves members of corrupt political machines in large metropolitan counties, pocketed exorbitant fees for sometimes-bogus fines and city services never rendered. Other occupations, including judges, policemen, and firemen, often operated under this highly suspect system. Too often officials focused on this “customer-seller” relationship as more important than the

¹⁰⁸ John A. Lapp, "Uniform Public Accounting And State Supervision of Accounts," *American Political Science Association* 3, no. 2 (May 1909): 208.

voices and demands outside of these paid relationships.¹⁰⁹ If citizens failed to pay the necessary “fees,” they often found their legal problems ignored, calls for justice unheard, and their houses consumed by flames. In many urban cities, like Chicago and New York City, elite lawyers rose up as the most vocal critics of the fee system. Such a sentiment arrived out of the lawyers’ desire to professionalize their own occupation. They looked to create a “credentialed social order “steeped in standardization, efficiency, and discipline.”¹¹⁰ “Salarization,” as one author called it, broke the bonds of exclusivity apparent within the “customer-seller” view of government services by providing “the diversity and rivalry of interests that came to dominate modern political life.”¹¹¹ Thus, good government reformers, especially lawyers like Root, embraced this new salary system and with it, the spirit of professionalizing public service. They believed that these practices dissuaded corruption and instability by embracing the scientific values of objectivity, neutrality, and efficiency.

In the particular case of the Lodge Act, Root’s legislation prevented members of the consular service from conducting their duties under the fee system. Instead, the new legislation established a salary system for consular officials. The new law required that once consular officials collected any fees or money, they then became the express property of the US government, subject to audit and investigation. Additionally, the

¹⁰⁹ For a larger discussion on the evolving meaning of corruption and ways the government has attempted to combat corruption throughout much of US history, see Nicholas R. Parrillo. *Against the Profit Motive: The Salary Revolution in American Government, 1780-1940* (New Haven, CT: Yale University Press, 2013).

¹¹⁰ Michael Willrich, *City of Courts: Socializing Criminal Justice in Progressive Era Chicago* (London: Cambridge University Press, 2003), 19.

¹¹¹ Parrillo, *Against the Profit Motive*, 126.

Lodge Act hopefully eliminated any monetary temptation toward corruption.¹¹² Under the new salary system, consul generals earned from \$3,000 to \$12,000 yearly, while consuls earned from \$2,000 to \$8,000 a year, depending on their classification level. Also of importance, the new law forbade any consular officers earning over \$1,000 from engaging in either legal or business practices in addition to their official duties. By comparison, these new salary ranges exceedingly outpaced the average yearly income of most Americans. For example, the average yearly income for a family of four in the United States, in the early 1900s, hovered well below eight hundred dollars, with a cost of living that amounted to almost seven hundred dollars a year.¹¹³ Additionally, the ample salary, it was hoped, drew better candidates given the new professional nature and expectations of their position. To be clear, the introduction of a fixed salary failed to completely democratize the consular system, as its candidates still came from well-to-do families. As one might expect, these types of appointees still gained disproportionate access to higher institutions of learning. However, Root never intended this as a desired outcome of his reforms. He envisioned a shift away from patronage toward a person's

¹¹² John Ball Osborne, "The Reorganized American Consular Service As An Aid To Foreign Buyers," *The American Exporter* 60, no. 3 (Sept. 1907): 90. In this State Department published trade journal article the author states, "The new salaries, which were fixed on the basis of official income from former salaries and unofficial fees combined, are reasonably adequate, thus removing a just cause of complaint against the old service."

¹¹³ Josiah Strong, ed., *Social Progress: An International Year Book of Economic, Industrial, Social, and Religious Statistics, 1906* (New York: Baker And Taylor Company, 1906), 149. According to Strong's figures, an average family of four or five members earned \$751.34 annually with annual expenditures that accounted for \$689.61. of these expenses almost seventy percent fell into three categories: food (42.5%), clothing (14%), and rent (12.9%). In the yearbook, he divided these categories by region. In order to gain a national picture of wages, the regional statistics were averaged.

ability as the deciding factor for appointment. Said another way, he wanted to transform consular appointees from glad-handing goofs to egg-headed experts.

Additionally, legislators included within the finalized Lodge Act the creation of a formalized consular inspection corps. Per Carr's recommendations, Root approved a five-man inspection corps, headed by George H. Murphy, a veteran civil servant since 1886. The remaining inspectors, Fleming Cheshire, Charles Dickinson, Robert Chilton, Jr., and Richard Bartelman, also worked within the consul for many years and showed great abilities throughout their respective tenures. In the past, State Department officials ordered inspections, such as those described earlier in the chapter, but they lacked any regularity in who led them and when they occurred. Under the old system, years could pass between inspection visits while certain posts in more remote areas received none at all. With the new legal statute, congressional authority obligated the inspection team to inspect the activities of all consulates at least once every two years. In order to accomplish the task of inspecting over two hundred consular agencies, the aforementioned inspectors constantly traveled from consul to consul, remaining on the move.¹¹⁴ Beyond just visiting the consular post, these inspectors carried out important duties.

For Root and Carr, these inspectors performed two very necessary functions. First, the inspectors proactively sought out deficiencies and corrected errors during their consular visit. Previously, department officials only called for consul inspections once a

¹¹⁴ Kennedy, *The American Consul*, 222. By 1910, the Consular Service employed sixty-three consulates general, two hundred forty-one consulates, and two hundred sixty-two agencies.

consul's "conduct had become a matter of public scandal" in and around his post.¹¹⁵ They hoped to dissuade such behaviors by scheduling these routine visits and looking over the performance of consular officials via their efficiency record. In order to further root out corruption, the new legislation provided any of the inspectors with the ability to suspend any consul on the spot. However, the inspectors lacked the ability to replace those men appointed prior to the 1906 reform. Instead, they often shifted incompetent men to posts of less importance and moved up more efficient, qualified men, under the new merit system, to more important consulates. After this, the inspector ran the consul until suitable replacements could be found using the new merit system.

Secondly, consular inspectors carried what one official referred to as a "spirit of service" from one consul post to the other, reinforcing the importance of the work they conducted.¹¹⁶ When inspectors witnessed any actions that promoted more efficiency in the way officials did their job, they passed it on to other consul posts in the hopes of creating what amounted to best practices within the department. Such practices encouraged workplace discipline, established uniformity in the treatment of consular officials, focused on the standardization of process, and set expectations of efficiency and progress; all the progressive hallmarks of scientific management. Where Congress failed to act, Root and Carr placed these two definitively progressive ideas front and center.

¹¹⁵ Osborne, "The Reorganized American Consular Service As An Aid To Foreign Buyers," 90.

¹¹⁶ Crane, *Mr. Carr of State*, 93.

Reorganization by Executive Order

Despite these improvements over the old system, the Senate cut out key measures within the originally proposed Consular Reorganization Act. To counter these setbacks, Root worked with Carr to develop an executive order to place the consular service “on the civil service plan and removing it from politics.”¹¹⁷ Root amended part of the draft order regarding the tenure of consular officials. He emphasized that when it came to tenure of consular officials, “the burden of proof that a man ought not be retained should not be thrown upon the Department.”¹¹⁸ Additionally, both men agreed not to add a stipulation requiring a diploma from a secondary school for fear that “many of our ablest men were not college graduates.”¹¹⁹ After tidying up the final draft of the order, Root instructed Carr to deliver the draft order to President Roosevelt on June 25, 1906.

Two days later, on June 27, Roosevelt signed Executive Order 469 without any additional changes to or concerns about the draft. In justifying his order, the president jokingly explained that since Congress “omitted” significant portions of the Lodge Bill, he felt “obliged to provide rules by ‘executive usurpation.’”¹²⁰ The finalized order purposefully intermingled concepts of civil service reform within this newly reorganized consular service. Root filled in the gaps left by the Senate’s version of the bill. He standardized the policies regarding promotion by merit and civil service. The order implemented merit-based promotions according to newly created classification levels,

¹¹⁷ Crane, *Mr. Carr of State*, 97.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*, 97.

¹²⁰ *Ibid.*, 122.

examinations, and efficiency records of service within the consular service.¹²¹ Under the new requirements, candidates needed to pass their exam and interview by the examination board before they merited any consideration by the president. For those in the department hoping for promotion, the president relied on the neutrality of efficiency records, along with documentation relating to the individual's character and performance, not political leanings or alliances with congressmen. The president no longer thoroughly vetted each man or received unannounced visits from potential candidates as was done in the past, though he still retained final say. This transition signaled the shift of the appointment process from political to bureaucratic. Carr referred to the order as the "beginning of a new era" for the Foreign Service."¹²² With these measures in place, Carr along with his top officials in the Consular Service, acted as the agent for the president regarding consular appointments.

Despite the reorganization of the service, Root still worried about possible reversals to this policy by future administrations. Although he tossed around the possibility of another president rescinding the executive orders, he remained confident that progress toward even larger reforms still marched onward. Root confided to his friend Seth Low, "The Lord only knows what will happen My impression is that while there might be some setbacks, the change in the method of dealing with the foreign service in the country will, in the main, continue and become more firmly established."¹²³

¹²¹ In passing the Lodge Bill, Congress approved of Root's desire for a classification system for consular positions.

¹²² Carr, "The American Consular Service," 912.

¹²³ Root to Seth Low, December 24, 1906, Root Papers.

The secretary planned to apply this same non-political, professionalized approach to areas beyond merely the Consular Service. He envisioned the professionalization of the entire diplomatic corps, which included higher positions such as legation or embassy secretaries. Even the president noticed, “the whole system is new & there was much to be done.”¹²⁴ To this end, both Root and Carr continually attempted to head off any undue partisan political challenges to this new and fragile diplomatic shift.

In his appraisal of the Consular Service in 1906, Root noticed a glaring and deeply political deficiency. Throughout the entire group, which consisted of two hundred seventy-four at the time, only nine consular officials hailed from Southern states.¹²⁵ Observers attributed such skewed numbers to the Republican Party’s control of the federal political machinery, from Congress to the White House, for much of the period following the Civil War. The difference in numbers widened the rift between the two sections of the nation, along with their respective political parties, and further ingrained consular appointments as part of the congressional patronage arsenal. Following the 1896 elections, Republicans took back control of both branches, which further increased the representation imbalance from the North. As an example, only one consular official represented the Commonwealth of Virginia, while Senator Lodge’s Massachusetts accounted for sixteen consular appointments. Such slanted numbers failed to adequately represent regions throughout the country, making for yet another divisive political issue.

To address the inequality in consular representation, Root instructed Carr to search out recruits for appointment, giving preference to Southerners. Root suspected this

¹²⁴ Crane, *Mr. Carr of State*, 103.

¹²⁵ Kennedy, *The American Consul*, 220.

unofficial policy of deference aided his ability to garner Southern support for the new merit system, while increasing the likelihood of Southern Democrats in backing further civil service reforms. Regardless of any regional preference in recruitment, all potential appointees confronted the same qualification and examination process under Root's new system. Additionally, Root and Carr toughened the examination process, focusing on "what a consul would need to know to go about his business, not how well he had been educated."¹²⁶ So they attempted to balance representation without compromising on quality, laying the groundwork for an equality of opportunity in the office. Over time, Carr, under Root's direction, effectively addressed the previous imbalances in recruitment. By 1911, Southerners constituted right at half of the recruits, thirty-one of the sixty-three, in the consular service. So regardless of region or political affiliation, Secretary Root established the foundations of a professionalized bureaucracy based on skill, knowledge, and merit.

Conclusion

Though he failed to see this enlargement of reform during remainder of his tenure, Root planted the seeds of civil service reform, allowing future reformers to reap the benefits of this strong foundation. The Taft administration applied Root's professionalization to higher positions within the consulate and with a 1909 executive order expanded some of those features to diplomatic service. Promoted first to chief clerk in 1907 and then director of the Consular Service in 1909, Carr continued to adjust department policies in order to promote scientific management, administrative efficiency,

¹²⁶ Kennedy, *The American Consul*, 221.

and meritocracy “as near to perfection as possible.”¹²⁷ In his first meeting with Carr since the executive order, Roosevelt congratulated him on the “ability and efficiency with which you have done this work.”¹²⁸ In the years following the Root reforms, one observer highlighted that the “efficiency and practical usefulness of the Consular Service have both increased.”¹²⁹ With the election of Woodrow Wilson in 1912, Root’s reform legacy momentarily looked troubled. Carr and others feared a return to patronage under newly elected Democratic rule. As much as Wilson and other Democratic leaders may have wanted to revert to the “spoils system,” the infrastructure put in place by Root and Carr had been in place for six years, becoming the new status quo.¹³⁰ Despite the change in administration, the mindset of the department remained fervently in support of an apolitical, merit-based, professional bureaucracy. In fact, Congress eventually passed the Rogers Act in 1924. The act combined the consular and diplomatic services into one department and established uniform processes for appointments and promotions. Both aspects of the law bore the historical fingerprint of Root’s earlier reforms. The law encapsulated the changes Root wanted, but failed to achieve while secretary of state. Unfortunately for him, other diplomatic issues struggled for his attention. More importantly, he lacked any real ability to instantly transform the congressional “spoils”

¹²⁷ Heirichs, "Bureaucracy And Professionalism In The Development of Career Diplomacy," 133.

¹²⁸ Crane, *Mr. Carr of State*, 103.

¹²⁹ David Scott Hanchett, "The Consular Service of The United States: Its History, Commercial Functions, And Influence Upon American Commerce," in *History of Domestic and Foreign Commerce of the United States*, ed. Emory Johnson (Washington, DC: Press of Gibson Brothers, Inc., 1915), 294.

¹³⁰ Crane, *Mr. Carr of State*, 103.

mindset, something firmly rooted arguably since 1789. While these appointments accounted for less than three hundred positions at varying levels of importance, members of Congress viewed the process as yet another way of wielding political power in order to build their own power base at the state level.

A newspaper interview in 1912 well illustrated the new professionalism that developed within the consular service as the result of Root's reform efforts. George H. Murphy, head of the consular inspection corps, arrived in El Paso after inspecting consular posts in west Mexican states of Baja California, Sonora, and Sinaloa. Murphy's visit to Mexico coincided with his larger inspection tour of US consuls throughout Latin America. In an interview, a reporter asked about damage claims arising out of the ongoing Mexican Revolution. He responded to the reporter quite frankly, "No politics please. Our service is out of politics."¹³¹

Despite Root's successful efforts at depoliticizing the consular service, the selection of ambassadors continued to be based on the spoils system rather than meritocracy. Though the Rogers Act professionalized the Foreign Service, it failed to prevent political appointees from gaining entry. Even in 2014, the Obama Administration faced stiff criticism for rewarding political donors with high office over more qualified choices. An ambassadorial nominee to Norway, George Tsunis, admitted he had never visited the country and referred to that government's ruling party as "extremist." In another case, an administration supporter, Noah Bryson Mamet, slated for a position in Argentina, admitted he had never been there and lacked the ability to speak fluent Spanish. Most amazingly, Colleen Bell argued her qualifications for an appointment to

¹³¹ "Consular General On Visit To Mexico," *El Paso Herald*, January 8, 1912.

Hungary citing a “product” she helped develop to more than 100 countries. The “product” she developed—the longtime soap opera *The Bold and the Beautiful*.¹³² According to the *Washington Post*, presidents for the past several decades have followed the “70/30 rule.” They awarded 70 percent of their appointments to career foreign service officers, while reserving the remaining 30 percent for political supporters.¹³³ More than one hundred years after Root’s reforms of the consular service, a great deal remains to be done.

¹³² Doug Mataconis, “Is Obama favoring donor in ambassador appointments? That’s nothing new,” *Christian Science Monitor*, December 3, 2014.

¹³³ Juliet Eilperin, “Obama ambassador nominees prompt uproar with bungled answers, lack of ties,” *The Washington Post*, February 14, 2014.

CHAPTER VI

ORDER, PEACE, AND GOODWILL: ROOT'S PROGRESSIVE DIPLOMACY, 1905-1909

“Our democracy has assumed a great duty and asserts a mighty power. I have hoped that all diplomacy would be made better, purer, nobler, placed on a higher plane, because America was a democracy. I believe it has been; I believe that during all our history the right-thinking, the peace-loving, the justice-loving people of America have sweetened and ennobled and elevated the intercourse of nations with each other; and I believe that now is a great opportunity for another step forward in that beneficent and noble purpose for civilization . . . It is the conduct of our own nation in conformity with the highest principles of ethics and the highest dictates of that religion which aims to make the men of all the races on earth brothers in the end.”

**Elihu Root
Speech before the Senate, May 21, 1914**

Upon accepting the position as secretary of state in 1905, Elihu Root started to institute several progressive policies and ideals into the workings of the department. Just as he had in the War Department, he immediately set about reforming and streamlining the State Department. He drew on the lessons and reforms of his progressive past in order to try to better stabilize and provide a sense of order a rather chaotic world. He defined his diplomacy through the progressive principles of international reconciliation and mutual protection.

Domestically, Progressive Era reformers attempted to reconcile conflicting economic, political, and social forces in society. The ideals and institutions of an “unchanging past” confronted an ever-evolving present. This type of progressive reconciliation attempted to forge manageable, productive, and efficient relationships between competing and divergent interests in modern society. Progressive efforts included bridging the gap between competing interests such as business and labor, the

rich and the poor, the community and the individual, government and the people, and private rights and the public good, just to name a few. On the international front, Root confronted nations, both friend and foe, with complex and contradictory interests. As he saw it, the United States government needed to play a much larger role on the world stage by negotiating differences, promoting mutual needs and interests, and collaborating as part of a truly global community. In order to accomplish these goals, the State Department needed to eliminate old disputes and obstacles between nations and establish a productive dialog for the future. Root turned a domestically progressive framework outward to harness the power of the federal government to mend wounds both old and new with their international colleagues.

Another part of the progressive tradition involved mutual protection. Within American borders, progressives rallied for protection, usually in the form of government action, from a whole host of social problems and ills. Reformers demanded that the government step in and protect the “weakest” of society from problems like alcoholism, spoiled meat, prostitution, child labor, animal and child abuse, workplace injuries, corporate debauchery, political corruption, rising crime, contagious illnesses, and much more.¹ Under the headings of social justice and social welfare, reformers rightly claimed that these problems occurred neither in isolation, nor affected only specific groups in society. As part of the movement to nationalize and, therefore, see things in national terms, progressive reformers defined these problems in structural terms as defects within a national system. Given society’s structure, they believed that only the federal

¹ David Southern, *The Progressive Era and Race: Reaction and Reform, 1900-1917*, (Wheeling, IL: Harlan Davidson, Inc., 2005), 44-5. According to the author progressives pressed for social justice and favored laws that “protected the poor, the oppressed, and the helpless.”

government, with its size and power, could protect its citizens from the modern societal ills that threatened the nation. As noted by one historian, the progressive era brought about the realization that “human beings were capable of protecting the weak through government action.”² In the international realm, Root borrowed these domestic ideals about intervention and applied them to the rest of the world. Although such interventionism typically connoted imperialism, oppression, and subjugation, Root articulated a progressive approach to international relations that encouraged political, social, and economic interaction between nations. He encouraged the expansion of international economic relations, the extension of international law, and the expression of mutual international cooperation. Often forced to temper the strong and reactive responses of President Theodore Roosevelt, the elder Root engaged with other nations and national leaders using more inclusive language, logic, and reason, combining the rational acumen of an attorney and the idealism of a progressive. During his five-year stint from 1905-1909 in the State Department, Root focused his energies on taking these progressive ideals and exporting them outward to the world.

In the Far East, Root attempted to reconcile our relationship with the major powers of the Pacific as a way of preventing unnecessary war and strife. During the Russo-Japanese War, the Roosevelt-led peace effort ended war with the Treaty of Port Arthur. Despite the war’s end, the Japanese disagreed with the treaty’s outcome, effectively cooling US-Japanese relations. By the time Root took effective control of the situation, the American relationship with Japan had reached a boiling point by 1906 and the talk of war with the United States ratcheted up. Amid the possible escalation of a

² J. Michael Hogan, *Rhetoric and Reform in the Progressive Era*, (Lansing: Michigan State University Press, 2003), 202.

conflict with Japan, white workers in California unleashed a torrent of racist laws and despicable actions against Asian immigrants, many of them Japanese, that only added to the growing chorus of resentment in Japan and the certainty of war. In spite of all the pressure, Root navigated a middle path that utilized federal government power to end many of the discriminatory practices while, at the same time, firming up Japanese relations with the acceptance of the “Gentleman’s Agreement” of 1907 and the Root-Takahira agreement the following year. Root’s actions diplomatically mirrored progressive values and tactics involved in Roosevelt’s “square deal,” a hallmark of the progressive movement. Roosevelt utilized the position of the presidency in unprecedented ways to moderate national disputes that he believed threatened the entire nation.³ In this situation, Root used his power as secretary of state to mediate an international dispute by directly involving the federal government in domestic aspects of the so-called “Yellow Peril” in San Francisco. In a magazine article entitled the “Square Deal for Japan,” the author explained that “Any state which does not prevent its citizens from embroiling our country in complications with any foreign nation should forfeit its sovereignty until it has made full redress.”⁴ As a result of his own “square deal,” Root avoided a broader conflict that unnecessarily threatened the nation.⁵

³ Lewis Gould, *America in the Progressive Era, 1890-1914*, (New York: Routledge, 2001), 34.

⁴ Homer Alonzo Ferrand, *The Patriots’ Protest: A Call to the Colors*, (Chicago: Farrand, 1916), 69.

⁵ Ray Osgood Hughes, *Problems of American Democracy*, (New York: Allyn and Bacon, 1922), 131. In the article entitled, the “Square Deal for the Foreigner,” Hughes backs up Root’s ideal that the “foreigner has a right to expect to have his property by our government and to send his children to the public schools. It is only by treating the foreigner fairly and justly that we can expect him in return to do right.”

In Latin America, Root's diplomatic efforts toward nations and leaders consisted of his noblest efforts at promoting peace and progressive ideals. He pursued a conciliatory diplomatic policy that later came to bear his name as the "Root Doctrine." The State Department, as instructed by Root, outlined its policy toward the "sister republics" as consisting of "kindly consideration," "honorable obligation," and a "destiny common to the peoples of the Western World."⁶ He attempted to reconcile America's relationship with Latin American states in the wake of the Platt Amendment for Cuba, Panama's revolt against Colombia, and the announcement of the Roosevelt Corollary to the Monroe Doctrine. In response, Root launched a campaign to assuage the anti-Yankee sentiment and distrust prevalent throughout much of the Latin American populace. His attendance at the 3rd Pan American Conference aided America's image by calming the many concerns of Latin American leaders. More importantly, he traveled to coastal nations throughout Latin America, becoming the first high-level American official to travel to the region in almost thirty years. Along the way, he espoused a policy that called for more cordial political, economic, and social relationships between the nations of the Americas.

In complete alignment with his previous statements, Root also pushed the progressive principle of protection. Like other progressive reformers back in the United States, he advocated the idea of the "strong" protecting the "weak." Despite the social and economic inequality, Root always viewed the law and the court as an equalizing force. He simply built on the idea that this extended from the protection of individuals to the protection of individual nations. For Root, the Monroe Doctrine and even Roosevelt's

⁶ Elihu Root, *Latin America and the United States* (Cambridge: Harvard University Press, 1917), x.

corollary to it, promised the protection of Latin American states' sovereignty from more oppressive forces and threats, not as an excuse for American oppression and imperial acquisition. Additionally, Secretary Root encouraged the creation of an international court system as a place for settlements of disputes between nations. The lifetime lawyer held an unbending faith in the American court system. Such a legal system provided equality before the law, despite any social or economic inequalities between the parties. As a logical extension of this belief, a permanent international court, composed of learned jurists from several nations, promised impartial mediation between nations, large and small, militarily strong or economically weak. This proposed international court even provided that nations of dissimilar political types and ideologies could establish a common code of laws to aid in establishing peaceful dialogues and encouraging conflict resolution. Moreover, Root supported the promulgation of international treaties, arbitrations, and laws throughout his service to the United States government, providing yet another protective framework for nation-states to hopefully avoid the outcome of war; something he felt was part of a bygone era in the radiant optimism of the new century and its progressive outlook.

Root's Exit and Re-entry into National Politics

Almost as soon as he tendered his resignation as secretary of war, Elihu Root continued his public service, albeit in private capacity. He returned to his native New York and for the next year and a half, he assumed the duty of a "minister without a portfolio." In this role, he spent a majority of his time serving as informal counsel to President Roosevelt. In civic organizations throughout New York, Root spoke about his previous efforts as secretary of war, while he also provided commentary on the nature

and importance of Roosevelt's policies. Behind the scenes, he continued correspondence with the president by providing his opinions about certain issues while helping him edit drafts for his speeches. All of the time, Root continued to receive inquiries and all-out backing from the Republican party establishment for a possible political run at the governorship of New York and most notably, his candidacy for president as Roosevelt's successor; both of which he respectfully declined. He returned to his law practice somewhat half-heartedly, but never really went about it with the single-minded commitment he once had. After the excitement of federal politics, the reach of a New York City lawyer seemed amazingly small. His temporary status as a private citizen, political cheerleader, presidential ghostwriter, and lawyer-for-hire quickly changed. Not surprisingly, when Washington beckoned, he returned quickly back into public service for the biggest client he ever served, the federal government.

With the sudden death of Secretary of State John Hay on July 1, 1905, President Roosevelt once again reached out to his old friend. He invited Root aboard the presidential train for the long trip to Cleveland so that the men could pay their respects to their beloved friend Hay. At some point along the journey, Roosevelt hoped to convince Root to once again serve the public interest. With a conviction that only he could muster, the president worked his persuasive charm. With a sense of public duty that very few men possessed, Root accepted the president's offer to replace the departed Hay as the new secretary of state. The president selected Root for the position for many reasons beyond the camaraderie the two shared. First, Root very clearly displayed his legal and political expertise as war secretary. Additionally, due to Secretary Hay's illness, he handled a number of international incidents as an unofficial secretary of state, including the Boxer

Rebellion. Moreover, in the months preceding the secretary's death, Hay urged the president to select Root as his replacement. Lastly, the selection of Root allowed Roosevelt to keep what he considered the two most brilliant legal minds in his cabinet, the other being the new secretary of war, William Taft.⁷ Due to the summer recess, Roosevelt's appointment of Root lacked formal congressional approval, though no one suspected anything but a quick and unopposed endorsement.

In an address before the National Education Association on the day following Root's unofficial appointment, President Roosevelt broached the subject of his appointment, while paying homage to the public service of John Hay. The president informed the crowd that despite the big shoes to fill, he considered Root as the "one best fitted to be such a successor."⁸ In a more private moment, Roosevelt admitted that, compared to Root, "no minister of foreign affairs in any other country at this moment in any way compared with him."⁹ As only Roosevelt could, he then connected Root's selfless government service to the need for more Americans to take up the call for public service. Within the next couple of weeks, Root and his wife, Edith, undertook the tedious process of moving, once again, from their native New York back to the capitol.

On the morning of July 19, Assistant Secretary of State Alvey Adee met Root at the Pennsylvania Station, and the two men made their way to the offices of the State

⁷ Richard Leopold, *Elihu Root and the Conservative Tradition*, (Boston: Little, Brown & Co., 1954), 48.

⁸ "President Pays Tribute To Hay," *Los Angeles Herald*, July 8, 1905.

⁹ "Theodore Roosevelt to William H. Taft. July 3, 1905," in *The Letters of Theodore Roosevelt*, vol. 4, ed., Elting E. Morison (Cambridge: Harvard University Press, 1951), 1260-71; Roosevelt to Henry C. Lodge and Roosevelt to Albert J. Beveridge, July 11, 1905.

Department. At ten o'clock that morning, the acting secretary and former librarian, Francis Loomis, conducted the rather informal swearing-in ceremony before a rather small gathering of State Department officials and employees. As his stated mission in this new position, Root defined his diplomatic objectives as quite simply "to keep the country out of trouble . . . in the right way."¹⁰ So, after an absence of a little over a year and a half, the new secretary of state, now aged sixty and gray, found himself back in the massive and ornate State, War, and Navy Building. Just as quickly as he took the oath, Root, in his trademark manner, went about his work, tackling the issues that confronted his department. He confronted a full plate of diplomatic crises, while Roosevelt desperately needed Root's help working out the uneasy issues before the government. Root's appointment coincided with the outbreak of the 1905 Russo-Japanese War while, around the same time, Germany looked set to do battle with France over the control of Morocco. Roosevelt had taken the diplomatic lead in these situations prior to Root's arrival and once there, brought him up to speed

With President Roosevelt at the helm of negotiations, the relationship between the United States and Japan continued to decline following the Russo-Japanese War and the signing of the Treaty of Portsmouth. Around the same time, domestic concerns involving Japanese immigrants, during the hysteria concerning so-called "Yellow Peril," only heightened the tensions between the two governments. Although Root played no role in creating these major points of contention, his leadership and progressive-minded agenda served to reconcile the differences between the American and Japanese governments.

¹⁰ Root to St. Leo Strachey, September 9, 1905. Root Papers, Washington, DC.

Fallout from the Russo-Japanese War

In February of 1904, political onlookers throughout the world watched as war broke out in the Far East, pitting the rising empire of Japan against the mighty Russian bear. Despite the novelty of the Russo-Japanese War, President Roosevelt feared a Japanese loss amounted to a “blow to civilization,” while the defeat of Russia meant “her destruction as an eastern Asiatic power.”¹¹ According to one historian, Roosevelt viewed Japan as standing for “progress and civilization,” while he saw Russia less favorably, as representing “tyranny and barbarism.”¹² Given the prevalent racialized thinking, most American and European commentators figured on a short war with an obvious Russian victory. Much to their surprise, Roosevelt and other European leaders marveled at the success of the Japanese navy, culminating with the destruction of the Russian Pacific fleet at Port Arthur in April of 1905. Root, a supporter of the underdog, remarked to Roosevelt that “some people in the United States might well learn the lesson that mere bigness does not take the place of perfect preparation and readiness for instant action.”¹³ Though it verged on victory, the Japanese government lacked the economic power to deliver the final blow to a stunned and nearly crumbling Russian military. After more than a year of fighting, Roosevelt extended an olive branch to both nations, volunteering his services as mediator to bring the war to a close. Both sides entered negotiations at the quaint seaport town of Portsmouth, New Hampshire with hard-line positions, so any hope

¹¹ John Morton Blum. *The Republican Roosevelt*. (Cambridge: Harvard University Press, 1977), 134

¹² Ivie Edward Cadenhead, *Theodore Roosevelt: The Paradox of Progressivism* (Woodbury, NY: Barron’s Educational Series, Inc., 1974), 149.

¹³ Root to Theodore Roosevelt, February 15, 1904, Elihu Root Papers.

at compromise seemed slim. Roosevelt initiated, for the first time, what Professor Louise Diamond and Ambassador John McDonald eventually termed “multi-track diplomacy” in his attempt to reach a peaceful resolution.¹⁴ This type of diplomacy mobilized all aspects of society to bring about peace by bringing to bear the influence of the public, media, business, activists, educators, and others.

During twenty-one days and twelve sessions in the early fall of 1905, the Japanese and Russians hashed out a rough peace. Both sides easily divided up Manchuria and agreed to Japan’s virtual control of Korea, while the Japanese demand for indemnities from Russia caused the largest source of consternation. In a letter to his friend Senator Henry Cabot Lodge, Root discussed essentially ceding control of Korea to Japan in positive terms. He considered the arrangement as “better for the people of Korea” to become part of the “liberal and progressive Constitutional Empire of Japan.”¹⁵ He sincerely cherished the United States relationship with Japan, a nation he considered the “England of the Orient.”¹⁶ In an effort to stave off any diplomatic collapse, Roosevelt suggested that Japan receive control of half of the Sakhalin islands, situated off the east coast of Russia in the Sea of Okhotsk, in lieu of any Russian indemnity payments. With this compromise in place, the two sides endorsed the Treaty of Portsmouth on September

¹⁴ This refers to set of groups that needed to be involved in order to reach an effective and systematic peace via conflict resolution. Diamond and McDonald called for the use of the eight initial tracks or groups: the government, business, citizens, educators, activists, religion, the funding community, and the media. The ninth track called for the coordination of all those resources for promoting dispute resolution. For more information, please see, Louise Diamond & John McDonald. *Multi-Track Diplomacy: A Systems Approach to Peace* (Sterling, VA: Kumerian Press, 1996).

¹⁵ Root to Henry Cabot Lodge. February 26, 1916, Elihu Root Papers.

¹⁶ Ibid; Leopold, *Elihu Root and the Conservative Tradition*, 60. By 1931, however, Root significantly shifted away from his rosy view of friendship with Japan.

5, 1905. Japanese diplomats and political officials supported the concession, believing the action demonstrated the political strength of their nation by confronting and essentially defeating a European power. The lead Russian negotiator, Sergius Witte, emerged from this situation happy the Russian government retained what they did.

When news of the results reached Japan and Russia, the public in those countries viewed it much differently. Riots broke out in Tokyo resulting in the deaths of several people and injuring even more. Protestors gathered by the tens of thousands in demonstrations against their own government and President Roosevelt, whom they blamed for the lack of Russian indemnity. The Russian populace likewise viewed the results of the war as disastrous and humiliating, and saw loss of territory as salt on the wound. Nevertheless, Roosevelt's diplomatic feat in bringing about peace through the Treaty of Portsmouth indeed ended the war and eventually won the president a Nobel Peace Prize. Root had yet to take his position within the administration. In fact, he inherited the results of the conflict upon his entry as secretary of state. Despite not being directly involved in the process, Root later conceded that the president's decision left the Japanese government "deprived of the legitimate fruits of victory."¹⁷ Unfortunately, the concessions decided upon by Roosevelt soured an already tenuous relationship with Japan.

Barriers to Friendship: The "Yellow Peril" in San Francisco, 1906

If that were not enough to drive a wedge in US-Japanese relations, domestic controversies involving the treatment of Japanese immigrants contributed to major international instability. Hoping to avoid war, President Roosevelt handed the diplomatic reins to Root in an effort to diffuse an international powder keg. In April of 1906, San

¹⁷ Philip C. Jessup, *Elihu Root* vol. 2, (New York: Dodd, Mead, and Company, 1938), 30.

Francisco residents confronted the havoc of a massive earthquake that tore through the city, leaving many of its buildings destroyed and ablaze. In all, the earthquake destroyed twenty-nine of the city's seventy-two schools. Despite the fact that the Japanese Red Cross provided more aid and assistance than any other foreign government, a number of local leaders used the crisis to justify their use of racialized and oppressive laws, targeting a significant portion of the Japanese population in the city. Building for decades, the racial tensions within the city between whites and Asian immigrants such as the Japanese finally boiled over amidst discussion of public education. A number of white residents and anti-immigrant groups feared being overrun by what they termed the "yellow peril."¹⁸ Of the twenty-eight thousand students in San Francisco, only ninety-three Japanese students even attended public schools, representing one-third of one percent of total student population.¹⁹ Realistically, the political machine in San Francisco, led by Mayor Eugene Schmitz and the Union Labor Party, race-baited the city's residents as a way to deflect criticism away from the group's ongoing corruption cases before the court.²⁰ As a result, the political party, along with anti-immigrant groups, trumped up

¹⁸ Erika Lee. "The 'Yellow Peril' and Asian Exclusion in the Americas," *Pacific Historical Review* 76:4, (November 2007), 537-62. In this article she discusses the "Yellow Peril" as not just a domestic, but reflected what she called "transnational anti-Asian racism."

¹⁹ Charles Wollenberg. *All Deliberate Speed: Segregation and Exclusion in California Schools, 1855-1975*, (Berkeley: University of California Press, 1976), 61.

²⁰ Ira Katznelson & Margaret Weir. *Schooling for All: Class, Race, and the Decline of the Democratic Ideal*, (Berkeley: University of California Press, 1985), 202-03. The authors point out in their book that due to their small numbers in California, the Japanese "never posed a serious threat to established social and political relations in San Francisco" and that, in schools, "their presence had gone unnoticed" until political groups such as the Union Labor Party and their mayor drummed up mobilization against a phantom "invasion."

claims that Japanese pupils were “overaged” and engaged in “gross immorality and disruptive conduct.”²¹ Despite a lack of any substantial evidence, the San Francisco Board of Education passed a law that forced Japanese and Korean students, a majority of them born in the United States, into a segregated school for Chinese students. With broad support from the city’s elite, working class whites, and anti-Asian exclusionary groups, the decree effectively increased the scope of Asian discrimination in the area under the auspices of the post-earthquake reorganization of resources and safety concerns.

On October 25, 1906, the Japanese Consul, Kisaburo Uyeno, protested the actions of the board, calling its decree “a species of discrimination which is offensive to the Japanese national spirit.”²² On the same day, the Japanese Ambassador, Ayoki Shūzō, visited Root at the State Department for a formal discussion on the matter. In a similar tone, the ambassador decried the measure as “an act of discrimination carrying with it a stigma and odium which is impossible to overlook.”²³ So what began as a local political and civil rights issue in the city of San Francisco reached national and then the international level, causing Roosevelt and Root to take notice.

Fearful of the international implications, Roosevelt and Root quickly responded to the crisis. Root cabled instructions to the United States Ambassador to Japan, and former member of the Taft’s Philippine Commission, Luke Wright. He asked Wright to reassure

²¹ Wollenberg, *All Deliberate Speed*, 57-8. Wollenberg pointed out in this work that, out of ninety-three Japanese students, only two were over the age of twenty and even the superintendent admitted, “no complaint of bad conduct on the part of a Japanese scholar has ever come to my knowledge.”

²² Thomas A. Bailey, *Theodore Roosevelt and the Japanese-American Crises* (Redwood City, CA: Stanford University Press, 1934), 47. Originally published in the *San Francisco Chronicle* on October 25, 1905.

²³ *Ibid.*, 47-8.

the Japanese government that the United States federal government disagreed wholeheartedly with the measure in California and would take action to see that it was remedied. Roosevelt then dispatched the commerce and labor secretary Victor Metcalf, an Oakland native, to assess the situation in San Francisco and to persuade the school board to overturn its decision. Metcalf quickly traveled out to the coast where he thoroughly studied the issue, attempted some back channel deals with local leaders, and even sought the opinions of California judges about the likelihood of a successful legal challenge. Metcalf's effort failed to move the board from its position. Equally, he feared the possibility of racial reprisals by whites against the Japanese immigrants in San Francisco. Preparing for his journey to inspect the Panama Canal's progress in late October 1906, the president placed effective control of the military in the hands of Root, if the situation in San Francisco escalated. In his order, Roosevelt granted his highly trusted secretary with the power to "use the armed forces of the United States to protect the Japanese in any portion of this country if they are menaced by mobs or jeopardized in the rights guaranteed them."²⁴ Now in charge, Root searched for ways to protect the Japanese immigrants, ameliorate the situation, and avoid violence. Beyond that, the issue took on broader international implications.

Secretary Root realized that if this incident escalated, it had the potential to cause "enormous injury" to United States and Japan's already rocky relationship. For the next two years, the White House feared the possibility of war with the Japanese, to the point of strategically planning for war against Japan in what they termed "War Plan ORANGE."²⁵

²⁴ Jessup, *Elihu Root* vol. 2, 11.

²⁵ Walter LeFeber. *The Clash: U.S. Japanese Relations Throughout History*. (New York: Norton and Company, Inc., 1997), 90.

Despite any such preparation, Root pushed for the settlement of the two nations' mutual problems through peaceful means. Both nations needed each other, if for different reasons. An eminent historian described the two powers' codependence by asserting that the United States "seemed as dependent on Japan for the maintenance of stability and openness in Asia, as Japan was dependent on the United States for capital."²⁶ Determined to avoid war, Root scrambled to create a legal solution to protect Japanese rights in California and turned to the treaty obligations in the 1894 Treaty of Commerce and Navigation between the United States and Japanese governments. The treaty contained a "most favored nation" clause that required the governments to treat the other's nationals with the same privileges accorded to any other nation that shared a similar treaty. According to Root, the stipulation forbade the state "by obligation of the treaty to discriminate against the resident citizens."²⁷ Furthermore, he argued, "if you provide a system of education which includes alien children, you must not exclude these particular alien children."²⁸ This meant that Japanese nationals legally required the same legal privileges as other nations that the United States held in "most favored nation" status, including most of Western European aliens.

Root hedged his argument on legal equality, citing that the treaty demanded that the "rights of residence," which included education, applied to Japanese immigrants and their children.²⁹ He described the school board's decision as a "clear violation of our

²⁶ Ibid.

²⁷ Elihu Root, *Addresses on International Subjects*, (Cambridge: Harvard University Press, 1916), 12.

²⁸ Ibid., 13.

²⁹ Wollenberg, *All Deliberate Speed*, 63.

treaty with Japan” and proposed that the action violated the supremacy clause of the Constitution.³⁰ According to Root and the law, the treaty-making power of the federal government trumped any state law or, in this case, any city law at odds with it. By November, Root had sent the United States District Attorney in San Francisco, Robert Devlin, a full brief of his legal arguments and asked that the newly appointed United States Attorney General, Charles Bonaparte, prepare the case to ascend all the way to the Supreme Court. In January of 1907, Devlin filed the initial test case, *Aoki v. Deane*, at the California Supreme Court, thus beginning what looked to be a long and tedious legal battle against San Francisco City Attorney William Burke. Unlike many of his day, Root took a national stand for the rights of individuals in the United States despite the status of their citizenship and minority status. Despite the question of legality, Root opposed the school board’s policy on more humanistic and progressive grounds. Although public outcry raged in California, these Japanese immigrants deserved protection before the law that only the federal government could provide.

Aside from the legal aspects concerning treaty obligations, Root loathed the blatantly racist behavior toward Japanese immigrants by local and state officials and certain segments of their reactionary citizenry. Displaying an overtly progressive view on race, he referred to the actions of “a few ignorant, narrow-minded and prejudiced men” in San Francisco as “intrinsically unfair and indefensible.”³¹ He questioned the disastrous effects of the “discourtesy, insult, imputations of inferiority and abuse” that American columnists and civic leaders had spewed against the “proud, sensitive, highly civilized

³⁰ Jessup, *Elihu Root* vol. 2, 10; Frederic Kirgis, Jr., *The American Society of International Law’s First Century: 1906-2006* (Boston: Nijhoff Publishers, 2006), 19.

³¹ *Ibid.*

people across the Pacific.”³² In another letter, he termed the attitudes of certain San Franciscans as an “exhibition of the same provincial and uninstructed narrowness and prejudice which the Japanese abandoned when Commodore Perry convinced them of their folly,” during his journey a mere forty-three years previously.³³ Here, he harkened back to the original 1854 treaty of friendship between the United States and Japan that announced the “perfect, permanent, and universal peace, and a sincere and cordial amity . . . without exception of persons or places.”³⁴ Such a view contrasted with that of President Roosevelt who, according to Root, claimed he “sympathized fully with the insistence of our Pacific coast States that their territory should not be taken away from them through peaceful invasion by a multitude of foreign laborers.”³⁵ Regardless of the Roosevelt’s personal position, he adjusted it to fit his secretary’s view against the school policy. Root reaffirmed to those within the State Department that the “entire power of the federal government will be used and used promptly and vigorously to . . . secure decent treatment for the people of a great and friendly power within the territory of the United States.”³⁶ Beyond any relationship with their government, Root congratulated the Japanese on their “wonderful development” and the “genius of the race” in their rapid

³² Root, *Addresses on International Subjects*, 21.

³³ Jessup, *Elihu Root* vol. 2, 10.

³⁴ Root, *Addresses on International Subjects*, 21-2.

³⁵ Theodore Roosevelt. *The Works of Theodore Roosevelt*, vol. 18, (New York: Charles Scribner Sons, 1924), xix. Root wrote the introduction to this volume about Roosevelt’s foreign affairs, entitled “Roosevelt’s Conduct of Foreign Affairs.”

³⁶ Jessup, *Elihu Root* vol. 2, 10

progression to the “most advanced standards of modern Europe and America.”³⁷ So when it came to the Japanese, Root’s progressive minded attitude toward the Japanese went much further than even that of the president. In the end, he convinced Roosevelt of the need for the Japanese immigrants to be treated justly and backed his rhetoric up with the full power of the federal government.

For almost a month, the San Francisco school segregation case, *Aoki v. Deane*, dragged on without any clear indication of how the court might decide. The slowness of the court case hindered efforts by the Roosevelt administration to deal with the two nations’ international issues. To break the legal logjam, Root and Roosevelt suddenly changed their approach. The president extended an invitation to the school superintendent, Alfred Roncovieri, and a board member, Lawrence Walsh, for a private White House meeting in the capital. Stunningly, the two men informed the White House that unless their highly corrupt city mayor, Eugene Schmitz, and the remainder of the school board also received an invitation, none of them would attend. Roosevelt reluctantly agreed to this ridiculous request. The delegation arrived in Washington on February 8, 1907, and was engulfed, almost immediately, in a series of conferences with the Roosevelt, Root, and the congressional representatives from California. Both the president and Root demanded that any negotiation undertaken was to be kept secret to the point that Root, in his own humorous style, referred to the group as the “Clam Club.”³⁸ Throughout all of these meetings, Root patiently remained at the president’s side, with pencil in hand, jotting down the notes of the meeting. But his writing utensil served a

³⁷ Root. *Addresses on International Subjects*, 21.

³⁸ Jessup, *Elihu Root* vol. 2, 13.

much greater purpose than merely note-taking. He used it to calm the normally rambunctious president. When Roosevelt puffed up toward his guests with that signature bluster, which occurred frequently during their meeting, Root knocked his pencil against a large mahogany table beside him. Almost immediately, the small, yet powerful action tamed, if only for that brief moment, the president's tongue and soothed his overzealous nature.

After a series of these meetings, the group finally settled on a Rooseveltian "Square Deal" compromise, what one author called the "Roosevelt-Root Plan," that allowed both sides to save face.³⁹ On February 15, 1907, Mayor Schmitz and his school board rescinded the segregation policy so long as students abided by appropriate age requirements and spoke basic English. Thus, the San Francisco School Board placed the children who failed to meet those guidelines into segregated schools. In return, Root and Roosevelt withdrew the test case from the courts and pursued immigration reform discussions with the Japanese. Mayor Schmitz considered the deal a "great victory," while the press back in California termed the result as a "Flag of Surrender" by the Californian leaders.⁴⁰

Roosevelt and Root's discussions with the Japanese amounted merely to having Japan's officials reaffirm their pledge to restrict the number of passports allowed for travel to the United States, a policy they previously undertook in 1896 and 1901. These earlier attempts failed, partly due to the influence that American railroad and Hawaiian

³⁹ Roger Daniels, *The Politics of Prejudice: The Anti-Japanese Movement in California, and the Struggle for Japanese Exclusion* (Berkeley: University of California Press, 1962), 44.

⁴⁰ *San Francisco Chronicle*, March 14, 1907; *San Francisco Call*, February 16, 1907.

sugar plantation labor recruiters exerted on local officials who handed out the passports. Additionally, the government lacked any limitation on the number of passports given for travel to Hawaii. The islands of Hawaii, now under American control, served as the perfect springboard for the recruitment and transport of Japanese immigrants to California. Under the new incarnation of the policy, the Japanese government more strictly restricted the number of passports handed out and more actively controlled their dissemination. Despite doing everything it could, the Japanese government plainly admitted that it lacked the power to curb migration from Hawaii to California, leaving Root and the United States government to solve the problem. As a result, Root penned the language in what became an amendment to the Immigration Act of 1907 that provided Roosevelt with the ability to prohibit Japanese immigrants who had not been given a passport directly to the United States, from entering the nation from Hawaii. Thus, the passage of the immigration law represented the only practical way for Root and Roosevelt to even try to address the issue at the federal level and to get Congress to pass it. More importantly, they viewed the law as a way of protecting immigrant laborers and reconciling national concerns.

On the one hand, the new law targeted those Japanese immigrants specifically, although it also embodied a moralistic concern for the immigrant laborers as well. The act served to “protect the interests of Japanese laborers” by allowing them to bring along their spouses and children.⁴¹ Recruitment firms, along with the railroad, agricultural, and mining businesses they represented, severely mistreated immigrant laborers, betrayed promises to immigrants, and stamped out immigrant resistance through violence. All

⁴¹ Pyong Gap Min, ed. *Asian Americans: Contemporary Trends and Issues* 2nd ed., (Thousand Oaks, CA: Pine Forge Press, 2006), 11.

along the West Coast, nefarious men, and sometimes women, rendered Japanese immigrants unconscious and presented them to ship captains, who then forced them to labor aboard their ships. Locals described the practice, one that amounted to virtual enslavement, as getting “Shanghaied.”⁴² Root and Roosevelt viewed the passage of the immigration bill of 1907 as a way to prevent, or at least curb, these various oppressive forms exercised against Japanese immigrants to the United States. Though the working class railed against immigrant labor, large American corporations and businessmen relied on their cheap labor as a way to increase profits. Widespread support among individual whites, along with the sway of white supremacist groups such as the California Workingmen’s Party and the Asiatic Exclusion League, pressured western congressmen to support immigration restriction, despite the powerful resistance of corporations that relied on their labor.⁴³

To further solve these problems, Roosevelt and Root explored the options provided by treaties between the United States and Japan. Root proposed the creation of a formal treaty, which allowed the federal government to define how Japanese immigrants would be treated within the nation’s borders. He feared future conflicts had the possibility of “growing worse rather than better, to an extent making the position of all Japanese on

⁴² Though this term refers to a Chinese city, the practice was done to people of all different races and ethnicities. For a longer discussion, see Mark Strecker, *Shanghaiing Sailors: A Maritime History of Forced Labor, 1849-1915* (Jefferson, NC: McFarland Publishing, 2014).

⁴³ Jerome Hart, “The Oriental Problem as the Coast Sees It,” *The World’s Work* 13, no. 5 (Mar. 1907), 8691. In the article the author describes the rising fear toward Japanese immigration, something to be more feared than Chinese immigration. Hart stated in the article that white workingmen felt “much more alarmed over the threat of Japanese immigration than were the workingmen twenty-five years ago over the menace of Chinese immigration.” He further added that the Japanese as a racial group represented “a more aggressive race than the Chinese” and by this virtue “are more to be feared.”

Pacific Coast quite intolerable in ways that no Government can control directly.”⁴⁴ Thus, he suggested the creation of a new treaty that provided specific language “for the exclusion of laborers and for most favored nation status in schools.”⁴⁵ The position of the San Francisco government represented the majority opinion toward Asian immigrants along the west coast. This provided city leaders with a great amount of public support, which translated into significant congressional support for things such as treaties.

Mayor Schmitz and the legislature complained about the weak nature of the agreement and the extent to which such an issue concerned state, not federal authority. In response, the California legislature proposed a state bill limiting the amount of land that Japanese and Chinese immigrants could own. Root quickly telegraphed the San Francisco mayor informing him, “If [the] object of California legislature is to bring about such exclusion it is taking the surest way to defeat its own object,” adding that he sincerely hoped “the legislation will not proceed further.”⁴⁶ Additionally, the attacks on Japanese business establishments by mobs lessened the ability for the passage of the treaty. A clearly unamused Root bemoaned, “it is clear that no statute could be passed or treaty ratified now extending Japanese rights beyond the limits of their contention regarding schools.”⁴⁷ Despite these setbacks, Root summarized the outcome by saying, “The two governments can now, acting together, completely . . . appear to be in entire harmony.”⁴⁸

⁴⁴ Root to Luke Wright, February 1, 1907. Archives of the Department of State, File 1787.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Root to Luke Wright, February 1, 1907.

⁴⁸ Root to Justice Oliver Wendell Holmes, March 6, 1907. Root Papers.

Other administration officials appeared less sure about the friendly intentions of the Japanese.

As the summer months pressed on, President Roosevelt fought back the rumors of war with Japan that were echoing across the Atlantic as anti-Asian sentiment ratcheted up, especially anti-Japanese animus. From his diplomatic contacts in Europe, he listened to the somber prognostications that the United States “shall have war with Japan,” and even more disturbingly, his sources predicted that the Americans “shall be beaten.”⁴⁹ Mildly ill, Root sat recuperating from exhaustion in his hometown of Clinton, New York, corresponding with Roosevelt about the ongoing situation.

Root remained convinced that bulk of the problem rested in the foolish actions of San Francisco leaders, mixed with an excitable sensationalist press that repeatedly blew up the story.⁵⁰ In fact, Root blamed most of it on overzealous journalists whom he referred to as “leprous Vampires,” playing on the more modern journalist adage that, if it bleeds, it leads.⁵¹ He attempted to reassure the president that the “San Francisco affair” represented “no occasion to get excited,” let alone start a war.⁵² He reasoned that the Japanese government desired to maintain its “civilized” status before the Europeans they often emulated. Thus, a largely unprovoked and unreasonable war seemed unlikely. Even more importantly, Root judged that the Japanese government lacked the necessary

⁴⁹ Roosevelt to Root, July 23, 1907. Roosevelt Papers, Library of Congress, Washington, DC.

⁵⁰ William Mulligan, *The Origins of the First World War*, (New York: Cambridge University Press, 2010), 171.

⁵¹ Root to Roosevelt, June 7, 1907. Root Papers.

⁵² Root to Roosevelt, June 7, 1907. Root Papers.

financial resources to wage war against the United States at that time. Roosevelt, on the other hand, viewed conflict as a very likely outcome, despite his deputy's urging. So while the president readied his newly minted "Great White Fleet" for its international *tour de force*, Root sought out a method to mend fences that required a much less confrontational strategy. For Root, the president's plan displayed too much national muscle flexing, and not enough of a focus on building diplomatic rapport.

In early August 1907, Root asked Governor Taft to visit Japan on his way back to the Philippines. Once there, he urged Taft to delicately assess the situation more closely there, though not to engage on the issue unless the Japanese government brought it up. This demand represented a test of the diplomatic waters, a way to gauge where the Japanese government stood on the issue. By mid-October, Taft dispatched a long message back to Washington that the Japanese entertained "no desire for war."⁵³ He additionally indicated that the Japanese feared the United States would be selling the Philippines to a European nation. Taft reassured Japanese Foreign Minister Hayashi Tadsu that the United States intended to retain the islands and "lead them to self-government or to turn the Islands over to them under a protectorate which would secure a stable government."⁵⁴ His discussion with Tadsu revealed that most of the Japanese people harbored no complaints with immigration restrictions to the United States, so long as any agreed upon treaty applied to Asians and Europeans equally.

However, Tadsu admitted that the Japanese government seemed unable to obtain a treaty on its end. Primarily, he cited the political sway of Japanese smuggling

⁵³ Taft to Charles Taft, October 10, 1907. Taft Papers. Library of Congress, Washington, DC.

⁵⁴ Taft to Root, April 10, 1907, State Department File 1797, 1-2.

syndicates as the major stumbling block to an agreement.⁵⁵ To his end, Taft emphasized to the Japanese minister that immigration restriction “was not a question as to race distinction,” but an economic issue that applied to all West Coast immigrants, not just the Japanese.⁵⁶ Root compiled extensive statistical data, showing the arrival of twelve thousand Japanese immigrants in the relatively short span of twelve months. He warned that, unless the Japanese government voluntarily limited immigrants on their end, then congressional approval of a Japanese exclusion law seemed imminent as apportioned in article two of the US-Japanese treaty.

Root pursued a stern, reasonable, and methodical diplomatic approach with the Japanese government that stressed the need for common action. He instructed his relatively new diplomat in Japan, Thomas O’Brien, to avoid any discussion of formalized treaties. Instead, Root urged O’Brien to sell the Japanese government on the practicality of a voluntary immigration restriction policy. He instructed O’Brien to reassure Japanese officials that the White House pursued such a policy out of a purely economic concern, rather than a racial one. In essence, Root provided the Japanese government with the ability to pass favorable laws without reference to the racial animosities of whites in the western United States. Specifically, he provided three examples for O’Brien to showcase to Japanese officials. First, Root argued that Japanese immigration largely consisted of laborers, not tourists. Thus, the flow of such immigrants displaced American laborers in the job market, inadvertently aiding in the formulation and promulgation of anti-Japanese attitudes in the region. Additionally, he pointed out the fact that Japan enforced a similar

⁵⁵ Taft to Root, April 10, 1907, State Department File 1797, 5.

⁵⁶ *Ibid.*, 6.

policy toward Chinese immigrant workers, so the American case mirrored its nation's own policies toward immigrant laborers. Lastly, he explained that immigration companies and smugglers in Japan clearly violated the Immigration Act of 1907 by promoting the passage of contract laborers to American locales. The tactful approach pursued by Root via his lieutenants proved successful, as the Japanese government responded favorably.

Building Consensus: The Gentlemen's and Root-Takahira Agreements

For the moment, Root's diplomatic tactics assuaged fears of war with Japan. To create a more long-term solution, he formalized the progressive ideas reconciliation with the Japanese government and the mutual protection of Japanese immigrants in a series of diplomatic agreements known as the Gentlemen's Agreement of 1907 and the Root-Takahira Agreement of 1908. The actions of the Japanese government proved Root's position that, all along, Japanese officials wished "to keep on friendly terms" and there was never the "slightest departure from perfect good temper, mutual confidence, and kindly consideration."⁵⁷ If they wanted a quarrel, he believed, "no person of intelligence would do the many things that they have done."⁵⁸ Root signaled that the Japanese government, though its actions, reinforced its commitment to peace which provided him with the perfect opportunity to resolve the two nation's problems.

The "Gentlemen's Agreement" with Japanese diplomats included some significant changes. The settlement included the voluntary reduction of Japanese immigration by Japan, while the Root-negotiated agreement guaranteed the integration of

⁵⁷ Jessup, *Elihu Root* vol. 2, 34; Root, *Addresses on International Subjects*, 11.

⁵⁸ Root to Whitelaw Reid, September 3, 1908. Root Papers.

Japanese immigrants into public schools. As the months passed, the agreement took affect and reduced undesired Japanese immigrant numbers, though with some qualifications. The agreement allowed the husbands and wives of those who had already immigrated to join their spouses in the United States. Additionally, the agreement failed to stem more illicit forms of immigration, such as smuggling. Despite their method of arrival, these Asian newcomers, both “picture brides” and smuggled labors, undoubtedly faced an increasing onslaught of anti-immigrant, nativist attitudes upon their arrival to the West Coast of the United States.

Despite the imperfections of the Gentlemen’s Agreement, Root’s policy paved the way for a broader success for United States interests in Asia.⁵⁹ In the month following the “Great White Fleet” visit to Tokyo, Root formalized the settlement with Japan in regards to both nations’ interests in the Pacific known as the Root-Takahira Agreement.⁶⁰ Since the Japanese government agreed to accept American territorial possessions in the Pacific, the State Department regarded Japan’s military presence and expansion in the area as a way to reduce conflict, rather than cause it. Both Root and Roosevelt viewed a growing Japanese presence in the Pacific as a civilizing, peaceful, and progressive force in the Pacific. It should be remembered that even Roosevelt viewed a strong navy and military,

⁵⁹ Leopold, *Elihu Root and the Conservative Tradition*, 61.

⁶⁰ The accord solidified a territorial status quo of both powers in the Far East. Japanese officials formally accepted American stewardship of the Philippines and the Open Door policy in China. In return, Roosevelt and Root yielded to the Japanese government’s efforts at further constituting its power in Manchuria and finalizing its control over Korea. For years, former Secretary Hay pushed for Russian and Japanese acceptance of his “Open Door” notes in regard to China. So the agreement further fueled American economic interests in the China market, but it did so by removing any Japanese military threat to the remote outposts of the American empire, at least for the time being. In order to gain those important economic and strategic goals, Root and Roosevelt agreed to allow Japan a larger hand in Manchuria and Korea.

in general, as a deterrent to war and not necessarily a precursor for it. In 1899, Roosevelt mightily declared, “due heed is given to the strong man with sword girt on thigh who preaches peace, not from ignoble motives, not from fear or distrust of his own powers, but from a deep sense of moral obligation.”⁶¹ He explained that the “growth of peaceful nations” only occurred when “both parties to a quarrel feel the same spirit.” As one of the “leading civilized powers,” the Japanese and its expansion in the Pacific conformed to Roosevelt’s maxim that “every expansion of a great civilized power means a victory for law, order, and righteousness.”⁶²

Just as Root and Roosevelt sought a “square deal” for competing political and economic interests at home, they also trumpeted the virtues of a foreign policy, known as the Open Door, to deal with competing international interests and create some sort of consensus overseas. Roosevelt and Root endeavored to ameliorate domestic issues back home before they bred revolution and disorder. In fact, Roosevelt wrote in a 1908 article that domestically the “remedy for popular discontent is not repression but justice and education.”⁶³ Equally, these same men pursued the Open Door policy in order to prevent conflict between the regional powers and the carving up of China by the steadily growing imperial powers of Europe. The chaos caused by the Boxer Rebellion in 1900, combined with the fallout from the Russo-Japanese War a few years later, demonstrated the tenuous state of stability in the region. Thus, Root and Roosevelt considered American

⁶¹ Theodore Roosevelt, *The Strenuous Life: Essays and Addresses*, (New York: The Century Co., 1902), 31.

⁶² Roosevelt, *The Strenuous Life: Essays and Addresses*, 32, 231.

⁶³ Jerry Israel, *Progressivism and the Open Door: America and China, 1905-1921*, (London: Henry M. Snyder & Co., Inc., 1971), 48.

intervention, via the Open Door, as of “incalculable benefit to . . . the peoples of the East.”⁶⁴ Such a policy primed the Asian economic engine and prevented the massive redrawing of borders, while no doubt benefitting American interests at the same time. So, a strong American-Japanese relationship meant the visualization and fulfillment of similar idealistic and progressive ends, the creation of an idyllic partnership in the Pacific.

In 1908, Root and Roosevelt, like most Americans, remained unable to see Japan’s less progressive, more imperial reasoning for engineering an Asian empire in the Pacific. In fact, the two men envisioned Japan’s extension of influence in much the same way they believed in the benevolence of American foreign policy abroad. In particular, President Roosevelt considered Japan’s advance as a mechanism of racial uplift for other Asian groups, including the Chinese, whom he placed in “a far lower position in the stages of civilizations scheme.”⁶⁵ Both American leaders remained convinced that the growth of Japan represented a progressive force for good, something the two men, especially Root, realized in latter decades that they had misjudged. They both failed to see the eventual end game of Japanese expansionist policies that culminated decades later. On the contrary, Japanese politicians, under the influence of the West, adapted ideas of Social Darwinism, scientific racism, and eugenics as a way to justify the

⁶⁴ Jerry Israel, *Progressivism and the Open Door: America and China, 1905-1921*, 48.

⁶⁵ Thomas Dyer, *Theodore Roosevelt and the Idea of Race*, (Baton Rouge: Louisiana State University, 1980), 139-40.

construction of a “greater Japanese Empire” based on racial hierarchy and ethnic superiority.⁶⁶

Despite their views, neither Roosevelt nor Root advocated the construction of a racialized “greater Japanese empire” as a means of justifying the oppression and subjugation of other Asian groups in the region. Both he and Root viewed a friendly Japan as adding to the balance of power in the region, becoming a dominant, though not a dominating power in Asia. As far back as the Russo-Japanese War, Roosevelt argued that the combination of a strong Japanese presence and a healthy Russian state meant “each may be a moderating action on the other,” ensuring that one nation would be the “guarantor of the other’s good conduct.”⁶⁷ As pointed out by historian Richard Leopold, Root’s actions reflected his desire “to leave office with some symbol of a restored Japanese-American cordiality.”⁶⁸ He certainly understood that the use of informal agreements between the United States and Japan meant that they had a limited shelf life. Just as any lawyer would, Root attempted to get the best deal for his client and, at the time, not much else could be done to strengthen the relationship between the two nations. As previously discussed, Root and Takahira’s attempts at a more permanent agreement or treaty remained out of reach due to political circumstances on the ground that were well beyond each other’s control. The men needed more than agreements between them individually, they required the approval of each man’s government more broadly. Despite

⁶⁶ Paul S. Spickard, ed., *Race and Nation: Ethnic Systems in the Modern World*. (New York: Routledge, Taylor and Francis Group, 2005), 123.

⁶⁷ John Morton Blum, *The Republican Roosevelt*, (Cambridge: Harvard University Press, 1977), 135; Graebner, *An Uncertain Tradition*, 51.

⁶⁸ Leopold, *Elihu Root and the Conservative Tradition*, 62.

not obtaining a more permanent fix, Root's actions as secretary of state displayed his intention to harmonize the American diplomatic relationship with Japan through the use of peaceful means.

In addition, Root's efforts successfully defied viewing the American relationship with Japan through merely a racialized lens. In a speech, he spoke about the danger of treating the Japanese or any other nation with disregard and discourtesy. Root warned that sowing such an attitude of hubris threatened to "reap the whirlwind." Despite accusations of Root's propensity for racism and war by his critics, he readily acknowledged in his Nobel Peace Prize acceptance speech, that an "atmosphere of belligerency," caused by race and local prejudice, bred "dislike and hatred between the peoples of different countries." He lamented that "a world of sullen and revengeful hatred can never be a world of peace." Such reactionary feelings, if left unchecked, undermined diplomatic efforts aimed at peace, only increasing the possibility for war.⁶⁹

The Original Good Neighbor: The Root Doctrine in Latin America

Prior to Root's arrival at the State Department, the American diplomats and officials viewed Latin American leaders and their people with a great deal of distrust, scorn, and suspicion. In a letter following a diplomatic reception, Root's predecessor, John Hay, referred to the Latin American guests as "mostly dagoes."⁷⁰ Widely subscribing to racialized stereotypes, earlier department officials described the peoples of

⁶⁹ Elihu Root. *Addresses on International Subjects*, (Cambridge: Harvard University Press, 1916), 170; Elihu Root, "The Real Questions Under the Japanese Treaty and the San Francisco School Board Resolution," *American Journal of International Law* 1, no. 1 (Jan. and Apr., 1907): 285-86.

⁷⁰ Tyler Dennett, *John Hay: From Poetry to Politics* (New York: Dodd, Mead, And Company, 1934), 317.

Latin American as “a nuisance, always cheating, robbing or killing American citizens who had to be pressed in the face of confirmed devotion to the *mañana* principle.”⁷¹

Upon taking charge of the State Department, Root called for a new era in Latin American relations. In a letter to an avowed white supremacist senator from South Carolina Ben Tillman, Root clearly defined the reason for misplaced understandings and what needed to be done in order to salvage those diplomatic relationships. “The South Americans now hate us,” he wrote, “largely because they think we despise them and try to bully them.”⁷² Toward the end of his career, Root calculated that “two-thirds of the suspicion, the dislike, the distrust with which our country was regarded by the people of South America, was the result of the arrogant and contemptuous bearing of Americans, of the people of the United States.”⁷³ Such views ran wildly askew of the deeply ingrained race-based views that anchored much of the Manifest Destiny mindset. Far from being conservative, Root’s conceptions of Latin Americans encompassed a progressive and forward-thinking attitude on race compared to most of his contemporaries.⁷⁴

⁷¹ Jessup, *Elihu Root* vol. 2, 468.

⁷² Root to Tillmann, December 13, 1905, Root Papers.

⁷³ Elihu Root, “The Causes of War; An Address Delivered at the Banquet of the Peace Society of the City of New York,” *International Conciliation*, No. 18 (May 1909), 8.

⁷⁴ Alan Knight, “U.S. Imperialism/Hegemony and Latin American Resistance,” in Fred Rosen, ed., *Empire and Dissent: The United States and Latin America*, (Durham, NC: Duke University Press, 2008), 32. Knight described Root as a “more sober student of Latin America than most U.S. secretaries of state.” Additionally, he tended to view Latin America into two separate spheres and classes. The first area encompassed the turbulent nations of the Caribbean and the latter consisted of Mexico and the South American states.

Root had high regard for the economic, political, and strategic relationships between the United States and its Latin American neighbors. Beyond these various “interest”-driven motivations, he valued Latin American compassion, generosity, and sense of moral duty. So, to him, national self-interest often intertwined and created the conditions for mutual advancement. In this new century, the “people of the two Americas,” as Root called them, stood upon the precipice of creating a “union of influence with a common and unselfish purpose in favor of true liberty, true self-government, true justice.”⁷⁵ In order to further such positive relations, Root, unlike his predecessors, realized that “it does not pay to treat [Latin Americans] like a yellow dog.”⁷⁶ To fix the problem, Root suggested the radically divergent, yet simplistic policy of “treating them like gentlemen.”⁷⁷ Far from defining the Latin Americans through a racialized lens, he described them in humanistic terms, calling them a “gentle, polite, sensitive, imaginative, delightful people.”⁷⁸ Throughout his time at the State Department, Root emphasized the need for direct, decent, and demonstrative diplomacy with his southern neighbors. Called “soft hand diplomacy” by his biographer, Root’s diplomatic approach toward Latin America involved intimate interactions, consisting of personal meetings, private letters, and mutual visits.⁷⁹ In the end, Root treated Latin American

⁷⁵ Maria do Carmo Strozzi Coutinho, ed., *Joaquim Nabuco: Embaixador*, (Rio de Janeiro: Fundação Alexandre de Gusmão, 2011), 65.

⁷⁶ Root to Tillmann, December 13, 1905, Root Papers.

⁷⁷ *Ibid.*

⁷⁸ Root, “The Causes of War,” 8.

⁷⁹ Jessup, *Elihu Root* vol. 2, 563.

officials like people and equals, which is much more than can be said for many of his contemporaries and his predecessors.

Like progressive reformers back in the United States, Root advocated the idea that “strong” bore a responsibility to protect the “weak.” One scholar defined Root’s foreign policy approach as “humanitarian and paternalistic, not despotic.”⁸⁰ In domestic terms, this philosophy, known as *noblesse oblige*, conferred a societal responsibility to the privileged to act benevolently.⁸¹ One historian termed this benevolent paternalism as not just a sense of “community responsibility for the downtrodden,” but also a “popular religious belief in the possibility of individual uplift.”⁸² In a speech that he gave while in Brazil, Root explained that his “conception of human duty is to spread the humblest and the weakest up into a better, a brighter, a happier existence.”⁸³ In foreign policy, the “gospel of international *noblesse oblige*” supposed the responsibility of a nation to utilize its power and influence in a way to work toward a common and universal good.⁸⁴ A writer for the *Providence Journal* brilliantly captured the spirit of America’s international *noblesse oblige*. “To intermeddle . . . is, of course, no part of our program. Yet we are the dominant Power in the New World,” he wrote, “and as such we have opportunities and

⁸⁰ Charles W. Toth, “Elihu Root,” in *An Uncertain Tradition: American Secretaries of State in the Twentieth Century*, Norman A. Graebner, ed., (New York: McGraw-Hill Book Company, Inc., 1961), 40.

⁸¹ From the French proverb that translates to “rank imposes obligation.”

⁸² Daniel Eli Burnstein, *Next to Godliness: Confronting Dirt and Despair in Progressive Era New York City*. (Champaign, IL: University of Illinois Press, 2006), 123.

⁸³ Elihu Root, *Speeches Incident to the Visit of Secretary Root to South America, July 4 to September 30, 1906*, (Washington: Government Printing Office, 1906), 71.

⁸⁴ George C. Herring, *From Colony to Superpower: U.S. Foreign Relations since 1776*, (Oxford: Oxford University Press, 2008), 345.

responsibilities which are not to be neglected.”⁸⁵ As an indication of this obligation, Root contended larger and more economically powerful states “ought to be especially considerate and gentle in the assertion and maintenance of its position” while being aware to base “its acts not upon the superiority of force, but upon reason and law.”⁸⁶ At its core, Root’s stance dovetailed nicely with the broader progressive notion of seeking to “actualize the ideal of human brotherhood among their fellow corporeal human beings on Earth.”⁸⁷ In a 1905 letter to a friend and fellow colleague in Brazil, Root observed the existence of “two entirely different theories, according to which individual men seek to get on in the world.”⁸⁸ One theory allowed for a person to “pull down everybody around him in order to climb up,” while the other induced someone to “help everybody around him in order that he may go up with them.”⁸⁹ This idealism, something Root’s biographer coined as his “practical altruism,” provided a truly progressive pathway for the Latin American republics to follow, described the values he envisioned about his own nation, and, at least to him, represented the majority view of the American people.⁹⁰

⁸⁵ “Problems that Confront Secretary Root,” *The Literary Digest* 33, no. 2, (Jul. 14, 1906), 40.

⁸⁶ Elihu Root, “The Real Monroe Doctrine,” *The Journal of International Law* 8, no. 2 (Jul. 1914): 437.

⁸⁷ Burnstein, *Next to Godliness*, 123.

⁸⁸ Coutinho, *Joaquim Nabuco*, 65-6.

⁸⁹ *Ibid.*

⁹⁰ Jessup, *Elihu Root* vol. 2, 471. Jessup contends Root’s stance showed the ability of “theoretical altruism” to overcome “practical imperialism,” creating a mixture that is at once virtuous and paternalistic. Such conflicting, though combining ideas pervade the discussion about Progressive Era attitudes and ideologies.

In his first message to Congress in 1901, a newly appointed President Roosevelt described one of America's key commitments as recognizing, "we [the United States government] have international duties no less than international rights."⁹¹ Such duties, while self-imposed, fit within a larger progressive narrative of benevolent selflessness. Root described the need for the United States government to "persist in the policy of encouraging everything that is good and discouraging and discrediting everything that is bad" in nations throughout Latin America.⁹² He concluded that such an enlightened approach, carried out consistently over a period of years, promised those nations "order and stability." Additionally, such a policy had the added effect of causing those governments to "look upon the United States as their next friend and powerful protector."⁹³ In order to create what Root called an influence, "of which we can be proud," he called for a Latin American policy that championed the cultivation of goodwill, over the forceful imposition of imperialism.⁹⁴ Though his ideas resembled the rhetoric of Kipling's "White Man's Burden," Root's philosophy toward Latin American

⁹¹ Theodore Roosevelt, *Addresses and Presidential Messages of Theodore Roosevelt, 1902-1904*, (New York: G.P. Putnam's Sons, 1904), 323.

⁹² John Luis Recchiuiti, *Civic Engagement: Social Science and Progressive-Era Reform in New York City*, (Philadelphia: University of Philadelphia Press, 2006), 116; Root to Lyman Abbott, December 24, 1908, Elihu Root Papers. Recchuiti describes the view of the nation's wealth-elite and their philanthropic endeavors as "benevolent civic stewardship," choosing to serve as "maganamious patrons of the public good." This view extrapolated outward helps to describe the how progressive leaders idealized their efforts on the world stage. Many of those in power positions within the Roosevelt Administration, including Root, described their efforts abroad as trying to serve the interests of the greater, and in this case, the global good.

⁹³ Root to Lyman Abbott, December 24, 1908, Elihu Root Papers.

⁹⁴ *Ibid.*.

more aptly reflected his “practical altruism,” a more idealized, patrician, and far less racialized notion of neighborly *noblesse oblige*.

The Venerable Gospel: Root’s Progressive Vision of Roosevelt’s Corollary

After President Roosevelt’s re-election in 1904, he charted a new diplomatic path regarding US-Latin American policy. Buried deep within his annual message to Congress, the president referenced a fairly substantial shift away from the non-intervention and non-interference of President Monroe’s original December 1823 pronouncement. The “Roosevelt Corollary,” as Root originally named it, transformed what had been for eighty years a mere policy directive into a major tenet of American foreign policy. In order to expand Latin American economies and extend their own global reach, European governments loaned a great deal of money to Latin nations. Due to corruption and mismanagement, Latin American leaders often fell severely behind or completely defaulted on their foreign debts. In lieu of payment, European leaders, eyeing the imperial possibilities, threatened to forcibly take territory in order to square unpaid debts. Roosevelt and other American leaders looked upon such practices as potentially destabilizing the region, a threat to American interests and, as such, unacceptable. In response, Roosevelt announced this corollary, not as a new policy, but as an extension to a longstanding practice. Aside from continuing to prevent European colonization in the western hemisphere, the president shifted its meaning to include holding nations within the hemisphere responsible for their conduct and ability to carry out economic and political obligations. Governments that failed to curb what the president termed “flagrant cases of chronic wrongdoing or impotence,” risked the possibility of American

intervention to restore order and “civilized” rule. Put simply, Roosevelt argued that the nations in Latin America “will be happy . . . only if they are good.”⁹⁵

Though the corollary bore the namesake of the president, historians and critics often believed that the rest of Roosevelt’s administration blindly followed its tenets or led the charge in favor of its aggressive and imperialist power. But Root thought for himself and grappled with the possible meanings and realities of the Monroe Doctrine, both with and without the corollary. During his time as secretary of war, he interpreted the bounds of the policy as a document that strictly limited, rather than allowed for, the expansion of American power in the region. During the Republican campaign for Roosevelt in 1904, he forsook his own views on the policy and, instead, deferred to the political vision announced by his president and his party. Once he returned to public life as secretary of state, however, Root once again softened the rough edges of the president’s righteous rhetoric, reclaiming his more traditional, less confrontational stance on the matter. The original doctrine, according to Root, merely represented a “declaration of the United States that certain acts would be injurious to the peace and safety of the United States and that the United States would regard them as unfriendly.”⁹⁶ In almost the same breath, he emphasized that the policy failed to mention “what the course of the United States will be in case such acts are done.”⁹⁷ If anything, as he told an audience in Uruguay, the Monroe Doctrine served as “an assertion to the whole world of the competency of Latin

⁹⁵ Roosevelt, *Presidential Addresses*, vol. 6, 6179.

⁹⁶ Root, “The Real Monroe Doctrine,” 431.

⁹⁷ *Ibid.*, 431.

Americans to govern themselves.”⁹⁸ Optimistically, legalists such as Root envisioned the doctrine, even with Roosevelt’s additions, as protecting Latin American sovereignty and preventing Europe from reasserting its stranglehold over Latin America. Harold Bolce, a magazine writer for a number of monthly magazines, chose the perfect phrase that described Root’s view of the Monroe Doctrine when he referred to it as a “venerable gospel.”⁹⁹ Despite his initial waffling on the policy, Root eventually joined the intellectual protests against expansion. He committed to the idea that United States government assistance in no way served as an “excuse for American oppression and imperial acquisition.”¹⁰⁰ In fact, he even renounced any practice of foreign debt collection through the use of military intervention.¹⁰¹ Only a small handful of high-ranking American officials, including Secretary Root, joined with their Latin American counterparts in their contention that the “true essence of the Monroe Doctrine did not require the United States to become the international police.”¹⁰² So despite his affiliation

⁹⁸ Root, *Latin American and United States*, 58-9.

⁹⁹ Harold Bolce, “The Commercial Side of the Monroe Doctrine, Its Relation to the Pan-American Programme at Rio Janeiro, *Appleton’s Magazine* 8, no. 1, (Jul. 1906), 54; “Significance of Secretary Root’s Trip,” *The Literary Digest*, (Jul. 7, 1906), 3.

¹⁰⁰ Francis Anthony Boyle, *Foundations of World Order: The Legalist Approach to International Relations, 1898-1922* (Durham: Duke University Press, 1999), 20.

¹⁰¹ Elmer Adler, ed., *Elihu Root, President of the Century Association, 1918-1927, Addresses Made in His Honor at the Club House, April 27, 1937*, (New York: The Century Association, 1937), 30-1.

¹⁰² Samuel Guy Inman, *Inter-American Conferences, 1826-1954: History and Problems*, (Washington: University Press of Washington, DC, 1965), 63; Boyle, *Foundations of World Order*, 89. Inman portrays Root as a member of the Roosevelt Administration who “did not accept the views of the Expansionists of 1898.” Boyle concurs that Root’s view of the Monroe Doctrine fell “in full agreement with the positions advocated by such notable Latin American jurists as Luis Drago and Alejandro Alvarez.”

with a policy that was often seen as a blatant use of aggressive imperialism, Root's own progressive views of the doctrine prevailed in his interpretation of its purpose.

Despite his best efforts, Root often struggled with the implementation of his vision of the Monroe Doctrine while in the State Department. The president's larger-than-life personality, along with his penchant for bellicose hyperbole, provided the lens through which most Latin Americans viewed the intentions of American policy. Latin American heads of state likely wondered what exactly constituted "flagrant wrongdoing," what qualified as running their governments with "reasonable efficiency and decency," and questioned the United States' exercise of "international police power."¹⁰³ These leaders witnessed the "Big Stick" of Roosevelt's diplomacy during the Panama Revolution and noticed the levels of American intervention in Venezuela and Santo Domingo.¹⁰⁴ An American journalist described the widespread fear in Latin America that the "Northern republic covets territory there and that at any time we may swoop down upon them."¹⁰⁵ Root feared that the misinterpretation of American intentions by Latin American leaders regarding the Monroe Doctrine threatened to be a debilitating "source of danger" in the US-Latin American relationship. As a result, he consistently argued in

¹⁰³ Theodore Roosevelt, "Fourth Annual Message to Congress, December 6, 1904," and "Fifth Annual Message to Congress, December 5, 1905," in James D. Richardson, ed. *A Compilation of the Messages and Papers of the Presidents*, (Washington, DC: Government Printing Office, 1904), 10: 831-32, 14:6944 ff.

¹⁰⁴ For a discussion of Root's efforts in the "Venezuela Crisis," see Embert J. Hendrickson, "Root's Watchful Waiting and the Venezuelan Controversy," *The Americas* 23, no. 2, (Oct. 1966): 115-29. Hendrickson argued that Root's work in preventing an aggressive military intervention in Venezuela fulfilled the need for the "preservation of peace and security," through his promotion of "good will and understanding." Root said of the situation to "have success gained in the way of peaceful settlement without any bulldozing in this most difficult case is extremely gratifying."

¹⁰⁵ "Root's Tour to Allay South America's Fears," *New York Times*, July 2, 1906.

favor of forcible intervention as a last and final result and, instead, searched for reasonable alternatives to deal with problems in the region.¹⁰⁶ He also understood the importance of his position as secretary of state in the development of positive and fruitful relations. As one journal so aptly described it, “whether these [Latin American states] have confidence in the policies of the United States and work with it or against it for the general good of all depends much upon the personal interest and attitude of the secretary of states.”¹⁰⁷ As a number of politicians discovered in the age of modern media and technology, not much time needed to pass for the public to construct a viewpoint about a person, based both on facts and conjecture.

In response, Root quickly attempted to strip away the rhetoric from the reality. He worked to convince America’s nervous neighbors that “not everything said or written by secretaries of states or even by presidents constitutes national policy or can enlarge or modify or diminish a national policy.”¹⁰⁸ In fact, he completely disavowed both the concept of “practical sovereignty” proscribed by former Secretary of State Richard Olney and the moralism rife within Roosevelt’s corollary.¹⁰⁹ Not lacking for clarity in his message, he plainly declared that in “good conduct or bad, observance of rights or violations of them, agreement or controversy, injury or reprisal, coercion or war, the

¹⁰⁶ David Healy, *Drive to Hegemony: The United States in the Caribbean, 1898-1917*, (Madison: University of Wisconsin Press, 1988), 143.

¹⁰⁷ “Secretary Root’s Visit to Mexico,” *The American Journal of International Law* 1, no. 4, (Oct., 1907), 964.

¹⁰⁸ Root, “The Real Monroe Doctrine,” 433.

¹⁰⁹ James Holmes, *Theodore Roosevelt and the World Order* (Washington, DC: Potomac Books, 2006), 191.

United States finds no warrant in the Monroe Doctrine for interference.”¹¹⁰ Additionally, he repudiated any meaning of the concept that “carried with it an assumption of superiority and of a right to exercise some kind of protectorate” over nations in the region.¹¹¹ Root even further assuaged Latin American fears when he acknowledged that the United States neither claimed, nor desired, “any rights or privileges or powers that we do not freely concede to every American republic.”¹¹² Ultimately, Root envisioned the express purpose of the Monroe Doctrine as ensuring “that right and justice are done by these republics which we protect with our strong arm against oppression.”¹¹³ Mirroring the domestic views of *noblesse oblige*, he defined this foreign policy in terms of benevolent responsibility, not as a reason to run roughshod over their hemispheric neighbors. One historian described Root’s task as trying to convince the republics of Latin America that the United States in no way represented “an ugly coarse colossus looking for additional territory . . . or other unimaginable theories” fed to them by European leaders, oppositional United States Senators, and members of the press.¹¹⁴

¹¹⁰ Root, “The Real Monroe Doctrine,” 437.

¹¹¹ *Ibid.*, 435.

¹¹² *Ibid.*

¹¹³ George Harvey, ed., “Varying Views of the New Monroe Doctrine,” 49, no. 2521 (Apr. 15, 1905): 528.

¹¹⁴ Richard Collin, *Theodore Roosevelt’s Caribbean: The Panama Canal, the Monroe Doctrine, and the Latin American Context*, (Baton Rouge: Louisiana State University, 1990), 558; “Is Root Plotting? Paris Paper Fears Yank is Shrewd Man,” *Dawson Daily News*, August 14, 1906; “Root’s Tour to Allay South America’s Fears,” *New York Times*, July 2, 1906. This Alaskan newspaper article reports on a story run by the French paper, *La Liberte*, which attacked Root’s motivations for developing Latin American friendship. The newspaper claimed Root started his preparation, if he hadn’t done so already, for a “most redoubtable operation in political economy of which the French will be the dupes and with them all other Latin peoples who are imitating them.”

Another scholar described Root's efforts as "an exercise in political damage control," while a contemporary labeled his diplomatic journey of "reassurance and brotherhood."¹¹⁵ Ultimately, he embarked on a goodwill tour of South America as way to clarify and reassure Latin American leaders of the America's benevolent, high-minded, and noble intentions in regard to the Monroe Doctrine.

Mending Fences: Root's South American Tour

In the fall of 1905, Secretary Root started the long process of repairing, rehabilitating, and revitalizing Latin American relations with the United States. He achieved this partly by what he could do in Washington to reduce barriers to friendship "placed upon Latin American relations by North American discourtesy."¹¹⁶ To combat this disastrous attitude, he encouraged his staff to interact with Latin American diplomats by attending their receptions, and he persuaded several high-ranking United States foreign policy officials, including Senator Henry Cabot Lodge and Admiral George Dewey, to extend a hand of friendship toward them. For his part, Root staged a number of dinner parties, inviting Latin American dignitaries into his home—a far cry from

The article harshly criticized the Roosevelt Corollary to the Monroe Doctrine as effective saying, "each nation is master in its own home with the United States at home everywhere." The article singled out Root's promotion of goodwill in the area. "Against seventy-three million Latin people stood Secretary Root and to that Yankee intruder went favors and benefits because he alone spoke, flattered and menaced." The *Times* journalist noted that "increased hatred mixed with fear [toward the United States] has tightened the bonds between South America and Europe." In turn, European leaders encouraged the negative view of US-Latin American relations. As a result of this and American interventions in the area, the journalist concluded, "nothing has been undone to give the South Americans as bad an impression of us as possible."

¹¹⁵ Holmes, *Theodore Roosevelt and the World Order*, 191; *Elihu Root, President of the Century Association, 1918-1927, Addresses Made in His Honor at the Club House, April 27, 1937*, (New York: The Century Association, 1937), 30.

¹¹⁶ Healy, *Drive to Hegemony*, 137.

previous secretaries whom largely ignored them. Though Latin American ambassadors and dignitaries in Washington regarded the American position as friendly and cordial, such good feelings failed to translate into anything meaningful to the national leaders in their home countries.¹¹⁷ One journalist wondered if most of the South American representatives in Washington shared the same sense of duty “as most American representatives in South America; content to be ornamental rather than useful.”¹¹⁸

During one of their informal meetings and receptions in Washington, Root and several Latin American diplomats discussed the upcoming 1906 Pan American Conference to be held in Rio de Janeiro, Brazil. At the suggestion of the Brazilian diplomat Joaquim Nabuco, Joaquin Calvo of Costa Rica and Walker Martinez of Chile quickly agreed to the location and date of the next conference. According to his biographer, Root, without much planning or even consultation with President Roosevelt, “suddenly announced he would attend it.”¹¹⁹ As soon as he announced his intention to attend the conference scheduled for July of 1906 in Rio de Janeiro, Brazil, other Latin American governments quickly extended invitations for him to visit their respective nations and governments either before or after the event. Brazil sent the first request followed by its neighbors Uruguay and Argentina. At that point, Root concluded that a trip that included stops along seaward nations of the continent would only aid in his effort to “clear away the cloud of misapprehension that obscures the intentions of the United

¹¹⁷ “Root’s Tour to Allay South America’s Fears,” *New York Times*, July 2, 1906.

¹¹⁸ “Problems that Confront Secretary Root,” *The Literary Digest* 33, no. 2, (Jul. 14, 1906), 39.

¹¹⁹ Root to Jessup, September 2, 1935, Elihu Root Papers.

States from her Southern neighbors.”¹²⁰ The *Philadelphia Enquirer* explained that the secretary needed to act “as a kind of apostle of American good will.”¹²¹ The *Times* reported that the “one aim of the whole trip” involved Root’s desire to “replace the fear and hatred on the one side which hampers the other.”¹²² Thus, the writer described the goodwill tour as a way to make it apparent to Latin leaders “how little they have comprehended the spirit of the United States towards them.”¹²³ President Roosevelt, who knew nothing of the trip until Root asked him for the use of a ship, branded Root’s trip as a “sentimental journey . . . of real importance.”¹²⁴ What began as Root’s acceptance of an invitation to attend an international conference quickly transformed into a three month, multi-stop diplomatic cavalcade around the South American continent. For the first time since the Grant administration, a high-ranking American official was slated to travel to a Latin American republic. Still more amazing, Root’s trip provided him with the distinction of being the first secretary of state to circumnavigate South America.¹²⁵ Instead of merely barking policy from Washington, he travelled to where Latin Americans lived and presented his collaborative international vision to them.

During the afternoon of July 4, 1906, a large number of the press gathered near the New York Yacht Club landing at Twenty-Third Street and the East River. They

¹²⁰ “Root’s Tour to Allay South America’s Fears,” July 2, 1906.

¹²¹ “Problems that Confront Secretary Root, *The Literary Digest*, 39.

¹²² “Root’s Tour to Allay South America’s Fears,” July 2, 1906.

¹²³ *Ibid.*

¹²⁴ Root to Jessup, September 2, 1933, Elihu Root Papers; Morison, 335.

¹²⁵ “Secretary Root’s South American Tour,” *Baltimore Sun Almanac* (Baltimore: A.S. Bell Company, 1907), 27.

assembled there to witness the arrival of Secretary Root and his family, who were to start their long, three-month tour throughout numerous coastal South American cities.

Alongside his wife Clara, Root escorted his daughter Edith and son Edward through the crowd. In a private letter, he joked about his new summer occupation as “visiting statesman.” He mentioned all of his family members and the myriad stops on the itinerary, noting, “Elihu is too anxious to begin work to indulge in any such frivolity.”¹²⁶

He avoided any actions that threatened to turn the trip into a media circus. When asked by the press if he had anything to say about the trip prior to his departure, Root kindly declined comment.¹²⁷ Additionally, his choice to travel upon the United States warship *Charleston* excluded journalists from travelling on board. He firmly stated to Roosevelt that he “hope[d] to have it understood there is not going to be an expedition, or a party.”¹²⁸ He looked forward more to what the trip symbolized for US-Latin relations, but less for the formalities of the trip. The trip, he declared, “will be very fine on the water, but dreadful on the land.” Root loathed the formal pomp and circumstance state visits entailed. “I hate banquets and receptions and ceremonial calls and drinking warm, sweet champagne in the middle of the day. All these,” he lamented, “are the fate of an honored guest in Spanish America.”¹²⁹

At 4:00 p.m. on July 8, the *Charleston* entered the harbor into San Juan, Puerto Rico after an uneventful, yet overcast voyage. The next day Root attended a luncheon

¹²⁶ Root to Colonel Edwin B. Buttrick, June 15, 1906, Elihu Root Papers.

¹²⁷ “Secretary Starts on the *Charleston* for a Three Months’ Trip,” *New York Times*, July 5, 1906.

¹²⁸ Root to Roosevelt, December 14, 1905, Elihu Root Papers.

¹²⁹ Root to Judge William Wallace, June 22, 1906, Elihu Root Papers.

held by George Cabot Ward of the Union Club. In a short statement, Root explained that he “fully appreciated the difficulties attending the island’s adjustment to new conditions resulting from its separation from Spain and the severance of relations between church and state.”¹³⁰ He also reinforced America’s commitment to the island and its future. Despite all politicking, Root assiduously avoided any discussions about citizenship for Puerto Ricans, the coffee industry, and the presence of American troops. To be fair, he planned his stop there as more of a fact-finding trip rather than a political action tour. Prior to his arrival, he wrote to Winthrop, telling him that the most important reason for his visit was to “get a general idea of the place which may serve to make my ideas a little more definite on such questions.”¹³¹ Despite the inability of his trip to the American territory of Puerto Rico to bring about immediate results, the simple fact that he visited the island represented a step forward in discussing the issues within the island. Additionally, such a journey conveyed to those who wanted it, a sense of togetherness with the distant government that, for better or worse, ruled it.

Upon his arrival to Brazil on July 17, the Brazilian Minister for Foreign Affairs, Rio Branco expressed his “deep conviction that your voyage around South America will be of great benefit to the interests of our continent.”¹³² Root hoped his presence “might testify to the strong desire of the United States of America for the continuance of the growth of friendship between her and the United States of Brazil.” At a banquet held by Brazil’s Foreign Minister, Root told the crowd he came as their guest and, “not because

¹³⁰ "Porto Ricans Greet Root," *New York Times*, July 10, 1906.

¹³¹ Root to Dr. Lyman Abbott, December 24, 1908, Elihu Root Papers.

¹³² "Root In Brazil," *New York Times*, July 17, 1906.

the fertile or ingenious mind of some ruler has deemed it judicious or convenient, but because my visit naturally represents the friendship which the eighty million inhabitants of the great Republic of the North have for the twenty million people of Brazil.”¹³³ A major component of Root’s trip involved American participation in the Third Pan-American Conference. Started in 1889, these conferences, consisting of delegates from all American nations, were designed to solidify hemispheric unity and inter-American cooperation.

At the opening of the conference on July 21, Root, who the delegates selected as honorary vice president of the conference, gave what came to be regarded as the best speech of his entire trip. During his address, Root upheld the ideas of the “subordination of personal interests to the public good, love of justice and mercy, of liberty and order.”¹³⁴ Living up to lofty and progressive ideas such as these involved a slow, consistent, and conscious effort by nations and individuals throughout the world. He defined the tenets of the progressive advance as including the “intelligent participation of the great mass of the people, in the fidelity and honesty with which they are represented, in respect for law, in obedience to the dictates of a sound morality, and in effectiveness and purity of administration.”¹³⁵ Such progressive ideas reached beyond borders, beyond nationalities, and even beyond race. “Nowhere in the world has this progress been more marked,” Root declared, “than in Latin America.”¹³⁶ He freely conceded that in parts of

¹³³ Root, *Latin America and the United States*, 15.

¹³⁴ Root, *Speeches Incident to the Visit of Secretary Root*, 8.

¹³⁵ *Ibid.*, 9.

¹³⁶ *Ibid.*

Latin America, just like different parts of his own country, that “progress has not been equal everywhere, but there has been progress everywhere.”¹³⁷ Unlike many of his fellow countrymen, Root admitted that American efforts at national uplift often uncovered the “many shortcomings in his own land and among his own people.”¹³⁸ Just like with any other meaningful endeavors, there were bound to be setbacks, and national leaders needed to prepare for such difficulties and adjust.

In spite of these shortcomings, Root argued that the nations in the western hemisphere must remain committed to progressive ideals and necessary reforms. He told the audience of Latin American delegates, “The movement in the right direction is general. The right tendency is not exceptional; it is continental.”¹³⁹ Root warned about the wide-ranging consequences of any nation that rejected this new reality. “No nation can live unto itself alone and continue to live.”¹⁴⁰ The growth of progress in the region, and even throughout the world, required the exchange of ideas, commerce, and technology. Not a utopian, Root understood the uneven nature of such an ambitious project. “There may be leaders and there may be laggards, but no nation can long continue very far in advance of the general progress of mankind, and no nation that is not doomed to extinction can remain very far behind.”¹⁴¹ Romanticizing about a past that no longer exists failed to prepare people for a future that unfurled at their feet. “A people

¹³⁷ Root, *Speeches Incident to the Visit of Secretary Root*, 9.

¹³⁸ *Ibid.*, 8.

¹³⁹ *Ibid.*, 9.

¹⁴⁰ *Ibid.*, 8; “Let American Nations Aid Each Other ...Root,” *New York Times*, August 1, 1906.

¹⁴¹ *Ibid.*

whose minds are not open to the lessons of the world's progress," he declared, "whose spirits are not stirred by the aspiration and the achievements of humanity struggling the world over for liberty and justice, must be left behind by civilization in its steady and beneficent advance."¹⁴² Despite the individual advance of any specific nation, Root recognized the need of extending its commitment to progressive ideas beyond its borders as part of a wider regional and international movement.

Hence, he strongly supported the Pan-American movement that was then developing throughout many parts of the hemisphere and furthered the idea through the goodwill of his journey and his participation in this very conference. He happily noted that the America republics cooperatively "engaged in the same great task, inspired by the same purpose, and progressing on the same principles."¹⁴³ In encouraging and fostering these concepts, Root identified the nations as working toward a mutual benefit and accepting mutual responsibility. Ideally, he argued that every nation in the hemisphere gained as a result of "the prosperity, the peace, and happiness of all."¹⁴⁴ In the run-up to the end of his speech, Root continually gained visible favor with his audience. After addressing the need for unity and hemispheric solidarity, he then shifted the focus of his speech.

Toward the end of his speech, he both addressed the concerns and assuaged the fears of many Latin delegates at the conference. Invariably, his speech included references to the economic tangibles of increasing trade, wealth, and prosperity between

¹⁴² Root, *Speeches Incident to the Visit of Secretary Root*, 10.

¹⁴³ *Ibid.*, 8-9.

¹⁴⁴ *Ibid.*, 10.

all parties, but he positioned those items within the larger need for friendship, mutual respect, and national equality. As he stated in another speech in Brazil during his visit, “Our trade is valuable, and may it increase . . . But there is something more than trade; there is the aspiration to make life worth the living, that uplifts humanity. To accomplish success in this is the goal which we seek to attain.”¹⁴⁵ He admitted to the crowd, “I would think little of my country if it had merely material wealth . . . , if the conception of its people was that we were to live like the robber baron of the Middle Ages, who merely gathered into this castle for his own luxury the wealth that he had taken from the surrounding people.”¹⁴⁶ So beyond any mere mission to bolster the stakes of American international finance, he wanted to internationalize progressive ideas by creating a firmer foundation of friendship and a network of mutual interest. Root skillfully explained that the method to accomplish such a vision involved efforts “not to pull down others and profit from their ruin, but to help all friends to a common prosperity and a common growth, that we may all become greater and stronger.”¹⁴⁷

Trying to counteract the impression of the United States as the “Colossus of the North,” Root revealed an American policy that emphasized “no victories but those of peace . . . no territory except for our own . . . no sovereignty except the sovereignty over ourselves.”¹⁴⁸ Instead of interpreting the Monroe Doctrine as an offensive weapon of oppression, he spoke powerfully of it in terms of a commitment and responsibility to

¹⁴⁵ Root, *Speeches Incident to the Visit of Secretary Root*, 34.

¹⁴⁶ *Ibid.*, 61.

¹⁴⁷ *Ibid.*, 12; “Let American Nations Aid Each Other . . . Root,” *New York Times*, August 1, 1906.

¹⁴⁸ *Ibid.*

defend against oppression. Invoking the ideals of international *noblesse oblige*, he committed the United States to a policy that acknowledged “the independence and equal rights of the smallest and weakest member of the family of nations [being] entitled to as much respect as those of the greatest empire.”¹⁴⁹ Just as he recognized the need for the states of the American union to nationalize its collective efforts, Root endeavored to bring the countries of the Americas together as a way of protecting common interests and accomplishing shared goals. By laying this groundwork, he predicted a time, in the not so distant future, when “the weakest and most unfortunate of our Republics may come to march with equal step by the side of the stronger and more fortunate.”¹⁵⁰ Far from an imperialistic vision of blatant exploitation, Root proposed in his speech a hemispheric union of ideas, a resolve to come together as equals on matters important to all of the nations in the region.

American newspapers and some Latin American leaders praised his speech before the conference as a masterful bit of oratory, while privately Root described it as setting a policy standard for US-Latin American relations. A *New York Times* reporter gushed over the speech, claiming, “It would have been worth his while, it would have been worth our while, it would have been worth the while of Latin America, to have him make this voyage, if it had no other result or record than the speech he delivered.”¹⁵¹ Despite the common perception of American policy as aggressive, the Costa Rican diplomat Joaquin Calvo considered the United States secretary’s speech a “forceful, clear statement of the

¹⁴⁹ Root, *Speeches Incident to the Visit of Secretary Root*, 12.

¹⁵⁰ *Ibid.*, 13.

¹⁵¹ "Secretary Root At Rio," *New York Times*, August 4, 1906.

policy of this Government,” which he confidently predicted “will quiet all uneasiness” of the uproar surrounding the Monroe Doctrine.¹⁵² Another American journalist depicted his speech as defining American policy as “being inspired by a desire to effect Pan-American solidarity as part of the still greater movement for the establishment of peace throughout the world.”¹⁵³

Root characterized his speech before the Pan American Conference as an unmitigated success. In a letter to President Roosevelt, he entertained “no doubt that there will be a residuum of friendly feelings and of confidence in our kindly feelings, left in place of the wide spread distrust which seems to characterize South American opinion regarding the purposes and attitude of the United States.”¹⁵⁴ Root admitted, in a letter to his friend Albert Shaw, that his conference speech was the “only speech made by me [during the trip] which was prepared beforehand.”¹⁵⁵ His preparation represented less his fear of forgetting what to say and more his desire to convey every idea and deliver every phrase as to register the intended effect of what “was designed as a formulation of our policy towards South America.”¹⁵⁶ Confidently, he admitted to Shaw that his speech “will doubtless be referred to often in years to come as fixing a standard which the United States is bound to live up to.”¹⁵⁷ He remained optimistic that his speech set the bar for

¹⁵² "Secretary Root At Rio," August 4, 1906..

¹⁵³ William Palmer, ed., "Pan-American Conference," in *Hazell's Annual for 1907* (London: Hazell, Watson, And Viney, 1907), 328.

¹⁵⁴ Root to Roosevelt, August 2, 1906, Elihu Root Papers.

¹⁵⁵ Root to Albert Shaw, October 8, 1906, Elihu Root Papers.

¹⁵⁶ *Ibid.*

¹⁵⁷ *Ibid.*

what US-Latin American relations was supposed to be for decades to come.¹⁵⁸ In 1921 a South American journal referred to Root's speech as "one of the greatest expositions of the vital need of mutual and sympathetic understanding between the American nations."¹⁵⁹ Without any hint of hesitation, he followed that by writing, "I meant to have it so, for I think we ought to live up to that standard."¹⁶⁰ After almost nearly a month in Brazil, Root prepared to close out what had been a most successful Pan-American conference. On August 8, Root bid farewell to the people and officials of Rio de Janeiro. His trip to Rio and the conference served as the "keystone of his Latin American policy." In fact, one historian argued that in Brazil, his efforts "sealed the bonds of an unwritten alliance" that united the two territorial giants of the Americas.¹⁶¹

The American delegation boarded the ship to prepare for their next destination, Montevideo, Uruguay. After a warm welcome from the Minister of Foreign Affairs, José Remeu, Root cordially spoke about the purpose of his trip. He hoped that the each nation's devotion to progressive values provided the framework for a positive and mutually beneficial diplomatic friendship. Such an amicable feeling, according to Root, sprang from the mutual desire to "promote the common welfare of mankind by advancing the rule of order, of justice, of humanity, and of Christianity which makes for the

¹⁵⁸ Despite his best efforts, Root's attempt to set a new standard for Latin American relations, successive administrations and state department leaders went back on his advances.

¹⁵⁹ Graham H. Stuart, "The New Pan Americanism," *The South American* 10, no. 6 (Jun. 1921): 10.

¹⁶⁰ Root to Albert Shaw, October 8, 1906.

¹⁶¹ E. Bradford Burns, *A History of Brazil* 3rd ed., (New York: Columbia University Press, 1993), 283.

prosperity and happiness of all mankind.”¹⁶² He ended his address by reminding the gathering that he came “not as a messenger of strife,” but as an “advocate of universal friendship and peace.”¹⁶³ In response to a score of extremely gracious comments made by President José Batlle y Ordoñez about the seeming perfection of America and its institutions, Root conceded that, despite the picturesque view painted by the president, “we ourselves know in our hearts how many faults we have.” Continuing his humble admission, he acknowledged, “We know the mistakes we have made, the tasks that are still before us to perform.”¹⁶⁴ With hat in hand, he wowed the crowd by the honesty of his assessment of past American engagements with their country.

On the morning of August 12, at a breakfast gathering in the picturesque *Ateneo de Montevideo*, Root discussed the fact that his travels had focused on “preaching for the past weeks in many places and before many audiences the gospel of international fraternization.”¹⁶⁵ He admitted that some people, along the way, discounted him as an “idle dreamer and insincere orator.”¹⁶⁶ He then described how some people, dominated only by practical and material concerns, might never believe him when he spoke of the “constancy of international friendship,” his “love of country rising above material things,” and the idea of “sentiment as controlling the affairs of man.”¹⁶⁷ Root reassured

¹⁶² "We Try Experiments For Europe, Root Says," *New York Times*, August 12, 1906.

¹⁶³ Root, *Speeches Incident to the Visit of Secretary Root*, 100.

¹⁶⁴ *Ibid.*, 106.

¹⁶⁵ *Ibid.*, 116.

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*

his audience that, in spite of those narrow judgments, his unwavering and progressive vision represented no “idle dream,” but reaffirmed that the “steady and irresistible progress of civilization is ever on.”¹⁶⁸ As part of this new era, he contended moral values would eventually replace material interests, not just for individuals, but for nations as well.

The overall visit to Uruguay, though short, contributed to closer relations between the two nations. According to a *New York Times* reporter, Root’s speeches throughout his visit in Uruguay succeeded in having “won the sympathies of the people” through his “eloquent and frank declaration of the true policy of the United States toward the Latin-American republics.”¹⁶⁹

On August 14, Root and his party arrived in Buenos Aires, Argentina to large crowds gathered at the harbor, chanting, “Viva Mr. Root” and “Viva Los Estados Unidos,” along with the more generic, “hurrahs.”¹⁷⁰ Three days later, Dr. Luis Drago convened a reception for Secretary Root at the Opera Theatre in downtown Buenos Aires. Drago, a fellow lawyer and intellectual equal, rose to speak before the gathering. The former minister highlighted the doctrine that came to bear his name, the “Drago Doctrine.” He aggressively rejected the right of European powers to utilize forcible debt collection. He considered such a position the “principle of American diplomacy which . . . has for its exclusive object to spare the peoples of this continent the calamities of

¹⁶⁸ Root, *Speeches Incident to the Visit of Secretary Root*, 117.

¹⁶⁹ “Root Pleases Uruguayans,” *New York Times*, August 13, 1906.

¹⁷⁰ *The Argentine Minister to the Secretary of State*, 22.

conquest disguised under the mask of financial interventions.”¹⁷¹ Thus, he leveled the bulk of his criticisms, not at the policies of the United States, but at the nations of Europe. In fact, he only wanted the United States government to formally recognize, assist, and uphold the Argentine position. Ultimately, Drago called on European governments to do what “is only just and fair, that the genius and tendency of our democratic communities be respected.”¹⁷² After his speech, he asked the audience to raise their glasses and made subsequent toasts to President Roosevelt and the United States.

In his response, Root rose to “a great ovation” and addressed the issues raised in Drago’s speech. He declared his joy in being able to “declare myself in hearty and unreserved sympathy with you.”¹⁷³ Not surprisingly, Root committed the United States to a policy that renounced the forceful collection of debts. He highlighted the United States government’s position, for over a century, as having “refused to take such action, and that has become the settled policy of our country.”¹⁷⁴ The aggressive policy of forcible debt collection ran counter to the principle of respect for national sovereignty. Such a misguided practice opened up smaller nations to the abuse and speculation by larger, rival powers.¹⁷⁵ Throughout his speech, Root continually reinforced his strong opposition to such a practice.

¹⁷¹ *The Argentine Minister to the Secretary of State*, 154.

¹⁷² Root, *Speeches Incident to the Visit of Secretary Root*, 154-55.

¹⁷³ *Ibid.*, 157.

¹⁷⁴ "Root Pledges America To The Drago Doctrine," August 19, 1906.

¹⁷⁵ Root, *Speeches Incident to the Visit of Secretary Root*, 158.

The final section of his speech focused on uplifting the virtues of justice, mercy, and consideration for others over more selfish endeavors in order to prosper and avoid unnecessary war. He underscored the need for a “patient and kindly spirit” that fostered an environment that fulfilled the “things that dignify life and ennoble it.”¹⁷⁶ In this modern age, Root viewed people as the final decision-makers, as the ones who determine whether or not a nation goes to war. Where once government leaders, kings, governors, presidents, and congresses alone weighed the merits of war and peace, now the “people determine the issues of . . . controversy or of quiet.”¹⁷⁷ For Root, public pressure, with the help of the media, ultimately explained America’s involvement in the War of 1898.¹⁷⁸ Given this shift in influence, he argued that the only way to prevent the disease of war involved efforts to “get in the hearts of the people and lead them to a just sense of their rights and other people’s rights, lead them to love peace and to hate war, lead them to hold up the hands of their governments in the friendly commerce of diplomacy, rather than to urge them on to strife.”¹⁷⁹ Only in seeing each other’s humanity and recognizing the rights of people the world over could the nations hope to avoid conflict. Root ended his speech to rousing cheers and the tossing of flowers from the balcony. Beaupré regarded his boss’ effort as an incredible, yet relatively unseen spectacle. He noted in his report, “Never, I am convinced, in the history of this country has an Argentine audience

¹⁷⁶ Root, *Speeches Incident to the Visit of Secretary Root*, 162.

¹⁷⁷ *Ibid.*, 163.

¹⁷⁸ For further discussion, see Kenneth E. Hendrickson, Jr., *The Spanish-American War*, (Westport, CT: Greenwood Press, 2003); Richard Hofstadter, “Manifest Destiny and the Philippines,” in *American in Crisis: Fourteen Crucial Episodes in American History*, ed. Daniel Aaron (New York: Alfred A. Knopf, 1952), 173-203.

¹⁷⁹ Root, *Speeches Incident to the Visit of Secretary Root*, 163.

been so penetrated by the lofty thought of a speaker . . . , never have higher ideals been presented to it, or the best that there is in this people come so straight to the fore in spontaneous acceptance of those ideas.”¹⁸⁰ Thus, the American officials considered the goals of the trip accomplished. Argentine newspapers carried gushing stories of the speech. One editorial writer in *La Nación* commented, “If the audience had had a complete knowledge of English, each one of his periods would have provoked an uncontrollable explosion of applause.” The Argentine newspaper editor recounted with the speech in great detail, dovetailing the account of the American minister. He concluded his article by enthusiastically declaring that Root’s address consecrated “a friendship fortified by tradition, invigorated by [a] community of ideals, strengthened by [an] identity of institutions, and rooted most deeply in the very soil of Argentine national sentiment.”¹⁸¹ During the first half of the twentieth century, no American more positively influenced Argentine-American relations than Elihu Root.¹⁸² Additionally, the two decades after Root’s visit marked Argentina as “one of the staunchest supporters of a U.S.-led Pan-Americanism.”¹⁸³ On August 21, Root readied to leave Argentina, knowing that his trip exceeded even his own expectations at reconciling differences and promoting mutual interests. Unfortunately, his stop at Chile proved to be less celebratory, and more conciliatory.

¹⁸⁰ *The Argentine Minister to the Secretary of State*, 24.

¹⁸¹ *Ibid.*, 32.

¹⁸² Harold F. Peterson, *Argentina and the United States, 1810-1860* (New York: University Publishers, Inc., 1964), 373.

¹⁸³ David M.K. Sheinin, *Argentina and the United States, An Alliance Contained* (Athens: The University of Georgia, 2006), 35.

On August 16, an 8.2 magnitude earthquake rocked the city of Valparaiso, Chile, triggering scores of aftershocks and even a tsunami.¹⁸⁴ Given the chaos, Root altered the nature of his mission to Chile from diplomatic visit to what he called a “call of condolence.”¹⁸⁵ What would have been a celebratory visit, instead, culminated with a solemn visit to show American support for the citizens of Chile during their time of need. Around 2:00 o’clock in the afternoon on September 1, Root and his party finally arrived in Santiago. Chilean President, Germán Riesco expressed his gratitude toward the United States and its leaders for their mutual friendship, especially in the wake of such a horrendous disaster. In his speech, Root responded in kind, describing his role there as to “express in person the deep sympathy and sorrow which I, and all my people, whom I represent, feel for your country.” He hoped the friendship between the two nations only grew closer as a result of such a tragedy. The bonds of kindness and compassion forged during the most trying of misfortunes, promised the best chance of lasting.

The next evening, President Riesco hosted a small fifty-person dinner at the La Moneda Palace in Root’s honor, allowing another opportunity for discussing the future of Chilean-American affairs. In the initial speech, given by the Chilean Minister of Foreign Affairs, Dr. Antonio Huneeus commented that Root’s speech at Rio and his presence in the country provided “further proof that your purposes are friendly and frank,” symbolizing the primary purpose of his visit.¹⁸⁶ He remained confident that “the

¹⁸⁴ "The Quake And Root's Plans," *New York Times*, August 23, 1906.

¹⁸⁵ *The Argentine Minister to the Secretary of State*, 42.

¹⁸⁶ U.S. Congress, House of Representatives, *Speech of His Excellency Jermán Riesco, President of Chile, To Mr. Root Upon His Arrival at the Government House, In Santiago, September 1, 1906*, vol.59th Cong., 2nd sess., H.Doc 1, serial 5104, (Washington, DC: Government Printing Office, 1906), 150.

rapprochement which the eminent secretary of state now visiting us has initiated will be of beneficent influence on our international cordiality and bring prosperous results for our development.”¹⁸⁷

Throughout his speech, Root outlined the basic ideas of progressivism as the goals of his and his government’s efforts at home and abroad. He discussed efforts American and Chilean efforts across the globe to make “people happier, more prosperous, better educated, better able to perform their duties as citizens and to do their part in the world to help humanity out of the hard conditions of poverty and ignorance and along the pathway of civilization.”¹⁸⁸ He acknowledged that, in such efforts, the United States had committed errors and caused misunderstandings. According to Root, the source of the conflicts originated from the two nations knowing too little about one other. Given his belief in the twentieth century as being the century of South America, the United States, and Chile could no longer remain strangers and must transition to intimate friendship.¹⁸⁹ Writing to President Roosevelt, the Chilean president declared, “we shall never forget this visit that I trust will be fruitful for the cordial relations of our countries.”¹⁹⁰ After his three-day trip, he left the wounded, but recovering nation of Chile for the next stop on his journey.

¹⁸⁷ *Speech of His Excellency Dr. Antonio Huneeus*, 153.

¹⁸⁸ U.S. Congress, House of Representatives, *Reply of Mr. Root*, vol. 59th Cong., 2nd sess., H.Doc 1, serial 5104, (Washington, DC: Government Printing Office, 1906), 153.

¹⁸⁹ "South America's Century," *New York Times*, September 4, 1906.

¹⁹⁰ U.S. Congress, House of Representatives, *The President of Chile to the President of the United States*, vol. 59th Cong., 2nd sess., H.Doc 1, serial 5104, (Washington, DC: Government Printing Office, 1906), 154.

On the morning of September 10, the *Charleston* anchored in the principal port city of Callao, Peru. During a speech, the mayor of Lima, Dr. Federico Eleguera, referred to Root as “an ambassador of peace, a messenger of good will, and the herald of doctrines which sustain America’s autonomy and strengthen the faith in our future welfare.”¹⁹¹ He discussed the Peruvian government’s continued commitment to the ideas of civilization and fraternity that in their past, “enabled her to watch over justice, to render assistance to the weak, to fight oppression, and to defend the rights of America.”¹⁹² As a result, the Peruvians sympathized with United States motivations and efforts, rather than fearing this as some veiled attempt at American imperialism. The audience, keen to his words, applauded the speech by the count of no less than eight times.¹⁹³ Though by no means the high point of his visit to Peru, these initial speeches set the tone for the remainder of his trip.

During the next day, the Minister of Foreign Affairs Javier Prado y Ugarteche delivered one of the most friendly and supportive speeches toward Root’s efforts at building Pan-American rapprochement. He pointed to American efforts to bring peace to the major empires of Europe and Asia, resolve disputes between nations of Central America, promote the Hague while delaying it in order to attend the Pan-American Conference. For Prado, those actions provided the necessary proof of America’s “equal

¹⁹¹ "Secretary Root At Lima," *New York Times*, September 11, 1906; U.S. Congress, House of Representatives, *Speech of His Doctor Federico Elguera, Mayor of Lima, Welcoming Mr. Root, at the Municipal Council, September 10, 1906*, vol. 59th Cong., 2nd sess., H.Doc 1, serial 5104, (Washington, DC: Government Printing Office, 1906), 183.

¹⁹² *Ibid.*, 185.

¹⁹³ Elihu Root, *Visit to Peru of the Hon. Elihu Root, Secretary of State of the United States* (Lima: Imp. Americana, 1906), 12-4.

concern, in the future of the peoples civilized for a century, and also in that of the countries just commencing their existence.”¹⁹⁴ He explained that after detailing Root’s progressive idea at the Rio Conference, Peruvian officials studied carefully his words only to accept “your phrases and ideas as [their] own.”¹⁹⁵ Such concepts constituted what Prado referred to as the Peruvian government’s “profession of faith in regards to her international policy.”¹⁹⁶ Root graciously thanked the minister for his words, but, just as he did on other visits, he indicated that the United States government’s actions often fell short of its ideas. Very humbly, he admitted his government often failed at “living up to the standards which we set for ourselves, and we know our own omissions, our failings, and our errors; we know them, deplore them, and we are constantly and laboriously seeking to remedy them.”¹⁹⁷ The relationship between the two nations represented something that needed constant attention and mutual respect.

Just as Root viewed this trip as a way to rehabilitate and remake America’s image internationally, the journey ingrained in him the understanding that these South American countries sought to redefine their place in the world as well. Latin American leaders no longer seemed content to merely be acted upon by powerful imperial forces.¹⁹⁸ In the modern era, they demanded to be viewed as equal actors in the world and part of the larger global community.

¹⁹⁴ *Speech of His Excellency Doctor José Pardo y Barreda*, 1230.

¹⁹⁵ *Ibid.*, 1232.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Reply of Mr. Root*, 1233.

¹⁹⁸ "Speech Please Mr. Root," *New York Times*, September 13, 1906.

Root told those gathered that he traveled to South America with the hopes of seeing progress on the march in the various republics and that it left him with the impression that “there is a new day dawning” throughout the region.¹⁹⁹ He attributed the change not to material advances, but what he referred to as “spiritual things.”²⁰⁰ He explained the concept as constant evolution toward progress within institutions, individuals, and ideas. This greater movement of good progressed throughout all corners of the world in varying levels and various ways. For Root, this type of transformation took generations before these advances reached the macro or societal level. As individuals, he told his Peruvian audience, “we can do but little in our day.”²⁰¹ Lives were short and material gains, in the long scheme of things, were meaningless. Ultimately, to achieve any meaningful change, Root argued, “each one of us in his influence upon the public affairs of his day can contribute ever so little, but something . . . if we can do something to contribute to that tendency which countless millions are working out, we shall not have lived in vain.”²⁰² The work of international progress began only when nations, including Root’s own, turned away from brute force, selfishness, and greed. International progressives, therefore, looked toward a day when national governments embraced the rights inherent in humanity, respected the rule of law, and worked together toward a common and truly universal good. Only then could people claim that true civilization on a global scale indeed existed.

¹⁹⁹ *Reply of Mr. Root*, 1234.

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² *Ibid.*

Root ended his talk by posing a question he pondered. He asked the inheritors of the Inca civilization, “What will be the end of our civilization? Will all that we do come to naught?”²⁰³ In fact, if the current civilization hoped to avoid the fate of those that came before it, Root suggested, the only way to endure involved building society upon a firm foundation of inclusion, justice, liberty, and love. According to the Peruvians’ own account of the speech, the American statesman “was constantly interrupted by applause and cheers.”²⁰⁴

Overall, Root’s weeklong visit to Peru represented a success from beginning to end. A *New York Times* reporter summarized his trip as having “made a most excellent impression upon all classes during the few days of his Peruvian stay.”²⁰⁵ Ultimately, Root succeeded in spreading his message of peace and progress to the people of the Andes. One historian noted that a reader of Root’s speeches “is dumbstruck by the words so filled with admiration and goodwill,” to the point it “prompted Peruvians to reciprocate with near adulatory comments.”²⁰⁶ The legacy of Root’s trip represented the “apogee of like-thinking that Peruvian and American political and economic elites shared in the early twentieth century.”²⁰⁷ By contrast, the next major American official to visit Peru fared

²⁰³ *Reply of Mr. Root*, 1234.

²⁰⁴ Root, *Visit to Peru of the Hon. Elihu Root*, 48.

²⁰⁵ “Root Won The Peruvians,” *New York Times*, September 18, 1906.

²⁰⁶ Lawrence A. Clayton, *Peru and the United States* (Athens: University of Georgia Press, 1999), 100.

²⁰⁷ *Ibid.*, 101.

much worse.²⁰⁸ As a final gesture of goodwill, Secretary Root cried out from the deck of his ship, “Viva Peru!” as his journey toward Panama commenced.

Shortly after 4:00 o’clock on the afternoon of September 20, the American cruiser *Charleston* anchored in Panama Bay. At the National Assembly, Ricardo Arias, the secretary of government and foreign relations, congratulated the secretary’s efforts at bringing about closer ties between the United States and Latin America through his very powerful and personal visits over the past several months. For Arias, the very recent history of his nation’s birth served as a powerful example of American altruism throughout the region. In fact, he expressed major gratitude to the American government for even, “placing us on a level with the powerful Brazil, Argentina, Chile, Peru, and Uruguay” with their visit during this round of diplomacy.²⁰⁹ Additionally, he extended gratefulness and optimism for the coming visit of President Roosevelt to their nation in just two months’ time.

As to America’s intentions in Panama, no confusion existed. Both governments worked for the mutual benefit of the other. Given the country’s relative newness, Panama’s leaders had yet to experience any issue that had the opportunity to strain their relationship with the United States. If anything the relationship between the United States and Panama still hovered well within the honeymoon phase, making Root’s job there quite easy. In his speech, he only needed to emphasize the nature of their partnership, reinforce each other’s mutual goals, and equally share in the success of their endeavors.

²⁰⁸ In 1958, Richard Nixon faced a mob of students throwing stones at him. His visit symbolized the huge divide between Peruvians and Americans during the second half of the twentieth century.

²⁰⁹ Root, *Visit to Peru of the Hon. Elihu Root*, 255.

Foreseeing a realistic future between two different peoples and cultures, part of Root's response dealt with the possibility of misunderstanding between the two nations. In certain instances and under certain strains, the United States might "fail to appreciate your good qualities and that you fail to appreciate ours; and that with perfectly good intentions, with the best of purposes and the kindest of feelings, we clash, we fail to understand each other, we get at cross-purposes and misconception and discord are liable to arise."²¹⁰ In those situations, Root counseled patience and forbearing in order to overcome these momentary setbacks. No matter the issue or how big the strain between the two nations, he stressed to Arias and those gathered, "We do not wish to govern you or interfere in your Government because we are larger and stronger; we believe that the principle of liberty and the rights of men are more important than the size of armies or the number of battleships."²¹¹ Given that American government leaders were the first to recognize the independence of Panama, he committed his country to maintain that same independence inviolate. After his short visit in Panama, Root and his party left on the morning of September 22 and readied for his journey to Cartagena, Colombia.

Unlike the friendly warmth Root felt in Panama, American officials seriously wondered what sort of reception he might face in Colombia. If any nation's leaders along Root's journey had reason to suspect American intentions, Colombian leaders had just cause. Tensions between the two nations still remained high as a result of the Panama Revolution of 1903 after losing significant amounts of its territory. Colombian officials as well as many outside observers rightly claimed that American involvement and

²¹⁰ Root, *Visit to Peru of the Hon. Elihu Root*, 255.

²¹¹ *Ibid.*, 259.

interference amounted to a land grab. In fact, in a cabinet meeting following the “revolution,” Roosevelt attempted to legally defend his actions in regard to what occurred in Panama. He then turned to his cabinet members, looking directly at his old friend Root. “Well,” Roosevelt demanded, “have I answered the charges? Have I defended myself?” The elder Root wryly responded back, “You certainly have, Mr. President. You have shown that you were accused of seduction, and you have conclusively proved that you were guilty of rape.”²¹² In May of 1906, President Rafael Reyes, in speaking with the American minister Barrett, informed him of “how strong still was the feeling, amounting almost to intense hatred, among the people of Colombia against the United States” as a result of its role in the Panama Revolution.²¹³ Despite their suspicions, Colombian leaders reached out to Root and he looked for ways to reconcile the damaged relationship.

Back in May of 1906, President Reyes had requested a private conference with Secretary Root through the American Legation in Bogota. He wanted to find more practical ways of addressing the nation’s mutual problems and mending relations. On a larger scale, the move by the Colombian government represented their efforts, even if confidentially at first, to “inaugurate a new era in foreign relations” with the United States.²¹⁴ In his effort to make this happen, the American minister to Colombia, John Barrett, endured a great deal of hardship, but was dedicated to the cause of strengthening

²¹² Paul Boller, Jr., *Presidential Anecdotes* (New York: Oxford University Press, 1996), 208. Only Root’s age and his long relationship permitted him to speak to Roosevelt in such a manner. He intended the comment as a humorous, yet forceful way to call out the president’s actions in aiding Panama during its revolution.

²¹³ U.S. Congress, Senate, *Diplomatic History of the Panama Canal*, 63rd Cong., 2nd sess., S.Doc. 474, serial 6582, (Washington, DC: Government Printing Office, 1906), 114.

²¹⁴ *Diplomatic History of the Panama Canal*, 115.

US-Latin American relations.²¹⁵ One newspaper writer in Colombia described the people as “enthusiastic,” especially given their belief that Root’s visit would “presage the coming of entente cordial between Columbia [sic] and Panama.”²¹⁶ On September 24, the *Charleston* arrived in the port of Cartagena on the last stop of Root’s South American tour.

Root’s last-minute stop in Colombia represented his deep desire to reconcile with the government in Bogota. He sought to counteract the tattered diplomatic relationship with Colombia and to refocus the two nations on working together in a spirit of hemispheric solidarity. More than mere hinting, Root looked optimistically at this “new era of progress,” when their nations continued to build on the “pleasant friendships formed to-day.”²¹⁷ In his reply to the minister’s kind words, Root expressed his optimism that any and all questions that came between those two nations could ultimately “be settled peacefully, in the spirit of friendship, of mutual esteem, and with honor for both countries.”²¹⁸ Though not mentioned publicly, the two men discussed the prospects for

²¹⁵ Stephen J. Randall, *Colombia and the United States: Hegemony and Interdependence* (Athens: University of Georgia Press, 1992), 89; *Minister Barrett to the Acting Secretary of State*, 440. Randall described John Barrett as a “dedicated Latin Americanist.” He additionally argued that Barrett’s “genuine love of Latin America, of travel, and his human skills made him a highly regarded figure in Colombia and did much to counteract some of the damage cause by events in Panama.” Barrett traveled from Bogota to Guayaquil, Ecuador to meet up with Secretary Root. Such an overland and mountainous journey ended up, “requiring nearly forty-five days’ traveling on mule back over a distance . . . [of] over 1,000 miles.”

²¹⁶ “Great Reception For Root,” *La Grande Evening Observer* (La Grande, OR), September 15, 1906.

²¹⁷ Root, *Speeches Incident to the Visit of Secretary Root*, 266.

²¹⁸ *Ibid.*

mending political fences between them, including the “gnawing isthmian dilemma.”²¹⁹ Conversation between the two lasted several more hours. Their discussions represented the first step in working toward a cordial relationship. By the late afternoon, Root readied to depart and again wired President Reyes. Beyond the obligatory thank you exchanged between the two men, Root declared that he was “leaving Colombia soil with sentiments of esteem and regards.”²²⁰ For the first time in years, the acerbic rhetoric of disdain and aggravation between the United States and Colombia subsided. In its place, both governments sought to renew and revamp their diplomatic relationship. Root’s visit and Barrett’s work reassuring Colombians of American intentions “did much to counteract some of the damage caused by the events in Panama.”²²¹ Just as quickly as Root arrived, he prepared to leave Colombia, though he carried with him a new optimism for friendlier relations and regional stability.

In the years following his visit, Root continued to nurture and build his relationship with the Colombian government and its rapport with Panama. Favorable public sentiments along with a friendly Colombian leadership and three years of heavy negotiation led to the signing of a tripartite treaty between the United States, Panama, and Colombia in January of 1909.²²² The treaties called for a resumption of friendship

²¹⁹ Richard L. Leal, *Arrogant Diplomacy: U.S. Policy Toward Colombia, 1903-1922* (Wilmington, DE: Scholarly Resources, Inc., 1987), 54.

²²⁰ "Root Pleased Colombians," *Boston Evening Transcript*, September 28, 1906.

²²¹ Randall, *Colombia and the United States*, 89.

²²² For a further discussion, see Richard L. Leal, *Arrogant Diplomacy: U.S. Policy Toward Colombia 1903-1922*, (Wilmington, DE: Scholarly Resources, Inc., 1987), 53-84. The treaty between the United States and Colombia, known as the Córtes-Root Treaty, called for the resumption of friendship and provided Colombia with special with special privileges in regard to their use of the Panama Canal . The treaty between the United

between the United States and Colombia and sought to work out differences plaguing Panama and Colombia. According to the Colombian government, the tripartite treaties had “once more proven his [Root’s] spirit of nobility and justice and his feelings of warm Americanism.”²²³ In spite of these new feelings of friendship, opposition to President Reyes in Colombia’s National Assembly prevented ratification of the treaties due to his own increasing unpopularity amongst his countrymen and continued deep-seated anger toward the United States over the loss of Panama by the populace.

If that was not enough, by March of 1909, the public backlash against Reyes led to his eventual resignation and with it, any chance at starting anew. In the end, the three nations bundled each of the treaties together so that if one failed ratification by any nation, all of them failed. The Colombian National Assembly held the position of power in regard to the treaty, deciding the “life or death for these documents.”²²⁴ The failure of the tripartite treaty rested squarely on Colombian political infighting. The opposition in the National Assembly obliterated the years of work that Root had put into redeveloping a friendly and working relationship with the government in Bogota. The Colombian

States and Panama, called the Arosemena-Root Treaty, provided Panama with equal use of the canal, assigned Panama to use American canal use fees to pay their joint share of Colombia’s national debt, and demanded both nations use arbitration to discuss any future disputes regarding the canal. The final treaty between Colombia and Panama, referred to as the Arosemena- Córtes Treaty, recognized Panama’s independence, extended friendship and mutual right recognition between the two nations, required Panama to pay \$2.5 million to Colombia as their share of the national debt, waived any rights to past claims between them, and authorized Colombian ownership of 50,000 shares of the New Panama Canal Company.

²²³ U.S. Department of State, *Papers Relating to the Foreign Relations of the United States with the Annual Message of the President Transmitted to Congress, December 10, 1910* (Washington, DC: Government Printing Office, 1915), 369.

²²⁴ Leal, *Arrogant Diplomacy*, 63.

government's resistance undermined highly visible public displays goodwill, such as his 1906 visit, along with the painstaking diplomacy behind the scenes that the public in either country never saw. If anything, Root deserved the bulk of the credit for resurrecting Colombian-American relations after the actions of President Roosevelt, even if only for a short time. His successors in the Taft Administration only further destroyed the diplomatic bridge he had built with Colombia. Only in 1914 did the Wilson administration reaffirm the principles of the Root treaty and, even then, it failed to take effect until 1922.

After leaving Cartagena, Root took solace in the productivity of his journey as a whole, while relishing the fact that his grueling, nearly four-month tour was now finally coming to a close. On his return trip, however, a major setback threatened to tarnish his entire journey. Armed conflict broke out in Cuba in the summer of 1906 against the Palma government after a disputed election. One historian noted, however, that American officials in Cuba followed the "Root interpretation of the Platt Amendment" so well that when the island was on the brink of civil war, "his diplomats not only had not meddled in the internal affairs of Cuba but were indeed not very knowledgeable about those affairs."²²⁵ The Cuban regime cabled President Roosevelt demanding United States

intervention in his country. With Root still returning from his trip and other officials

²²⁵ Philip W. Bonsal, *Cuba, Castro, and the United States* (Pittsburgh: University of Pittsburgh, 1971), 251. The author also contends correctly that after 1909 (Root's time as Secretary of State), officials in Washington abandoned the "Root interpretation of the Platt Amendment" in favor of a more preventive approach. This approach, continued until 1924, called on the Cuban government to call to the State Department's attention to anything that might oblige the United States to intervene. Officials hoped to avoid formal intervention but ended reaffirming Cuban suspicion on the possibility of intervention. Regardless, the shift away from Root's views allowed his successors to misuse the Platt Amendment's ability to protect the Cuban nation from outsiders to now stamp out legitimate political opposition within the country.

absent as well, the decision of what to do fell entirely to the president. Not one to wait to act, Roosevelt, and he alone, dispatched American troops to the island.²²⁶ An assistant secretary of state back in Washington, Robert Bacon, lamented, “I shall be ashamed to look Mr. Root in the face. This intervention is contrary to his policy and what he has been preaching in South America.”²²⁷ A desperately embarrassed Root had hoped for a different outcome, but the president’s decision made any alternative all but impossible. Once Root, upon his return, learned of American intervention, his colleague, James Brown Scott, witnessed that he “walked up and down in his office in the State Department, saying, ‘They have killed my baby.’”²²⁸ Without consultation or discussion with Root, Roosevelt’s single action of military intervention somewhat sabotaged Root’s attempt at redefining American policy in the region he had spent months trying to craft.

On September 30, Root and his family finally arrived back in Washington, DC. Not surprisingly, he wrote that upon returning home, he felt “more tired than I had realized.”²²⁹ With a wink and nod, he described the difficulties and repetitions such a long trip no doubt entailed. He poured out frustration and illuminated the nonstop nature of his work in a letter he penned to Lodge:

²²⁶ Richard D. Challener, *Admirals, Generals, and American Foreign Policy, 1889-1914* (Princeton: Princeton University Press, 1973), 163.

²²⁷ James Brown Scott, *Robert Bacon, Life and Letters* (Garden City, N.Y: Doubleday, Page & Company, 1923), 118.

²²⁸ *Ibid*, "Elihu Root: An Appreciation," *Proceedings of the American Society of International Law* 31, (Apr. 29, 1937): 6. He said after some time had passed in a letter to General James H. Wilson in late October of 1906, “I feel very badly about the break-down of the Cuban government and the necessity of our return. It does, however, seem to have been necessary.”

²²⁹ Jessup, *Elihu Root* vol. 2, 488.

[I]t was hard work for a fellow who hates processions and crowds and brass bands and four horse coaches with postilions and cavalry escorts and paths strewn with flowers and official and social calls and long, formal breakfasts and longer banquets and receptions and balls and speeches without number and deputations and addresses. I gasp now as I look back at it, and a man who proposes a speech to me might as well bring me the sixtieth quail on a plate.²³⁰

Despite the physical wear and tear of the trip on Root's body, all the miles of the trip made the relationship between the United States and Latin America look better than ever. As clearly as he could, Root illustrated the true purpose of his trip. The Rio Conference and his South American journey provided a "powerful impulse to the growth of a better acquaintance between the people of all the American countries, a better mutual understanding between them, the establishment of a common public opinion, and the reasonable and kindly treatment of international questions in the place of isolation suspicion, irritation, strife, and war."²³¹ "Above all things," Root declared in a 1913 speech, "I hope and trust and believe the people of South America will become permanently convinced . . . there is neither to the Monroe Doctrine nor any other doctrine or purpose of the American Government any corollary of dominion or aggression, or of ought but equal friendship."²³² In the years following his trip, he still retained nothing but goodwill and kindly consideration for Latin American nations. For decades to come, Latin American leaders spoke about Root and his visit with the utmost appreciation. One

²³⁰ Root to Henry Cabot Lodge, October 3, 1906, Elihu Root Papers.

²³¹ Root to Andrew Carnegie, December 4, 1906, Elihu Root Papers.

²³² Root, *Latin America and the United States*, 243.

writer commented that Root's "message of peace and goodwill was received as sincerely and as graciously as it was given."²³³

Though some historians point to American intervention in Colombia, the Dominican Republic, and Venezuela by the Roosevelt administration as examples of American hardline imperialism, in each of those situations Root either mitigated stronger imperial interests or had no involvement whatsoever. In fact, he lived up to the characterization by historian Samuel Flagg Bemis as "the original temperer of North American imperialism."²³⁴ In the Panama Revolution, Roosevelt led the efforts that aided in the formation of that country for American purposes. In regard to the Dominican Republic, Root stifled a senator's plan that called for the annexation of the country. The treaty that resulted, according to one author, "conferred no benefit but placed a heavy burden upon the United States."²³⁵ Root described the policy toward the Dominican Republic, just as in Cuba, as "but a part of a great policy which in the years to come determine the relations of this vast country . . . to the millions of men and women . . . of the great world of the south."²³⁶ In Venezuela, he patiently and fairly worked with its government to arbitrate financial claims, despite Roosevelt's continued desire to intervene militarily against them. He talked the president into the lesser step of severing diplomatic ties with the Venezuelan government. During this time, President Cipriano

²³³ James Brown Scott, ed., "Mr. Root's South American Trip," *American Journal of International Law* 1, no. 1 (Jan. and Apr., 1907): 144.

²³⁴ Samuel Flagg Bemis, *The Latin American Policy of the United States* (New York: Harcourt, Brace, And Company, 1943), 239.

²³⁵ George Finch, "Elihu Root's Contribution To Pan-Americanism," *Bulletin of the Pan-American Union* 79, no.2 (Feb. 1945): 67.

²³⁶ Root, *Latin America and the United States*, 276.

Castro left the country to seek medical treatment a kidney illness and treatment for syphilis in Europe. While he was away, his lieutenant, Juan Gómez, seized control of the government. Almost immediately, the Gómez-led government worked to settle the issues between the two nations. Root wrote to Carnegie a cheerful, yet relieved note that “to have success in the way of a peaceable settlement without any bulldozing in this most difficult case is extremely gratifying.” He further admitted that to have used force against Castro “would only help him and would be an abandonment of principles.”²³⁷ If anything, these examples showed his resistance to bare-knuckle imperialism and backed up his rhetoric of wanting to begin a new relationship dynamic of restraint over raw power.

Despite all the acclaim for Root, he viewed his actions as part of a larger and longer national and international goal. A journalist, commenting on his trip admitted, “Root will not be a presidential candidate, but he will receive the thanks of the American people for his *savoir faire* as to enhancing the prosperity of his country.”²³⁸ Unlike his predecessors and even some of his successors, Root’s diplomatic endeavors “injected a new spirit in United States-Latin American affairs” exactly because he “recognized that Latin American states could and should no longer be treated in an offhanded manner, whether politically, economically or strategically.”²³⁹ Even the president admitted, “We in this country do not realize how wonderful it [Root’s trip] was and how much good he

²³⁷ Root to Andrew Carnegie, December 24, 1908, Andrew Carnegie Papers, Carnegie Library, Pittsburgh, PA.

²³⁸ "Root And South America," *Sausalito News* (Sausalito, CA), August 18, 1906.

²³⁹ David Henry Burton, *Theodore Roosevelt, American Politician: An Assessment* (Cranbury, NJ: Associated University Presses, Inc., 1997), 68.

has done.”²⁴⁰ Roosevelt went so far as to characterize Root’s efforts in Latin America as the “bulk of the most important work we have done” during his second term.²⁴¹ Though he often engaged in excessive hyperbole, the president failed to exaggerate in his description of Root’s efforts. He described Root’s Latin American diplomacy as having “done more as regards these states than ever before in the history of the State Department” and his own as merely “backing him up.”²⁴²

Despite Root’s best efforts to effectively transform US-Latin American relations into a peaceful and productive partnership, much of it came undone once he left the State Department. During President Taft’s term, two key State Department officials spelled disaster for America’s relationship with Latin America. As secretary of state, Taft selected Philander Knox. “Little Phil,” as he was known, had almost no knowledge of foreign affairs and even less of a work ethic. Knox consistently referred to Central American nations as the “rotten little countries” and completely ignored South American during his time in the department. He worked only three days a week for only hours a day before going to have cocktails and wine for lunch, sleeping off the buzz, and playing golf for the remainder of the day. Even worse, Root observed that Knox was “absolutely antipathetic to all Spanish-American modes of thought and feeling and action.”²⁴³

²⁴⁰ Theodore Roosevelt and Henry Cabot Lodge, *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884-1918*, vol. 2, (New York: Charles Scribner's Sons, 1925), 241.

²⁴¹ Graebner, *An Uncertain Tradition*, 45.

²⁴² *Ibid.*

²⁴³ Lars Schoultz, *Beneath the United States: A History of the U.S. Policy Toward Latin America*, (Cambridge, MA: Harvard University Press, 1998), 206-08.

With Knox's lack of concern, Assistant Secretary Francis Huntington Wilson determined much of the State Department's direction. Abrasive and short-tempered, Huntington Wilson originated much of the Latin American policies deemed "objectionable" during Knox's tenure. He described Latin Americans as having the "brutality of the African, the stolidity, shiftlessness, and craftiness of the Indian, [and] the cruelty and greed of the Spaniard."²⁴⁴ Even Root considered Huntington Wilson as "a fellow of the most dangerous character for the diplomatic service."²⁴⁵ Under Knox's leadership, Root's policy toward Latin American of "kindly consideration" slipped back to the old ways of imperial meddling, what Knox referred to as "preventive interference."²⁴⁶

Conclusion

During his tenure as secretary of state, Root reviewed and reworked American foreign policy to serve to bring order and stability in a world reacting to the monumental changes wracked by industrialization, technological innovation, and modernization. As a result, he applied domestically progressive attitudes of reconciliation and protection to international issues. Domestically, his fellow progressives struggled with reconciling varying levels of social, economic, and political inequalities throughout much of the nation. National leaders often struggled with finding their place and defining their role in the quickly growing and increasingly interconnected world. So as militarism and the race for empire spread across the globe, Root sought to bring stability and order to what

²⁴⁴ Schultz, *Beneath the United States: A History of the U.S. Policy Toward Latin America*, 208.

²⁴⁵ *Ibid.*, 207.

²⁴⁶ Jessup, *Elihu Root*, vol. I, 520.

seemed to be an increasingly dangerous and uncertain world. Just like his domestic progressive counterparts, he attempted to reconcile competing international interests to create meaningful, efficient, and productive relationships with other nations. In stressing the need for mutual protection, Root argued that the United States had a moral duty as a militarily and economically powerful nation to stand beside, even sometimes with, those nations who lacked the ability to defend themselves. Though many historians quickly jumped to the conclusion that this international *noblesse oblige* merely justified imperial behavior, Root's diplomatic actions displayed something quite different.

In the Far East, Root attempted to salvage what appeared to be an eroding friendship with Japan. Following the Russo-Japanese War and the Treaty of Portsmouth, the Japanese leadership, along with their populace, simmered in anger over the decision reached during Roosevelt's mediation. Root's efforts centered on undoing the hard feelings and calming tense situations that some officials worried might lead to conflict between the United States and Japan. As nativist sentiment toward Japanese immigrant workers increased to a serious international level, Root intervened in the form of the "Gentlemen's Agreement" of 1907 and the Root-Takahira agreement in 1908.

Additionally, he condemned the racist attitudes held by many Californians toward the immigrants as unfortunate and unproductive. Such vitriol by Americans in California threatened to upset relations between the two nations at the international level. While Roosevelt took the more aggressive approach of dispatching a tour of the Great White Fleet, Root diplomatically labored to patch up US-Japanese relations by easing the relations. He worked out manageable and agreeable arrangements with Japan and used

the power of the federal government to ensure the fair treatment of immigrants in California.

In Latin America, Root pursued a more friendly, open, and effective dialogue with his hemispheric neighbors. He inaugurated what came to be known as the “Root Doctrine,” calling for more efficient, respectful, and productive relations with Latin American leaders throughout the region. In this way, his efforts represented a comprehensive attempt by an American statesman to implement the first “Good Neighbor Policy.” This policy resisted the use of military intervention, promoted mutual economic development, encouraged arbitration, and recognized international legal equality. In recognition of this shift in policy, Root traveled for almost four months to seven Latin American nations during the late summer and early fall of 1906, calming the fears of those who looked at the Monroe Doctrine as little more than an excuse for military intervention and exploitation of the region. Far from it, the policy, according to Root, provided those nations with mutual defense against European imperial aggressors and nothing more.

Root’s progressivism in relation to Latin America represented a more distinct change in attitude and involvement. Needless to say, some of his motivations assuredly involved “American interests,” whether they were strategic, economic, or political. However, he shifted the manner in which the United States communicated those interests to the countries of the hemisphere. In talking about the importance of interaction with Latin America, Root declared, “There is so much more good than evil in men that comes

by knowing.”²⁴⁷ He reached out to the leaders of these governments in ways that no previous official had in the history of the country. Despite the size and economic power of any nation, he firmly believed that Latin American leaders and their people retained unequivocal equality before international law and deserved to be treated with the dignity that it entailed. In his earliest days, before becoming secretary of state, Root announced in regard to Cuba that the:

People of the ceded islands have a moral right to be treated by the United States in accordance with the underlying principles of justice and freedom which we have declared in our Constitution . . . not because those provisions were enacted for them, but because they are essential limitations inherent in the very existence of the American government.”²⁴⁸

Under Root’s leadership, the United States government moved away from dictating to the nations of the hemisphere, and instead worked together as mutual partners and equals in negotiating treaties, discussing disputes, and establishing commerce.

More importantly, Root’s outreach went beyond his years as secretary of state. He helped extend a hand of friendship and respect through his continued efforts to promote Pan-Americanism. In 1907, after Root’s travel to Mexico, both nations proposed the creation of the Central American Court of Justice. He envisioned this as a place for Central American nations to hash out disputes while at the same time promoting regional union. The court represented the first permanent court for settling the disputes of sovereign countries and it lasted for a total of ten years. The Central American Court of Justice, according to one author, would have lasted longer “if the United States had taken

²⁴⁷ Franklin Adams, ed., “The Dedication of the New Building,” *Bulletin of the International Bureau of the American Republics*, 30, no. 5 (May, 1910), 740.

²⁴⁸ War Department, *Report of the Secretary of War* vol. 1, Part I (Washington, DC: Government Printing Office, 1899), 24.

a greater interest in promoting its survival.”²⁴⁹ Despite Root’s attempts to draw attention to the importance of the court, American officials in the years after he left the State Department declined to carry forward any efforts to make the court more efficient and reform some key issues that prevented it from working smoothly. In the Pan-American conferences for years to come, Root represented the United States, while promoting the progressive ideas of international arbitration and the abandonment of war. In addition, he established a home in Washington, DC for the Pan-American Union in 1910 as “a permanent center of information and of interchange of ideas,” reaching out to both Andrew Carnegie and the United States Congress to fund the endeavor.²⁵⁰ Upon laying the cornerstone, Root dedicated the new building on April 26, 1910, to serve “as the symbol, the ever present reminder, the perpetual assertion of unity, of common interest and purpose and hope among all the Republics.”²⁵¹ He even went so far as to say that the Pan-American Union “is a confession of faith, a covenant of fraternal duty, a declaration of allegiance to an ideal.” To Root, the construction of this new structure etched in marble for all the people of the continents to see the ideas that the best of the modern world was trying to live up to.

Using his position in the State Department, Root confronted the unnecessary issues leading to international conflict and charted an American policy that promoted

²⁴⁹ Mary Ellen O’Connell, “Arbitration and Avoidance of War: The Nineteenth-Century American Vision,” in Cesare P. R. Romero, ed., *The Sword and the Scales: The United States and International Courts and Tribunals* (New York: Cambridge University Press, 2009), 40.

²⁵⁰ George Finch, “Elihu Root’s Contribution to Pan-Americanism,” *Pan-American Bulletin* 79, No. 2, (Feb. 1945), 69.

²⁵¹ “The Dedication of the New Building,” *Bulletin of the International Bureau of the American Republics* 30, no. 5 (May, 1910), 740.

mutual interest, goodwill, understanding, and kindly consideration. In cases of previous international misunderstanding, he worked to rehabilitate America's relationship with that country or region. Additionally, Root often tempered President Roosevelt's tendency to extremes, while working diligently behind the scenes to find non-violent alternatives to resolve disputes. He envisioned a world that embraced the common humanity of one another, exercised relative self-control, and respected the rights of others.

CHAPTER VII

THE ARCHITECT OF ARBITRATION: FROM SECRETARY OF WAR TO THE HARBINGER OF PEACE

“No nation can live unto itself alone and continue to live . . . There may be leaders and there may be laggards, but no nation can long continue very far in advance of the general progress of mankind . . . A people whose minds are not open to the lessons of the world’s progress, whose spirits are not stirred by the aspirations and the achievements of humanity struggling the world over for liberty and justice, must be left behind by civilization in its steady and beneficent advance.”

**Elihu Root
3rd Pan-American Conference, July 31, 1906**

As militarism grew abroad and labor strife raged at home at the turn of the twentieth century, progressives searched for peaceful ways of calming the flames of calamity. They sought to standardize and centralize a process that brought about peaceful labor relations and international stability, hopefully applying similar methods of problem solving to what appeared to be systemic deficiencies. In all of his international efforts, Root favored international arbitration as the progressive foundation that he hoped would make war obsolete and solve global conflicts through forward-thinking diplomatic strategies. According to Root’s philosophy, the people of the world now evolved to the “stage of careful, thoughtful, definite and certain inquiry” into the causes of conflict in order to determine “the specific remedies to be applied.”¹ Given his legal background and

¹ *Proceeding of International Conference under the Auspices of the American Society for Judicial Settlement of International Disputes*, (Baltimore: The Waverly Press, 1910), 9.

international experience, Root, along with other internationalist lawyers, hailed the virtues of impartial arbitration as a tool to end disputes between nation-states.

With the possibility of war with Japan on the horizon in 1907, Elihu Root and other progressives within the foreign policy establishment attempted new systems and methods to avoid deadly and seemingly unnecessary foreign conflicts. Though he had served previously as the secretary of war, the title of the office often mischaracterized his views about conflict, especially in regard to the president he served. In 1909, Root stood before a crowd of more than five hundred members of the New York Peace Society and righteously declared, “there is no inconsistency between the work of a secretary of war and a secretary of peace.”² In fact, that very group hosted the dinner to honor the peaceful ways in which he prevented war during his tenure as secretary of state.

Far from being a “war hawk,” Root embodied the new philosophy of the peace progressives. His approach, and even his personality, contrasted greatly with the rhetoric of Roosevelt’s “big stick” and, in many ways, allayed the president’s tendency to engage in saber rattling and bravado. One contemporary described their personality difference by claiming, Roosevelt would “fight the stars in their course to a standstill,” while Root “preserves his strength and influence for the convenient season.”³ In his speech before the National Arbitration and Peace Conference, Roosevelt, the war hawk, admitted that despite his duty to work for peace, “it is even more our duty to work for righteousness and justice . . . if they are ever at odds, it is righteousness whose cause we must

² “Root Denounces Howling Jingo,” *Chicago Tribune*, February 27, 1909.

³ Frederick Davenport, “How to Understand Elihu Root,” *Literary Digest* 51, no. 24 (December 11, 1915): 1387; William Atherton Du Puy, “Humanisms: Inner Lights on the Lives and Whims of Personages in the Public Eye,” *Berkeley Daily Gazette*, December 21, 1921.

espouse.”⁴ While Roosevelt embodied impulsiveness and bluster, Root remained cool under pressure. In his instructions to the American delegates to the 1906 Hague Conference, Root explained, “It is a common saying that the world is ruled by force—that the ultimate sanction for the rules of right conduct between nations is the possibility for war. That is less than half a truth.”⁵ In many ways the men balanced each other with Root serving as the yin to Roosevelt’s yang. Years later, in the face of almost certain American involvement in World War I, Root told a politically mixed audience of 1,200, “God knows I love peace and I despise all foolish and wicked war.”⁶ Like many progressives of the day, Root optimistically pictured the peoples of the world as evolving, “from the old ideas of savagery toward the new ideas of civilization, of humanity.”⁷ He remained committed to the idea of promoting international peace throughout his entire career.

As a result, Secretary Root encouraged the creation of an international court system as a place for dispute settlements between nations. Within his own borders, the lifetime lawyer viewed the legal system, and more importantly what it could be, as an impartial and rational judge of societal problems, regardless of economic, political,

⁴ “Roosevelt for a Peace Treaty,” *New York Times*, April 16, 1907.

⁵ Elihu Root, *Addresses on International Subjects*, (Cambridge: Harvard University Press, 1915), 135.

⁶ “Nation Must Arm, Root Tells Bar,” *New York Times*, January 16, 1916. Despite the title given to the article, the article is more about arming people with a spirit of willingness to defend America if the need arose. In it, he never mentions taking up arms or even entering the war for that matter, but states that he prefers to avoid for the country “a peace of slavery or dishonor.” So just as many peace progressives the idea was to avoid war if possible, not embrace pacifism.

⁷ “Root Denounces Howling Jingo,” *Chicago Tribune*, February 27, 1909.

social, and even racial differences. Beyond his borders, he wanted the systematic extension of legal institutions as a way to negotiate the differences between nation states of differing social, economic, and political motivations to reconcile differences and promote unity. He informed an Argentine audience in 1906, "I am an advocate of arbitration; I am an advocate of mediation; of all the measures that tend towards bringing reasonable and cool judgment to take the place of war."⁸ As a logical extension of this belief, a permanent international court, composed of learned jurists from several nations, promised impartial mediation between nations; big and small, militarily strong or economically weak. This proposed international court even provided for nations of dissimilar political types and ideologies to establish a common code of laws that served as the great equalizer in building mutually peaceful dialogues and conflict resolution. Moreover, Root supported the promulgation of international treaties, arbitrations, and laws throughout his service to the United States government, providing yet another protective framework for nation-states to hopefully avoid war; something he felt was part of a bygone era in the radiant optimism of the new century and its progressive outlook.

In 1912, the Norwegian Nobel Committee awarded Root with the Nobel Peace Prize for his work in international arbitration, making him the second American who received the honor. In his acceptance speech, Root discussed the amazing progress made by "civilized man." "Cruelty to men," he declared, "which would have passed unnoticed a century ago, now shocks the sensibilities and is regarded as wicked and degrading."⁹

⁸ Root, *Speeches Incident to the Visit of Secretary Root to South America, July 4 to September 30, 1906*, (Washington: Government Printing Office, 1906), 163.

⁹ Root, *Addresses on International Subjects*, (Cambridge: Harvard University Press, 1916), 172-73.

Within the international legal community, Root and others symbolized the development of a larger, more connected, and modern outlook, breaking down the “fruits of [national] isolation.” Instead, the nations of world needed to regard themselves “as part of a larger whole.”¹⁰ International progressives remained enthusiastic that international legal institutions, professional societies, and systems of education provided a framework that, for once and hopefully for all time, put an end to war. Root spearheaded the effort to promote international arbitration as a way to depoliticize the peace process and base the negotiations on progressive legal standards.

The Evolution of Arbitration: The American Peace Movement

The American Peace Movement originated much earlier than the scramble for empire during the twentieth century. In the wake of the War of 1812, local and regional peace societies eventually coalesced into the first national peace group in 1828 called the American Peace Society. The leader of the society, William Ladd, along with others active during the Second Great Awakening, envisioned the peace movement as a moral and humanitarian crusade against sin. This type of sinfulness, they believed, resided within the individual and could only be overcome by taking up the mantra of pacifism and conscientious objection. Oddly enough, a great number of Ladd’s followers supported the Civil War, though the organization took no official position. Rather than an immoral war, supporters of the conflict regarded it as more of a moral police action. In Ladd’s *Advocate of Peace*, one editorial writer called on the Union government to arrest the Confederate “criminals,” if the leadership of Washington desired to be “anything

¹⁰ Simeon E. Baldwin, “The New Era of International Courts,” *Judicial Settlements of International Disputes* (Aug., 1910), 11.

more than a name.”¹¹ Splintered by the Civil War, the leaders of new peace organizations needed to change their approach from the mere opposition of war to the prevention of war.

By the dawn of the twentieth century, the moral and religious crusades against war largely faded away. Peace advocates, along with everyone else in society, faced changes in politics, society, and technology, causing them to view old problems in new ways. In fact, the peace progressives reflected the shift from morality to the “practical bent” of the era, replete with its “unbounded confidence in the application of reason.”¹² Most newcomers to the movement shrugged off the confining ideology of total pacifism, or as one called it, “useless sentimentalism,” in favor of a more rational, objective view of war.¹³ Borrowing from the vernacular of the various societal advancements of the day, many of these upcoming peace advocates stressed the “scientific” nature of their views and processes in attaining peaceful methods of conflict resolution. As with other progressive reforms, experts formed the nucleus of the movement. In the case of international peace, lawyers, diplomats, and academics well versed in global affairs and law took the lead. Root figured into one particularly well-known group known to historians and legal scholars as the “legalists.” The legalists included, among its ranks, Root’s longtime friend and the president of Columbia University, Nicholas Murray Butler, and a rising star in the field of international law, James Brown Scott. These men

¹¹ George Beckwith, ed., “Politics and Peace,” *The Advocate of Peace* 15 (Nov-Dec, 1864), 168.

¹² Charles Chatfield, “Peace as a Reform Movement,” *OAH Magazine of History* 8, no. 3, (Spring 1994): 12.

¹³ Ralph D. Nurnberger, “Bridling the Passions,” *The Wilson Quarterly* 1, no. 1, (Jan. 1987): 99.

also viewed international relations and diplomacy as something that could be understood through scientific inquiry. According to this philosophy, disputes between nations and leaders could effectively be studied, diagnosed, discussed, and resolved by creating the proper institutional mechanisms.

Far from the ideas of the peace movement's predecessors that the inherent sinfulness of individuals caused war, progressive-minded legalists visualized international politics, and even war, as a truly systemic and institutional problem. Root distilled the motivations for war into three "rational" categories: a credible injustice or attack, misguided suspicions based on communication failures, and vindication for real or imagined past wrongs. Of those three possible sources, he asserted that actual injustice by far represented a statistical anomaly in regard to representing a true cause for war. Additionally, the other two main causes lent themselves to "easily be obviated by having them decided, in accordance with the rules of right."¹⁴ While visiting Brazil, he explained to students at the Commercial School in São Paulo, "the most fertile source of weakness and of war, is national misunderstanding and the prejudice that comes from misunderstanding."¹⁵ Just as corporations of the period centralized and standardized

¹⁴ C. Roland Marchand. *The American Peace Movement and Social Reform, 1889-1918*, (Princeton: Princeton University Press, 1972), 124; "Root Denounces Howling Jingoos," *Chicago Tribune*, February 27, 1909; *Proceeding of International Conference under the Auspices of the American Society for Judicial Settlement of International Disputes*, (Baltimore: The Waverly Press, 1910), 10; Elihu Root. "The Importance of Judicial Settlement," *The Advocate of Peace* 73: 4, (Apr. 1911), 82. A year later, he further refined the list to differences between nations in their respective rights, policy matters, and what he referred to as "matters of feeling." These three categories and the examples provided fell in line with his previous definitions, he just explained and defined them in a better way in the 1910 speech.

¹⁵ Root, *Speeches Incident to the Visit of Secretary Root to South America, July 4 to September 30, 1906*, (Washington: Government Printing Office, 1906), 79.

procedures to address problems in operation and production, progressive peace advocates called for the creation of global legal institutions and diplomatic protocols to prevent war by rectifying perceived inefficiencies within the newly emerging international system.

American diplomats had employed bilateral arbitration as early as 1794 in the form of the Jay Treaty. By the latter part of the nineteenth century, American officials submitted to a number of successful arbitrations. In theory, this legal mechanism allowed nations the ability to depoliticize issues by first legalizing and then institutionalizing them.¹⁶ However, by the turn of the twentieth century, Root and other progressive legalists attempted to improve on the idea by removing the seemingly corruptible political dimension of the process and employing what they viewed as the unbiased rule of law to solve international quarrels. To people like Root, arbitration in its traditional sense bred political compromise rather than consistency. In a speech, he drew attention to the fact that tribunals merely took the place of individual negotiators, hashing out a political settlement.¹⁷ Just as the use of patronage spawned corruption and inefficiency, so too did politicizing international tribunals. With such excesses removed and a more

¹⁶ For a discussion on the evolution of arbitration in the United States, see Mary Ellen O’Connell, “Arbitration and Avoidance of War: The Nineteenth Century American Vision,” *The Sword and the Scales: The United States and International Courts and Tribunals*, Cesare P.R. Romero, ed., (New York: Cambridge University Press, 2009), 30-45; Francis Anthony Boyle, *Foundations of World Order: The Legalist Approach to International Relations, 1898-1922*, (Durham: Duke University Press, 1999), 36. The author contends “legalizing” the issues between nations consists of negotiating the rules by the powers agree upon when choosing an arbitrator and the procedure to follow during arbitration. Boyle suggests “institutionalizing” occurs by the powers agreeing to decision of the arbitral tribunal.

¹⁷ Shirley V. Scott, *International Law, US Power: The United States’ Quest for Legal Security*, (New York: Cambridge University Press, 2012), 62; *Proceedings of International Conference under the Auspices of the American Society for Judicial Settlement of International Disputes*, (Baltimore: The Waverly Press, 1910), 11.

impartial system established, he firmly believed that nations could eliminate the outdated practice of war by replacing it with the civilizing hand of international law. The progressive legalist model he adopted, though considered conservative by some, represented a distinct shift in the ideas surrounding international conflict resolution emerging during the 1890s in Europe.¹⁸

Beginning in June 1895, hundreds of foreign policy experts descended upon a hotel resort on Lake Mohonk in upstate New York at the request of its owner, Albert K. Smiley. Smiley, a Quaker by faith and lifelong educator, hoped to fashion reasonable alternatives to war by providing a venue for foreign policy experts to discuss alternatives to war. Annually, for years to come, prominent statesmen and professionals gathered to debate ways to prevent war, especially the use of international arbitration. In the years after the Civil War, American leaders, along with several European nations, submitted disputes to be resolved using arbitration with somewhat mixed results. Root considered resolutions to these types of legal questions as “more important and more complicated” than just about any issue facing the world at that moment.¹⁹ In some cases, the selected

¹⁸ *Proceeding of International Conference*, 9; Ian Tyrrell, *Reforming the World: The Creation of America’s Moral Empire*, (Princeton: Princeton University Press, 2010), 19 In his speech on the importance of judicial settlement, Root opened it admitting that all the people gathered along with a majority of the world agree, “there ought to be an end to war,” referring to it as “brutal, wasteful, and stupid.” He then referred to the international conferences such as the one spoke before represented “one of the great steps forward in this second stage of development of the world-wide peace movement.” According to Tyrrell, American officials and internationalists were “most definitely not the originator of these trends.” The international consciousness of Americans “cannot be explained by internal movements and dynamics alone, but seen as part of European changes toward greater interdependency between nations.” However, American legalists like Root expanded and innovated on trends that were then developing in Europe.

¹⁹ Root. *Addresses on Government and Citizenship*, 437.

arbiters who rendered their services flawlessly, while in others they obtained less than desirable results.

In spite of some successes, Root recognized certain flaws within the system of arbitration as constituted and utilized his position within the federal government to reconcile them. All too often, governments appointed politician-diplomats to serve as arbiters instead of learned jurists. These politician-diplomats often compromised on key issues to reach political consensus rather than deciding based on legal precedent. Given this “rough measure of justice,” nations and leaders often refused to even submit to the arbitration process.²⁰ Beyond that, the practice of political “horse-trading” prevented the application of equal, across-the-board legal standards or uniform norms for all nations to follow. As a result, national leaders often justified their governments’ legal position on an international issue by pointing to contrived political agreements with no basis in actual law. Additionally, contrasting judgments about similar cases often increased the possibility for conflict or apathetic national leaders merely ignored the findings. Instead of strengthening the international system, Root and his fellow legalists feared these loopholes threatened the cause of world peace, making it “susceptible to improvements.”²¹ To address those shortcomings, he focused on reforming institutional ideas, while reshaping the legal mechanism within the world community. Without Root’s position, efforts at promoting arbitration would have merely remained an academic exercise among experts and policy analysts.

²⁰ Simeon E. Baldwin, “The New Era of International Courts,” *Judicial Settlements of International Disputes* 1 (Aug. 1910), 3.

²¹ James Brown Scott, “The Proposed Court of Arbitral Justice,” *The American Journal of International Law* 2, no. 4, (Oct. 1908), 775.

Modernizing International Arbitration: Hague Conferences (1899 and 1907)

Before Root entered the War Department in 1898, Czar Nicholas II invited delegates from Europe and the United States to attend an international peace conference. The czar's request had less to do with his personal commitment to peace than it did with his interest in enhancing Russia's strategic position. At the time, western European nations effectively led a budding arms race, while Russia lagged far behind. Nicholas II called the conference as a way to create an effective moratorium on continued arms production or arms reduction. In the summer of 1899, more than one hundred delegates from twenty-six nations travelled to the Netherlands to meet at a seventeenth century villa known as The Hague. The First Hague Conference represented the first real attempt by the American government to secure obligatory arbitration between international powers. Despite the fact that the US military continued to prosecute its ongoing war with Spain, Secretary of State John Hay instructed American delegates to attend with a focus on establishing an international system of peace. The Russian delegation raised the possibility for replacing national commissions of inquiry, such as the one used to investigate the *USS Maine* explosion, with international commissions. Such a system, they reasoned, provided a higher probability of an impartial outcome. Smaller nations at the conference grew concerned during the discussion that obligatory arbitration might translate to foreign intervention and imperialism. By the end of the discussion, German representatives resisted obligatory arbitration for strategic military reasons, stalling the conference from moving forward with the idea. For its part, the American delegation remained reluctant to press Germany on the issue, hoping to salvage something resembling a mechanism for international dispute resolution.

The nations assembled at The Hague for almost three months failed to make significant progress other than agreeing to the concept of optional arbitration. The representatives hammered out the 1899 Convention for the Pacific Settlement of International Disputes. The agreement called for the creation of the Permanent Court of Arbitration (PCA), though it represented a method for selecting an arbitration board rather than an actual court. The PCA merely consisted of a pool of potential arbitrators from which a nation selected a member to arbitrate a dispute as the need arose.²² Beyond this, the other two conventions addressed revising the customs and rules of warfare to eliminate unnecessary suffering. The successes achieved by the first conference, meager as they were, rested largely on the preparatory efforts of the *Institut de Droit International*, an apolitical group led of international lawyers headquartered in Ghent, Belgium. In his speech, Root credited the organization for bringing together like-minded leaders who increasingly viewed the law and its application as scientific in nature.²³ Along these same scientific lines, Root viewed the outcome of the conference as successfully showing the, “world has entered upon an orderly process . . . toward making the practice of civilized nations conform to their peaceful professions.”²⁴ As with any process, he recognized that the process of methodical, long-term peacemaking required

²² Ruth Mackenzie et al. *Selecting International Judges: Principle, Process, and Politics*, (New York: Oxford University Press, 2010), 11; Michla Pomerance, *The United States and the World Court as a “Supreme Court of the Nations: Dreams, Illusions, and Disillusion,”* (Cambridge, MA: Kluwer Law International, 1996), 48. Though the Permanent Court of Arbitration in no way resembled the US Supreme Court, but interestingly enough it mirrored the New York State Supreme Court of the time. The court consisted of a pool of judges who assembled only when the legal need arose.

²³ Root, *Addresses on International Subjects*, 154.

²⁴ *Ibid.*, 129.

an enduring commitment by nations over successive years and decades. Each step in negotiations marked the limits of how far that nation was prepared to go, at least for that time.²⁵ With the depth and complexity of international problems in this more connected and modern age, Root harbored no unrealistic expectation that one conference possessed the ability to place the world on a path to peace.

Despite the limited scope of its pronouncements, several Americans hailed it as a success more for what it meant than for what it actually did. Indirectly, the conference impacted international progressives in that it showed the ability of nations with much different customs and agendas to come together for the common cause of peace. Regardless of the results, just putting on the conference represented something never before done on any comparable scale. International lawyers across the United States viewed the conference as both a starting point for “international progress” and a “new epoch for international law.”²⁶ Such a world event began the process of substituting “the reign of reason for that of force.”²⁷ These men realized the import of such a “progressive effort.” Andrew Carnegie, the wealthy industrialist and international peace advocate, framed Roosevelt’s negotiation at the end of the Russo-Japanese War as something only “made possible by the Hague Treaty.”²⁸ In this new century, the growing importance of international law, along with a growing sense of interconnectedness and global

²⁵ Root, *Addresses on International Subjects*, 129.

²⁶ J. McKeen Cattell, ed., “On the Celebration of Peace Day,” *School and Society* 3, no. 69, (Apr. 22, 1916), 606.

²⁷ George Grafton Wilson and George Fox Tucker, *International Law* 6th Edition, (Boston: Silver, Burdett, and Company, 1915), 24.

²⁸ Andrew Carnegie, “A League of Peace” (Address delivered at the University of St. Andrew), (New York: Association for International Conciliation, 1907), 21-2.

awareness, marked the “first great step toward peace.”²⁹ Even Root later recalled that the conference “established a new international conduct which practical idealism had long been gradually approaching.”³⁰ Despite all the positive probabilities and symbolic possibilities, the First Hague Conference leaders failed to create a tangible framework or efficient system to resolve international disputes. Not all was lost, however, as delegates to the session opened a dialogue and constructed a pathway forward in the discussion for international peace at the Second Hague Conference in 1907.

Though Roosevelt largely initiated the call for the Second Hague Conference, Root, who now served as secretary of state, organized the American delegation and its mission. His first official act in regard with the conference involved asking for its delay. If held on the original date proposed, July 1906, the event conflicted with an issue of increasing importance to Root and the rest of the Roosevelt administration, Latin-American relations. As a move to increase mutual understanding and clarify policy objectives, Root and other officials from the state department already intended to attend the Pan American conference in Rio de Janeiro during that very same month. After some diplomatic haggling with the Russian government, Root prevailed in moving the conference to the following year. International peace advocates anxiously awaited the coming conference, leading some, such as Andrew Carnegie, to optimistically conclude that the work of the conference foreshadowed a “coming reign of peace,” as the struggle

²⁹ Wilson and Tucker, *International Law*, 24. From the First Hague Conference until 1908, various nations concluded some seventy-seven treaties, while only twelve failed to reference the Permanent Court of Arbitration in its composition. So while not a force for international peace in its composition, the very fact the treaties mentioned the convention displayed a growing awareness of its emergence and importance.

³⁰ Root, *Addresses on International Subjects*, 159-60.

for “Arbitration as against War” drew closer. As the deep pockets behind the Carnegie Endowment for International Peace, he considered arbitration as the “essence of justice.” Even President Roosevelt declared an international arbitration treaty as the most important matter of the entire conference.³¹

In June of 1907, delegates from forty-four nations, most of them lawyers, arrived at The Hague to discuss a multitude of topics both old and new.³² For the next four months, attendees labored on the efforts of promoting peace. One of the holdover topics from the previous conference included discussions concerning arms limitations. Root held no illusions that any attempt to enforce a regime of forcible limitations lacked the broad appeal to reach agreement. However, he instructed his delegates to support the British call for arms limitations, despite a lack of support from a majority of the other large European powers, including somewhat surprisingly the Russian delegation. In a letter to Whitelaw Reid, Root described arms limitations as a “more complicated” subject that should be held as less important than what he viewed as the more pragmatic approach of reducing military terms of enlistment and capping re-enlistment opportunities.³³ Though Root hoped for a positive remedy to the question, he privately admitted to Roosevelt that he expected that “the question will be shelved” on account of the amount of resistance to

³¹ Carnegie, “A League of Peace,” 26-7; “Roosevelt for a Peace Treaty,” *New York Times*, April 16, 1907.

³² Martha Finnemore, *The Purpose of Intervention: Changing Beliefs About the Use of Force*. (Ithaca: Cornell University Press, 2003), 38-40; Stephen M. Schwebel, *Justice in International Law: Further Selected Writings*. (Cambridge: Cambridge University Press, 2011), 5. The forty-four nations gathered came from a total of fifty-seven that, at the time, claimed sovereignty.

³³ Jessup, *Elihu Root* vol. 1, 72.

forcible arms limitations.³⁴ On another question raised by Root, he hoped to acquire a greater international consensus.

The Hague delegates then confronted the issue that brought the last conference to a halt, obligatory arbitration. American observers of the Second Hague Conference quickly pointed out the progressive undercurrents at work on issues of international scale. The friends of the conference, Root included, highlighted the expansion of international law education, growth of the practical benefits law that played in settling international disputes, and the gradual shift away from reactionary impulsivity by government leaders who now looked for reason and rationale to settle international disputes.³⁵ Once again, Root instructed the American delegates to try to create an agreeable list of issues to submit for obligatory arbitration. Members of the German contingent dug in yet again, but this time for different reasons. They accepted the idea of obligatory arbitration, but disagreed as to how to institutionalize it. The Germans preferred bilateral arbitration agreements between the interested parties in a specific dispute, rather than a general multilateral treaty that bound all signatories to it. In addition to these international stumbling blocks, domestic concerns also dampened any hopes of finalizing an agreement on obligatory arbitration.

In his discussions concerning the issue, Root discovered a great deal of hesitancy on the part of the US Senate. As had been the protocol under his predecessor John Hay, the Senate required the State Department to receive its advice and consent prior to

³⁴ Root to Roosevelt, July 8, 1907. Root Papers.

³⁵ Baron d'Estournelles de Constant and Honorable David Jayne Hill, "The Results of the Second Hague Conference, (New York: Association for International Conciliation, 1907), 3.

engaging in any arbitration. Apparently, the Senate classified arbitration agreements in the same light as a traditional treaty, something that constitutionally required its approval. Roosevelt scoffed at this practice, referring to it as a “sham.”³⁶ He believed such a requirement hampered his constitutional ability to negotiate agreements with other nations. Despite the president’s disdain, Root convinced him to accept the formality if he wanted to move the process of international arbitration forward. Besides, the senators showed little inclination on giving in and, in their minds, giving up some of their constitutional power. Instead of pre-authorizing certain topics for arbitration automatically, the Senate inserted yet another bureaucratic barrier in the process of peaceful dispute resolution. In the end, the conference delegations moved to approve obligatory arbitration “in principle,” but refused to go much farther. The official explanation given by the convention cited two major differences preventing further progress: the lack of a uniform format for arbitration submission and the failure to agree what types of issues necessitated obligatory arbitration.³⁷ Despite the roadblocks presented in the conference and by the US Senate, Root successfully negotiated twenty-five general arbitration treaties with as many nations, all of which gained the blessing of the Senate. Out of these, the United States government implemented twenty-two of them.³⁸

³⁶ Roosevelt-Lodge Correspondence, vol. 2, 111.

³⁷ Amos S. Hershey, “History of International Law Since the Peace of Westphalia,” *American Society of International Law* 6, no. 1, (Jan. 1912), 61. The convention specifically identified certain “differences, and notably those relating to the interpretation and application of international conventional stipulations, are susceptible of being submitted to obligatory arbitration without any reservation.”

³⁸ Boyle, *Foundations of the World Order*, 33.

Debt Collection and the Drago Doctrine

The first item on the agenda for Root's delegation at The Hague surrounded the European use of military force to collect debts from Latin American nations. Since 1902, Argentine statesman and jurist Luis María Drago asserted what came to be known as the "Drago Doctrine," a proposition prohibiting the use of armed intervention by European nations for the collection of Latin American public debts. In 1906, at the Third Pan American Conference in Rio, Drago once again broached the subject, equating such a practice to territorial occupation and forcible conquest. The nations gathered in Rio that previous year, including the United States, unanimously adopted a resolution to discuss the present policies for debt collection along with the merits of the Drago Doctrine before the Second Hague Conference.

As part of his overall mission to better Latin American-US relations, Root ensured that all Latin American republics received an invitation to the conference. At the previous Hague Conference in 1899, the Russian government invited only Mexico and Brazil. Root sternly opposed that "only a part of the world [Europe] should be represented," and fought for the inclusion of Latin American states to make the conference a truly international process.³⁹ Beyond merely opening debate on the issue of forcible debt collection, Root's decision to defer any decision on the issue until the conference allowed both creditors and debtor nations to hash out a solution to their collective problems. He instructed his representatives to actively support and push the Latin-led Drago Doctrine through The Hague. Such issues played to his desire to promote

³⁹ Lars Schoultz, *Beneath the United States: A History of U.S. Policy Toward Latin America*, (Cambridge: Harvard University Press, 1998), 195; James Brown Scott, "The Work of the Second Hague Conference," *International Conciliation* 5 (Jan. 1908), 13.

national equality through international law and create a distinctly legal process to solve global disputes. So, even though the American representatives broached the subject of debt collection as a stand-alone issue, the subject fit well within the larger discussion of the role and scope of international arbitration.

With the initial blessing of Drago and a majority of the Latin American representatives, the American delegate, Horace Porter, opened the discussion on the Drago Doctrine. Surprisingly, the main European creditor nations (Great Britain, France, Germany, and Austria-Hungary) reacted to the premise with approval. Finally the Americans introduced a specific resolution, later called the Porter Convention. The American proposal narrowed the language to focus on public debts and included requirements for submitting to arbitration and abiding by the tribunal's decision to avoid military intervention. Though Root envisioned arbitration for public debts as something to protect Latin-American nations, Drago, along with other Latin leaders, held out for a broader policy that prohibited forcible intervention outright.⁴⁰ While they criticized the resolution as falling far too short, Root worried that any stronger language almost guaranteed its failure by the European bloc. In the end, only thirty-four nations signed in favor of the Porter Resolution, but many of these signatories proffered significant reservations to the finished product. Most importantly, none of the signatories opposed it. Root failed to capitalize on the popularity from his whirlwind South American tour in the previous year, effectively squandering this opportunity at The Hague to effectively mend Latin American fences fully. Despite falling short in that regard, the Root-proposed Porter Convention turned out a wildly successful policy in the long run, virtually ending

⁴⁰ Scott, "The Work of the Second Hague Conference," 14-15.

the practice of European forcible debt collection in Latin America and the rest of the globe.⁴¹ Root attempted to salvage something positive out of the conversation surrounding arbitration still yet to come.

Putting Order in the Court

The American delegation then moved to discuss its second proposal, the establishment of the Court of Arbitral Justice (CAJ). From its creation, Root expressed some deep concerns about major flaws within the Permanent Court of Arbitration (PCA). In order to put some international mechanism in place, the delegates at the 1899 conference hastily constructed the PCA and, through various compromises, distorted a number of aspects, including its unbecoming name. First and foremost, the partisan nature of arbitration tended to jade the tribunal outcomes in the eyes of many. In numerous other arbitrations, arbiters rendered decisions less upon the law and more upon the altar of political compromise.⁴² In the Delagoa Bay arbitration of 1902, representatives from Great Britain and Portugal carved out a compromise that a writer for *The Nation* termed “a scandalous miscarriage of justice, where the plaintiffs [UK] submitted on the principle that a crust is better than nothing.”⁴³ Root witnessed firsthand this type of self-interested behavior while serving on a tribunal in 1903. This gathering only represented arbitration

⁴¹ Boyle, *Foundations of World Order* 81. The author maintains that after the Porter Convention passed only one instance of forcible debt recovery occurred and not in Latin America. In 1923, Belgium and France occupied part of the Ruhr region after the German government defaulted on a debt. In this one instance, the creditor nations justified their invasion on the basis that the Treaty of Versailles allowed for it.

⁴² George Wickersham, “The Codification of International Law,” *Foreign Affairs: An American Quarterly Review* 4, no. 2 (Jan., 1926), 240.

⁴³ Wendell P. Garrison, “The Alaskan Boundary,” *The Nation* 75, No. 1944 (Oct. 2, 1902), 259.

in the loosest sense of the word, due to the fact that no provision was made for a neutral umpire. He, along with two Canadian judges, a British High Court judge, and two other Americans, was tasked with deciding which nation, the United States or Canada, controlled key access points to the Yukon gold fields discovered in 1896. The vaguely named 1903 Alaskan Boundary Tribunal ended in a compromise that benefitted American economic interests and the British-American friendship, to the consternation of the Canadians, rather than any decision based upon law.⁴⁴ Both decisions drove home the political fickleness of the PCA, causing Root and others to search for a more efficient and equitable method of international dispute resolution.

After seeing the political nature of these and other arbitral tribunals, Root endeavored to depoliticize the progressive mechanisms of peacekeeping to legitimize the institution and its decisions. To do so, he suggested that these men work solely in the capacity as an international judge, without any other job or affiliation, and receive decent salaries as compensation. For progressives of the period, adequate salaries freed officials to apply uniform standards without fear or favor. Additionally, he proposed that the court consist of highly regarded, moral jurists from their respective nations. In his inexhaustible efforts to create a credible international court, Root indicated to his delegation that he wanted it staffed with the best legal minds, “whether or not a citizen of the United States

⁴⁴ For a further discussion of the Alaskan Boundary Dispute, see Rob Little. “Cowboy Diplomacy: Theodore Roosevelt and the Alaskan Boundary Dispute, 1895-1903” (Master’s thesis, Midwestern State University, 2006). The Alaskan Boundary case, if it had gone before an international court, most likely would have been decided in favor of the Canadians. Lord Alverstone, the British judge and representative on the tribunal, caved to the political pressure exerted on him by British officials in the name of a strengthening an already budding Anglo-American entente. Another example of politicized arbitrations included the Delagoa Bay case in 1902 between Great Britain and Portugal.

be chosen.”⁴⁵ Instead of politics and compromise, judges ruled on a case based on the facts and “rights” accorded to nations via international law. Under this model, jurists acted “without reference to their attitude towards the controversy in question” and arrived at judgments “for no other reason than they were believed to be the rules of justice.”⁴⁶

Root and his legalist colleagues, called by some the “Root cult,” envisioned an international court quite similar in make-up and function to the US Supreme Court. James B. Scott, a committed legalist and friend of Root, argued that the newly proposed court could address international controversies “just as reliably and equitably as the Supreme Court decides differences of an international character arising among the States of the American Union.”⁴⁷ In fact, Root recommended that judges receive lifetime appointments as a way of divorcing their decisions from political controversy and ever-fluctuating public opinions. In this case, the salary system, along with the lifelong appointment

⁴⁵ US Congress. “The Second International Peace Conference: Instructions to and Report from Delegates of the United States, Conventions, and Declaration, Final Act, With Draft of Convention Relative to the Creation of a Judicial Arbitration Court, and Signatures to the Conventions,” 60th Cong., 1st sess., S. Doc. 444. Washington, DC: Government Printing Office, 1910; James Brown Scott, *The Status of the International Court of Justice*, New York: Oxford University Press, 1916), 38. Root urged them to press those assembled for the creation a legal tribunal where the men appointed acted as “judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility.”

⁴⁶ David Patterson. “An Interpretation of the American Peace Movement, 1898-1914,” *American Studies* 13, no. 1 (Spring 1972): 35. ; Simeon E. Baldwin, “The New Era of International Courts,” *Judicial Settlements of International Disputes* (Aug., 1910): 8.

⁴⁷ Nurnberger, “Bridling the Passions,” 99; Scott, “The Proposed Court of Arbitral Justice,” *The American Journal of International Law* 2, no. 4, (Oct. 1908): 776.

advocated by Root, ensured “impartial and impersonal judgment.”⁴⁸ As an example, the American delegation objected to the idea of CAJ judges sitting on cases that affected its home nation. Lacking the ability to convince a majority of the other delegations, the American representatives failed to incorporate this policy of detachment and fairness into the framework of the court.⁴⁹ Unlike political arbitrators, good jurists refrained from making decisions based on political pressures, expediency, or compromise. In the same manner as judges on the US Supreme Court, the appointed judicial representatives decided cases, in the main, within the proscribed limitations of precedents, statutes, and laws. Though some considered the limitations of the law as a sign of legalist conservatism, such an interpretation failed to account for the fact that reformers maintained the ability to change laws at the legislative or, if need be, at the constitutional level. According to one legal history scholar, legalist reform ideology emphasized the “professional elaboration of organic legal rules enabling diverse people to live together in liberty, justice, and self-fulfillment as well as democratic self-determination.”⁵⁰ At the heart of Root’s philosophy, the most successful governments provided maximum liberty for its people by embracing both a vigorous democratic process in the creation of

⁴⁸ New York Bar Association, “Address by John W. Davis,” *Proceedings of the Forty-Fifth Annual Meeting Held at New York, January, 20-21, 1922*. (Albany: The Argus Company, 1922), 252.

⁴⁹ Boyle, *Foundations of the World Order*, 41.

⁵⁰ William E. Nelson. *The Legalist Reformation: Law, Politics, and Ideology in New York, 1920-1980*. (Chapel Hill, NC: University of North Carolina Press, 2001), 373.

legislation and the interpretation of an independent judiciary and, not merely as a dictating court looking to hold back public will.⁵¹

The practice of adjudication trumped arbitration in that such a system favored expertise, promoted efficiency, and imparted the idea of legal equality. Root's efforts at creating a responsible and professional judiciary reflected his earlier efforts at creating "good government" in the United States, along with his work professionalizing the work of lawyers through groups such as the American Bar Association and the American Society for International Law. Though some historians argued that Root's intentions illustrated the "principal bulwark of the conservative defense," his actions embodied the very principles of progressivism: stability, objectivity, order, and professionalization.⁵² To the contrary, instead of looking to a bygone past, Root championed the CAJ as a way to press forward toward a much peaceful future. He envisioned an international court that transcended national political agendas, the personal gains of its diplomats, or the impassioned pleas of its people.

The delegations of the Second Hague Conference failed to move beyond agreeing on the need for such an international body. Powers both big and small failed to overcome disagreements concerning the composition and selection of judges, along with the general trepidation on the part of some nations to commit to the idea. Even Root's old friend and boss, President Roosevelt, calmly asserted the problems surrounding the selection of

⁵¹ Marchand. *The American Peace Movement and Social Reform*, 55-6; Arnold N. Paul, *Conservative Crisis and the Rule of Law: Attitudes of Bar and Bench, 1887-1895*, (Ithaca, NY: Cornell University Press), 2, 64, 81, 195; James O. Howard, "Elihu Root on the Settlement of Disputes," *Social Science* 22, No. 2, (Apr. 1947), 114.

⁵² *Ibid.*; Paul, 2, 64, 81, 195.

judges “is plainly one which time and good temper will solve.”⁵³ The CAJ, as constructed, represented a “definitive advance” over the previous PCA, despite the fact, it never saw the light of day; at least not by that name. Through discussions about the CAJ, the delegates formalized a number of advancements, including the standardization of global legal procedures, the incorporation of general municipal law into international law, the authorization of written legal opinions for any court decision, and the obligation of the arbitrating parties to abide by the tribunal decision. As a testament to his leadership, Root incorporated the ultimate solution regarding the selection of fifteen judges in 1920 for the World Court.⁵⁴

By the end of the conference, the Second Hague delegates collectively composed thirteen resolutions, a general declaration in favor of obligatory arbitration, a broad

⁵³ For a discussion on the various schemes for representation, see Scott, *Hague Peace Conferences*, vol. 1, 465-70; Davis, 265-76. The larger powers, those of Europe, pushed for permanent seats for its own judges, while the smaller powers, chiefly those in Latin America, expressed the desire for equal representation on the court; Theodore Roosevelt, *Message of the President of the United States*, (Washington, DC: Government Printing Office, 1907), 57.

⁵⁴ Gleider Hernandez, *The International Court of Justice and the Judicial Function*, (London: Oxford University Press, 2014), 19; Michla Pomerance, *The United States and the World Court as a “Supreme Court of the Nations: Dreams, Illusions, and Disillusion,”* (Cambridge, MA: Kluwer Law International, 1996), 61; John Eugene Harley, *International Understanding; Agencies Educating for a New World*, (Redwood City, CA: Stanford University Press, 1931), 164. The Permanent Court of Arbitration along with the framework provided by the Court of Arbitral Justice served as the forerunner to the Permanent International Court of Justice, now called merely the International Court of Justice or World Court. Interestingly, Root solved the issue of judicial representation on the court that plagued the CAJ. Just as the “Great Compromise of 1787” blended the large and small state plans, Root’s “Connecticut Compromise” provided for two bodies, the League Council and the Assembly, representing both the large power, small power groupings respectively. More on Root’s career after his time in the federal government will be examined in an additional work. He continued to serve the country in a variety of ways and contributed to the building of international institutions right up until his death due to pneumonia at the ripe old age of ninety-two.

outline for the Court of Arbitral Justice, and several recommendations, including one for a third conference that never met due to delays and the outbreak of World War I. Despite the inability to attain all aspects of obligatory arbitration and the Court of Arbitral Justice, Root once again moved the goal posts of international peace just a little bit closer. In these instances, he accepted the small victories and remembered the “object of the conference is agreement, not compulsion.”⁵⁵ In fact, Root’s unfading idealism carried the day as he relished in the fact that “each successive conference will make the positions reached in the preceding conference its point of departure . . . and, by successive steps, results may be accomplished which have formerly appeared impossible.”⁵⁶ American officials celebrated the convention, if somewhat overly-optimistic, as a fundamental shift, “substituting arbitration and an appeal to reason for force and appeal to arms.”⁵⁷ President Roosevelt, in his speech to Congress, reminded American legislators that when the nations of the world toiled for peace collectively, they “can not [sic] fail to be a powerful influence for good in future international relations.”⁵⁸ Some internationalists unabashedly proclaimed the actions of the conference as giving, “greater impetus to arbitration than any act of recorded history.”⁵⁹ The convention delegates, in their

⁵⁵ *Papers Relating to the Foreign Relations of the United States, 1907*, Part II, (Washington, DC: Government Printing Office, 1910), 1130. Referred to hereafter as FRUS.

⁵⁶ *Ibid.*

⁵⁷ Scott, “The Work of the Second Hague Conference,” (Jan. 1908), 27.

⁵⁸ Theodore Roosevelt, *Message of the President of the United States*, (Washington, DC: Government Printing Office, 1907), 58.

⁵⁹ Scott, *The Status of the International Court of Justice*, New York: Oxford University Press, 1916), 35.

collective closing address, echoed the same lofty sentiments despite the diversity of national and sometimes conflicting opinions on each of the varying topics. So even though Root's plan failed to gain instant approval, the Second Hague Conference represented a great step forward by showing the various nations "not only have learnt to understand one another and to draw closer together, but have succeeded in the course of this long collaboration in evolving a very loft conception of the common welfare of humanity."⁶⁰ Not content to stop there, Root like other progressives of the period wanted to apply a similar system of third party arbitration domestically in order to stabilize the chaotic forces between labor and ownership unleashed by industrialization in the United States.

Organizing Labor Arbitration

Root's interest in arbitration extended from international diplomacy to contentious disputes within the United States. Labor issues in the United States remained largely unresolved, leading to some 23,000 labor strikes from 1870 to 1900.⁶¹ Owners typically relied on strikebreakers, either hired and in some instances sent by the government (US military), to confront protesting union employees. The owners' tactics frequently triggered sporadic resistance and violence, commonly leading to a number of deaths for both workers and enforcers. Beyond the human loss, these strikes caused both economic uncertainty and instability. In an effort to counteract these violent strikes, Root encouraged the peaceful settlement of labor issues. Though often characterized as a merely a "friend of big business," Root comprehended and empathized with the plight of

⁶⁰ *FRUS*, 1276.

⁶¹ Joel Shrock. *The Gilded Age*, (Westport CT: Greenwood Press, 2004),14.

the worker as a result of the “new conditions” during the Gilded Age period. In his 1912 address before the New York State Bar Association, he spoke about corporations’ “tremendous power of combination combined [with] great aggregations of capital in enormous industrial establishments.” According to Root, such daunting power at such an unprecedented scale caused the plight of the individual to get lost amongst the mass. As a result, he warned that “each individual concerned in them is quite helpless by himself.”⁶² To bring about a balance in the equation, he admitted the “organized control which we call government seems necessary to produce the same result of justice and right conduct.”

Among the moderates, both owners and labor unions searched for ways of peacefully settling disputes. Progressives once again looked to examples of labor dispute resolution taking shape abroad in Germany and New Zealand. Several states established arbitration boards that, in essence, acted like other Progressive Era commissions that, in theory, transcended “class interests” to serve the broader “public good.” However, state arbitration boards lacked the power to make its decisions as binding.⁶³ As a result, throughout much of the 1890s, state arbitration boards ruled in favor of unions, but ownership refused to abide the decisions, contributing to more labor problems rather than fewer. As a founding member of the National Civic Federation (NCF), Root, along with

⁶² Elihu Root, “Judicial Decisions,” in Elbert Hubbard and Felix Shay, eds., *The Fra: For Philistines and Roycrofters* 9, no. 5 (Aug. 1912), 150.

⁶³ Daniel T. Rodgers, *Atlantic Crossing: Social Politics in a Progressive Age*, (Cambridge: Harvard University Press, 2010), 57-9; Thomas R. Clark, *Defending Rights: Law, Labor Politics, and the State in California, 1890-1925* (Detroit: Wayne State University Press, 2002), 120. In his book, Rodgers contends “institutions of labor-capital mediation captured a good deal of progressive attention.” He provides examples ranging from New Zealand, referred to as the “showcase for progressive politics in the 1890s,” its adoption of compulsory labor arbitration to Germany’s establishment of a “network of industrial courts, conciliation bureaus, and legally mandated works committees,” taking shape in the 1890s.

many in the group, championed the practice of arbitration as an effective way to resolve labor disputes peacefully. His role in bringing an end to the Great Coal Strike of 1902 not only allowed him the ability to employ arbitration domestically, but also exemplified its success in ending labor disputes peacefully as opposed to earlier more violent interventions by both the state and federal governments.

At the end of the 1894 Columbian World's Exposition held in Chicago, business leaders, along with several noted reformers, gathered to discuss the recent labor fallout caused by events like the crippling Panic of 1893 and the deadly Pullman Strike in 1894. Desiring to avoid future labor crises and unnecessary deaths, those gathered formed the Chicago Civic Federation (CCF). Men of different business and political backgrounds united in the "desire to promote every kind of municipal welfare," despite the fact they lived in different parts of the city, worked in different professions, came from different ethnic backgrounds, and shared different beliefs.⁶⁴ The CCF represented one of the first efforts on any scale to urge for the use of conciliation, mediation, and arbitration by both local and state governments. As a fellow of the association, Professor Albion Small, praised the group for beginning what he called a "civic revival," while providing "hope and confidence to thousands who have become pessimists on American municipal reform."⁶⁵ With the expansion of overseas trade by the end of the nineteenth century, business leaders and politicians searched for methods to create greater efficiency and better predictability within their business model. Reflecting the rise of the interstate

⁶⁴ Albion Small. *Proceedings of the Second National Conference for Good City Government* (Philadelphia: National Municipal League, 1895), 477.

⁶⁵ *Ibid.*, 481.

economy and the subsequent movement toward centralization, reformers pressed for the formation of a national organization dedicated to diffusing labor disputes.⁶⁶

By 1900, the Chicago group's secretary, Ralph Easley, had organized the National Civic Federation (NCF) in order to expand mediation and arbitration across the country. He explained the organization's purpose as seeking the "solution of some of the great problems related to political, social, and industrial progress" in an effort to "aid thus in the crystallization of the most enlightened public opinion; and when desirable, to promote legislation therewith."⁶⁷ One historian argued that the attitude and approach of the NCF "represented the sophistication and authority of the modern state," while a reviewer described it as "part of the middle class response to the crisis of the 1890s."⁶⁸ This expanded national group included in its membership an unlikely collection of corporate titans such as Andrew Carnegie and J.P. Morgan, labor union leaders such as Samuel Gompers and John Mitchell, and well-known government and professional leaders, including four of Roosevelt's cabinet members: Elihu Root, Lyman Gage, Oscar Straus, and George Cortelyou.

⁶⁶ At the National Conference on Trade Agreements in 1900, the secretary of the meeting, Ralph Easley, summoned those present to create a tri-partite board composed of representatives from business, labor, and the professions to unravel the contentious differences between each group.

⁶⁷ Frank Colby, Daniel Gilman, and Harry Peck, eds. "National Civic Federation," *The New International Encyclopedia*, vol. 14. (New York: Dodd, Mead, and Company, 1907), 261. In a list of the major efforts by the National Civic Federation, they list as fourth of six, creating, "the Conciliation Department dealing entirely with strikes, lockouts, and trade agreements."

⁶⁸ Howard Zinn. *A People's History of the United States*, (New York: The New Press, 1980), 253; John P. Macintosh, review of *The National Civic Federation and the American Labor Movement, 1900-1925*, Marguerite Green, *The English Historical Review* 72, no. 283 (Apr. 1957), 390.

Despite its more elite members grabbing the majority of the headlines, the NCF included a great deal of diversity in its membership for its time. NCF membership ran the gamut of classes and professions from journalists to social scientists and clergymen to middle-class reformers. Some of the members headed social reform groups, research foundations, and women's organizations. By 1912, the NCF claimed a membership of almost 5,000 as part of its national group, while others formed their own clubs in urban industrial areas, sometimes growing into larger regional clubs. In the view of the NCF, public opinion compelled both sides in a labor dispute to dutifully accept arbitration, given its voluntary nature.⁶⁹ In line with Samuel Gompers and several union leaders, Root opposed the idea of mandatory arbitration, believing it limited labor's response while conversely the principle prevented industry owners from being forced to submit to an outside tribunal.⁷⁰ Regardless, he stood firm in his conviction that the states or federal

⁶⁹ Christopher J. Cyphers, *The National Civic Federation and the Making of a New Liberalism, 1900-1915*, (Westport, CT: Praeger Publishers, 2002), 28; Oscar Straus, "Results Accomplished by the Industrial Department, National Civic Federation," *Annals of the American Academy of Political and Social Science* 20, (Jul. 1902): 41; "Roosevelt for a Peace Treaty," *The New York Times*, April 16, 1907. Straus admits the "powers of the Civic Federation are entirely voluntary," giving the group the ability to "invite to arbitration." Just as Root viewed world opinion as the compelling force that pushed nations into accepting international arbitration, Straus argued that public opinion within the United States served as that "effective force" in labor arbitration. In his speech, Andrew Carnegie called arbitration "the essence of justice" and when a man "refuses to submit his dispute to arbitration, he is unjust." He closed his discussion by pointing out that "the man who submits to an impartial tribunal . . . embraces that righteousness that exalteth [*sic*] a nation."

⁷⁰ "Address of Samuel Gompers, before the Arbitration conference, held at Chicago, Ill. Dec. 17, 1900, under the auspices of the National Civic Federation," (Washington, DC: American Federation of Labor, 1901), 7. In this speech, Gompers, without hesitation, supports, "Arbitration is only possible when voluntary." Such a solution, he continues, "never can be successfully carried out unless the parties to a dispute or controversy are equals, or nearly equals, in power to protect or defend themselves, or to inflict injury upon the other." Gompers then states to a thunderous

governments “should not take away the right to strike,” especially since it represented “Labor’s great protection.”⁷¹ Despite his statement, both historians and critics of the time attempted to paint Root and the NCF as anything but progressive.

Critics of the group pointed to its elite membership as a way to question the “progressive” intentions of the group. To consider the NCF and all of its members as merely conservative, elite, and prejudiced in its intentions, was a misjudgment of its methods. Under no illusions, Root openly admitted the “evils [that] have come with the enormous increase of corporate wealth in recent years are real and serious.”⁷² In another speech at New York’s famed Durland’s Riding Club in 1908, Root clearly enunciated his view that the “effect of labor unions in securing fair and steady wages and just conditions for labor is beneficial to the whole community, the employer as well as the employed.”⁷³ He counseled that wrongdoers needed to be stopped chiefly by “reforming laws where they are defective, and enforcing the laws with fearless vigor against rich and poor alike, and for the protection of rich and poor alike.”⁷⁴ As a group, the NCF consistently championed labor arbitration, upheld the need for unionization, and pressed for the passage of labor reform laws. In its earliest actions, the NCF operated behind the scenes

applause, “arbitration . . . must be voluntary arbitration or there shall be no arbitration at all—voluntary in obedience to the award as well as voluntarily entered into.”

⁷¹ Arthur W. Page, ed., “Striking at Public Necessities,” *The World’s Work* 39:6, (Apr., 1920), 531.

⁷² Root, “Speech of Hon. Elihu Root, Secretary of State at Utica, New York, November 1, 1906,” (Washington: C.F. Sudwarth, 1906), 4.

⁷³ *Ibid.*, *Speech of Elihu Root as Durland’s Riding Academy, New York, October 31, 1908.* (Washington, DC: Sudwarth Printing Company, 1908), 3.

⁷⁴ *Ibid.*, “Speech of Hon. Elihu Root, Secretary of State at Utica, New York, November 1, 1906,” 4.

to mediate disputes for cloth cutters, cash register manufacturers, ironworkers, freight handlers and coal miners. Oscar Straus, a fellow international lawyer and New Yorker, defended against these claims by defining the NCF's mission as "one of peace," adding that any "refusal to recognize conditions does not change those conditions." Confidently, if not outright defiantly, Straus reminded readers "no amount of abuse will cause us [the NCF] to flinch from the duty that is before us."⁷⁵ The NCF's commitment to "keeping the peace" in labor-capital relations fell well within the parameters of progressive ideology at that time, both at home and across the Atlantic.

Often, when compared with the National Association of Manufacturers (NAM) and the American Anti-Boycott Association (AABA), business and legal groups pushed for the passage of anti-union and anti-litigation laws, the NCF appeared downright liberal in its views. Though the NCF failed to sway Congress into passing arbitration legislation, the NCF familiarized labor, management, and the nation with the option of arbitration to peacefully settle labor disputes.⁷⁶ The NAM and the AABA searched for peace and order by attempting to expunge labor groups of any rights and argued against any legislation that would aid the interests of labor groups or peace. Interestingly, even well established progressive European governments that were known for forward thinking reforms "swung between military repression and the 'soft-embrace' of social-

⁷⁵ Oscar Straus, "Results Accomplished by the Industrial Department, National Civic Federation," *Annals of the American Academy of Political and Social Science* 20, (Jul. 1902): 42.

⁷⁶ Dennis R. Nolan and Roger I. Abrams, "Trends in the Private Sector Grievance Arbitration," in *Labor Arbitration Under Fire* (Ithaca: Cornell University Press, 1997), 43.

political concession.”⁷⁷ The progressive response by both governments and groups to labor issues ranged across the spectrum, often “swung with ambivalence,” and if not mediated “could respond as harshly as conservative ones. Far from being erratic or verging on the most conservative position, if anything, the NCF’s position followed a steady and moderate position in a growing environment of radicalism in certain segments of both labor and capital.

Prelude to the Coal Strike

In the case of the coal miners, these men worked in the “abominable conditions” of the eastern Pennsylvania anthracite coalmines.⁷⁸ In August of 1900, the miners presented a number of demands to the owners. Chief among their demands, the workers called for the recognition of their union by the ownership, the United Mine Workers of America (UMW). By September, the miners and owners engaged in a labor strike over a host of issues concerning wages, miner safety, ending company stores, abolishing company doctors, and recognizing their union.⁷⁹ During the strike, Republican Senator Mark Hanna, president of the NCF, interceded in the hopes of bringing about a peaceful resolution. The state of Pennsylvania lacked an arbitration commission, while both the owners and employees seemed hesitant in agreeing to arbitration by outside parties.⁸⁰

⁷⁷ Daniel T. Rodgers, *Atlantic Crossing: Social Politics in a Progressive Age* (Cambridge: Harvard University Press, 2010), 59.

⁷⁸ Jessup, *Elihu Root* vol. 2, 272.

⁷⁹ “Miners Threaten to Strike,” *The Philadelphia Weekly Times*, June 21, 1900.

⁸⁰ “Arbitration,” *Report of the Bureau of Mines of the Department of Internal Affairs of Pennsylvania* (Harrisburg: Wm. Ray Stanley, State Printer of Pennsylvania, 1901), 46. Even after an investigation by the Pennsylvania Inspector of Mines for the Second Anthracite District, Henry Prytherch, he suggested that “arbitration should be introduced into the State,” mirroring those that “existed for some years in the states of

Since the operators refused to yield from their hardline position, he called requesting that a fellow NCF member, J.P. Morgan, apply the appropriate pressure to force the owners to compromise. The owners listened intently when Morgan spoke since his bank held their loans and underwrote the majority of the mine owner's finances. He convinced the operators to provide the employees with a ten percent wage increase along with the creation of a grievance process. This wage increase marked the first raise in wages for the miners since 1880, a period of twenty years.⁸¹ Despite these two concessions by the owners, the mineworkers failed to attain either union recognition or the establishment of a joint conference system.

Regardless, Mitchell and UMW called off the six-week strike. In doing so, the miners assumed that if they maintained the peace at the mine for a year, then the operators would informally meet with union leaders and restructure their agreement.⁸² So in 1901, when the UMW requested a meeting with the owners to discuss a new labor agreement, the operators quickly rejected any such meeting or changes to the existing labor arrangements. Once again, in the winter of 1902, Mitchell and the UMW proposed a joint conference, but to no avail. On this occasion, they preferred to discuss employment issues directly with employees, not national unions such as the UMW. With

New York, Massachusetts, Indiana, Ohio, and Illinois." He explained that such a system "have effected settlements of labor disputes and brought about results satisfactory to both employer and employe [*sic*]."

⁸¹ Philip Jessup, "Root Guided First Roosevelt in Early Strike-Torn Term," *The Atlanta Constitution*, April 5, 1937.

⁸² E. Dana Durand, "The Anthracite Coal Strike and Its Settlement," *Political Science Quarterly* 18:3, (Sep., 1903), 386.

this slight, whatever rapport existed between the workers and owners of the anthracite coalmines slowly vanished.

By the early spring of 1902, the NCF proudly announced, “up to the present time . . . we have as yet had no failure to report” regarding its track record in mediating labor disputes.⁸³ Within a matter of weeks after the comments were written, almost ominously, the possibility of yet another coalmine strike in Pennsylvania threatened the NCF’s self-proclaimed perfect mediation record. After having their pleas repeatedly ignored, the miners demanded a 10 percent pay raise, an eight-hour workday, and, most importantly, union recognition. Despite the numerous attempts by the UMW to work with the mine owners to implement a new labor agreement, they ultimately refused to deal with the union.⁸⁴ Eventually, Mitchell requested that President Roosevelt call for a special session in Congress in order to involve the federal government in bringing these differing problems to a common end. He wanted to avoid a strike at all costs and even proposed involving the NCF to arbitrate the dispute. The mine owners balked at the thought of federal intervention of any type, especially since the 1900 process led to wage increases.

⁸³ Oscar Straus, “Results Accomplished by the Industrial Department, National Civic Federation,” *Annals of the American Academy of Political and Social Science* 20, (Jul. 1902): 41.

⁸⁴ As an aside, they greatly distrusted Mitchell since his union represented coal workers employed by bituminous coal mines, the major competitor to anthracite coal operations. To them, he walked a very fine line in terms of a conflict of interest. The two industries mined for coal, but created two separate types of coal for fuel: Anthracite and Bituminous. Anthracite coal, also referred to as “hard coal” or “clean coal,” is considered to be the premium coal in the industry. It is a sedimentary rock that contains more carbon, burns cleaner, produces more heat, and creates no smoke. Bituminous coal, also known as “soft coal,” is a metamorphic rock that contains tar-like impurities causing it to produce dark soot and residue. The anthracite mine owners, who were newer to the industry, feared getting financially pushed out by the more established bituminous coal industry, a very real concern.

Given the stalemate between the two parties, Mitchell very reluctantly opted for a labor strike in May of 1902.

Reacting to and Resolving the Great Coal Strike of 1902

Steely and determined, both laborers and owners refused to budge. Five months into the strike a majority of mine owners and leaders from the UMW finally decided to meet with President Roosevelt at the White House. Both sides arrived amid a crowd of curious onlookers on Friday, October 3, 1902. Roosevelt welcomed both sides to his office while sitting in a wheelchair, as a result of a trolley colliding into his carriage. Prior to their arrival, Root warned the president to not let the two sides start lobbing accusations and reminded him that the “tone of the proceedings must be kept lofty, in the higher interests of millions of innocent Americans without heat.”⁸⁵ The president made all men aware of the dire stakes involved with winter approaching, letting them know he represented no one but the American people.

The representative for the mine operators, George Baer, an executive of the Philadelphia and Reading Railroad Company, pled the owner’s financial case with the president. Mitchell once again appealed for arbitration, and when Roosevelt asked for the coal operator’s assent to his proposal, they quickly refused. In exasperation, the president informed the coal barons that since they had reached no decision, “I can see no necessity for detaining you further.”⁸⁶ Within a week, Roosevelt grew exceedingly desperate and frustrated in trying to find a way to bring this strike to an end. He confided to his friend and NCF member Mark Hanna, “Well, I have tried and failed What my next move

⁸⁵ Edmund Morris. *Theodore Rex* (New York: The Modern Library, 2001), 154.

⁸⁶ Doris Kearns Goodwin, *The Bully Pulpit: Theodore Roosevelt, William Howard Taft, and the Golden Age of Journalism* (New York: Simon and Schuster, 2014), 316.

will be I cannot yet say.”⁸⁷ A short time later, Roosevelt confided to Root and Attorney General Philander Knox of his willingness to send federal troops, ten thousand of them, to nationalize the mines, mine the coal, and end the stoppage. He even instructed them to submit formal complaints if they disagreed with his plan of action. On this occasion, Root admitted that, although the president spoke like “a bit of a bluffer occasionally,” he possessed the “nerve to go on . . . and trust the country would back him up.”⁸⁸ The president never wavered from the option of using his “big stick” to bring this crisis to an end. In fact, Roosevelt freely disclosed in his autobiography, “Although there would have been plenty of muttering, nothing would have been done to interfere with the solution of the problem which I had devised.”⁸⁹ Unless things changed, he intended to act with force and intervene in the strike in a way that no president up to that point had considered.

In a last resort to avoid sending troops, President Roosevelt reached out to Root, his most trusted advisor for guidance and possible alternatives.⁹⁰ Always there to try and temper the sometimes impetuous and excitable president, Root devised a plan to bring the strike to an end without involving federal military intervention. He later described the

⁸⁷ Joseph Bucklin Bishop. *Theodore Roosevelt and His Time: Shown in His Own Letters* (New York: Charles Scribner’s Sons, 1920), 203.

⁸⁸ Root to Jessup, September 18, 1930, Jessup Papers.

⁸⁹ Theodore Roosevelt, *Theodore Roosevelt, an Autobiography* (New York: Charles Scribner’s Sons, 1922), 491.

⁹⁰ Theodore Roosevelt and Henry Cabot Lodge. *Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 1884-1906*, vol. 1 (New York: Charles Scribner’s Sons, 1925), 533. Roosevelt wrote to his fellow Republican and friend, Henry Cabot Lodge, “I am at my wits end how to proceed. I shall consult Root in the matter.” Root made the president aware that he had 10,000 troops at his disposal if needed, though he desperately desired to avoid an armed conflict if at all possible. Even at this time, several workers had been killed by agents and strikebreakers hired by the mine owners.

president as a “young fellow, without very much experience in the affairs of ordinary life,” who desperately needed “a little help.”⁹¹ He requested the president grant him leave from Washington to travel to New York. He insisted that in his efforts to avert this crisis, he spoke not for the president, but for himself. The president agreed “very violently” with his stipulation and more importantly, his plan.⁹² Root headed to New York to meet with his friend, master financier, and fellow NCF member, J.P. Morgan.

As part of his plan, Root enlisted Morgan, known as “Pierpontifus Maximus” to his critics, to help settle the issue.⁹³ Aboard Morgan’s yacht, the *Corsair*, the two men discussed for five hours how to resolve the strike as it sat docked along the Hudson River. With copious notes scribbled on the ship’s stationery, the two men left the ship and travelled downtown to the prestigious Union Club. Morgan walked into the club amidst a gathering of mine owners conducting a meeting. Root quietly exited the scene without being seen and prepared for his return trip to Washington. He tasked Morgan with the duty of presenting and selling the owners on the need to acquiesce to impartial arbitration. With a few modifications and a few strokes of his pen, Morgan convinced the owners to submit to arbitration.

⁹¹ Root to Jessup, September 18, 1930, Jessup Papers.

⁹² Ibid.

⁹³ Sidney Lens. *The Forging of American Empire: From the Revolution to Vietnam: A History of U.S. Imperialism* (New York: Thomas Y. Crowell Company, 1971), 242; Jonathan Hughes. *The Vital Few: The Entrepreneur and American Economic Progress* (Oxford: Oxford University Press, 1986), 399; Stanley Jackson. *J.P. Morgan: The Rise and Fall of a Banker* (London: Heinemann, 1983), 242; H. Paul Jeffers. *Diamond Jim Brady: Prince of the Gilded Age* (New York: John Wiley & Sons, 2001), 135.

In this instance, Root's strategy exemplified merely part of his brilliance. He "very plainly" recognized that the owners refused to negotiate with the UMW on the basis that such discussions implied recognition of its union.⁹⁴ To get them to accept what approximated Mitchell's earlier request for arbitration, he utilized Morgan to deliver his message so that it appeared as if it came not from the union and not from the White House, but from one of their own; an ally in the business world. Additionally, this option allowed the mine operators to appear as the side who initiated conciliation, despite their bullheaded resistance and numerous refusals of Mitchell and Roosevelt's almost identical arbitration proposal. This supposed "Morgan proposal" allowed the owners to maintain the fiction that they controlled the process, something Root privately admitted was "a damned lie."⁹⁵ Instead, they finally accepted the creation of a presidentially appointed arbitration commission. After the proposed modifications by both sides, the commission consisted of an army engineer, a geological surveyor, a judge, a supposed sociologist, a coal-mining expert, an archbishop, and the United States commissioner of labor.⁹⁶ Out of these positions, four of the men appointed to the commission either enjoyed membership

⁹⁴ Root to Jessup, September 18, 1930, Jessup Papers.

⁹⁵ Ibid.; Goodwin, *The Bully Pulpit*, 317.

⁹⁶ Ibid.

in the NCF or shared similar views on voluntary arbitration to those of Root and the NCF.⁹⁷

Roosevelt struggled with who to appoint as the “eminent sociologist.” He debated the issue with representatives for the mining companies who also happened to be members of the NCF, George Perkins and Robert Bacon. After two hours of debating the merits and problems with appointees, he quickly realized why the owners objected to the appointment process. The mine owners cared little whom he chose, but took issue with what this man was to be called. Roosevelt’s epiphany amused him to no end, relishing the fact “they did not mind my appointing any man, whether he was a labor man or not, so long as he was not appointed as a labor man, or as a representative of labor.”⁹⁸ Realizing this fact, the president quickly appointed Edgar E. Clark as the “eminent sociologist” on the commission. Of all the commissioners, Clark aroused the most attention in the press.⁹⁹ Accompanying the announcement, the official White House press release broadly

⁹⁷ “Commissioners Will Accept,” *Chicago Tribune*, October 17, 1902; “Bishop Thinks the Age of Arbitration Has Come,” *Los Angeles Herald*, March 27, 1903; “Bishop Spalding’s Ideas,” *Chicago Tribune*, April 5, 1903; Joseph Goldberg and William Moye. *The First One Hundred Years of the Bureau of Labor Statistics: 1884-1898* (Washington, D.C.: US Government Printing Office, 1985), 10. Judge George Gray served as President of the National Civic Federation (NCF) in 1903-04. Edgar Clark served on committees for the NCF for a number of years and firmly believed in the power of voluntary arbitration. As Roosevelt’s Commissioner of Labor, Carroll Wright served as a member of the NCF and favored voluntary arbitration as the best way to settle labor dispute and end strikes. Bishop John Spalding, while not a member of the NCF, echoed the same view on voluntary arbitration and even attended an NCF conference in Peoria, Illinois in 1903. So, taken all together, more than half of the commission either belonged to the NCF or harbored similar ideas about voluntary arbitration as Root and the NCF.

⁹⁸ Roosevelt, *Theodore Roosevelt, an Autobiography*, 468.

⁹⁹ “Mr. Clark’s Qualifications,” *The New York Times*, October 17, 1902. The newspaper writer goes to great lengths in attempting to make Clark’s experience fit the role Roosevelt assigned him.

and liberally defined sociologist as “a man who has thought and studied deeply on social questions and has practically applied his knowledge.”¹⁰⁰ The owners quickly signed off on the move despite the fact that Clark lacked any training in sociology and he even headed the Order of Railway Conductors, a railroad workers union. The president even questioned whether or not Clark ever heard of an “eminent sociologist.” A bemused Roosevelt joked “all that was necessary for me to do was to commit a technical and nominal absurdity with a solemn face.” In the next breath the president admitted, “This I gladly did.”¹⁰¹ Beyond the humor, Roosevelt and Root realized that the causal issues leading to the strike remained unresolved, though the strike itself seemed to be at an end.

After 163 days, UMW leader John Mitchell quickly called off the Anthracite Coal Strike on October 23, 1902. The mutual agreement forged by both owners and labor on the president’s Anthracite Commission appointments signaled the strike’s end.

Additionally, the use of arbitration brought an end to the violence committed by the strikers and strikebreakers. Despite the rather unfounded claims by the mine owners that dozens of their men were killed during the strike, the death count never rose above seven and included men on both sides. For almost six months, the Anthracite Coal Strike Commission met and thoroughly poured over the complex situation. The commissioners interviewed five hundred fifty-eight witnesses and gathered enough evidence to fill ten thousand pages within fifty typed and bound volumes.¹⁰² After months of work, the

¹⁰⁰ “Coal Strike Ends; Arbitrators named,” *New York Times*, October 16, 1902; “Mr. Clark’s Qualifications,” *New York Time*, October 17, 1902.

¹⁰¹ Roosevelt, *Theodore Roosevelt, an Autobiography*, 468-69.

¹⁰² Thomas Dublin and Walter Licht. *The Face of Decline: The Pennsylvania Anthracite Region in the Twentieth Century*, (Ithaca, NY: Cornell University Press, 2005), 38.

Anthracite Coal Strike Commission finally ruled on the issues brought before it.

Regarding the main issues, the commissioners awarded the miners a 10 percent increase in pay and decreased their workday to nine hours. Unfortunately for the miners, the commission refused to recognize the UMW as representing the miners. Although the UMW participated in the strike, the commission claimed they failed to qualify as a “party to this submission.”¹⁰³ Additionally, they sidestepped recognition by insisting such a decision fell beyond the purview of the commission. Despite falling short on this issue, the commission upheld the right of the anthracite miners to form their own union and suggested that the owners accept such a system as a fact of life. In fact, the commission warned the mine operators “trade unionism is rapidly becoming a matter of business, and that a employer who fails to give the same careful attention to the question of his relation to his labor or his employees . . . makes a mistake, which sooner or later he will be obliged to correct.”¹⁰⁴ The coal commission in its makeup and its decisions bore the distinct mark of the NCF.

With the strike now over, the American people bestowed the majority of the credit on President Roosevelt. The public comments of Judge George Gray, one of the Anthracite Coal Strike commissioners, spoke representative volumes to this end. “I do not think any President,” he wrote, “ever acted more wisely, courageously or promptly in a national crisis.” Gray ended his public tribute, saying Roosevelt “deserves unstinted

¹⁰³ *Report to the President on the Anthracite Coal Strike of May-October, 1902, by the Anthracite Coal Strike Commission*, (Washington: Government Printing Office, 1903), 60.

¹⁰⁴ *Report to the President on the Anthracite Coal Strike*, 63.

praise for what he did.”¹⁰⁵ However, Root deserved the lion’s share of the praise. Not only did he bring the strike to a close, he ended it by using peaceful arbitration rather than capitulating to Roosevelt’s first urge to send in federal troops.¹⁰⁶ Always one to defer all praise to others, especially the president, Root proclaimed during a 1902 midterm campaign speech that the American people clearly understood Roosevelt’s actions represented “a valuable contribution to the peaceful and reasonable process” that substituted “peace for war in the anthracite region.”¹⁰⁷ For those in attendance, they never truly grasped the crucial role played by Root and his fellows at the NCF.

The president emerged from the strike as the practitioner of the “square deal” yet his secretary of war displayed an overriding commitment to peace, determined to avoid senseless conflict and unnecessary death. Although contemporaries and later critics portrayed him as an anti-labor conservative, Root’s writings and speeches reflected a much more subtle, moderate, and reflective approach to the labor problems of the day. In his address as president of the New York Bar Association in 1912, he spoke of the progressive concepts underlying the relationship between owners, workers, and the government.

The relations between the employer and the employed, between the owners of aggregated capital and the units of organized labor, between the small producer, the small trader, the consumer, and the great transporting and distributing agencies, all present new questions for the solution of which the

¹⁰⁵ Edward Livermore Burlingame, Robert Bridges, and Alfred Dashiell, eds., “A Democratic Tribute,” *Scribner’s Magazine* 36, no. 5, (Nov., 1904), 55; Theodore Roosevelt, *Theodore Roosevelt—An Autobiography*, (New York: Charles Scribner’s Sons, 1913), 491

¹⁰⁶ Jessup, *Elihu Root* vol. 2, 277.

¹⁰⁷ “Mr. Root’s Great Speech: Issues of the Campaign Fully and Aably Presented,” *The New York Times*, November 2, 1902.

old reliance upon the free action of individual wills appears quite inadequate.¹⁰⁸

All of these competing interests often sought to blame the problems of one upon another, hurling dangerous accusations about the other's character and intentions. Out of this division emerged and conflicts brewed. To illustrate the extent of this feeling and the misinformation it bred, Root dramatically proclaimed in a speech before the New York Chamber of Commerce, "There are hundreds of thousands of people who think the manufacturers of the country are no better than a set of confidence men On the other hand there are many in this room tonight who, way down in their hearts, believe that great bodies of the American people really want to destroy their business and confiscate their property." After a short pause, he firmly declared, "Now, neither are true." "Nobody in this country," he thundered, "wants to destroy business, to destroy prosperity." The two sides, business and labor, greatly misconstrued the goals and convictions of the other "because they misunderstand you and you . . . misunderstand them."¹⁰⁹ Though the Great Coal Strike of 1902 failed to end labor strife and misconceptions, its peaceful conclusion provided yet another progressive blueprint to combat social and economic instability.

Conclusion

In spite of his anti-labor image, organized labor unions in 1926 selected Root from over one hundred Americans to settle an in-house dispute. A decades-long dispute between the Bricklayers, Masons, and Plasterers' International Union and the Operative Plasterers' and Cement Finishers' International Association threatened to tear these

¹⁰⁸ Root, *Addresses on Government and Citizenship*, 448-49.

¹⁰⁹ John A. Penton, ed., "Special Privilege for None—Not Even Labor Unions," *The Iron Trade Review* 51: 22, (November 28, 1912), 1024.

unions apart. Both sought membership and often from the same areas, leading to jurisdictional disputes between rival unions. If an owner employed members from a rival union, those union members walked off the job. What started as a regional dispute had by 1925 quickly developed into a national issue. President Coolidge, definitely not seen as an ally of labor, unsuccessfully attempted to mediate the issue. William Green, the president of the American Federation of Labor, decided to intervene in the dispute after he saw how this “family spat” between rival unions threatened the public perceptions of other fraternities within his organization. After developing a truce between the two sides, Green pressed for the conflict to be arbitrated by a panel of three: one person appointed by each union and the other chosen by common agreement.

For the third panelist, Green compiled over one hundred names for the two sides to choose. In July of 1926, both labor groups selected Elihu Root as the one they “could trust in settling a major dispute in their own ranks.” Root agreed to arbitrate the issue as a public service and without any compensation for doing it.¹¹⁰ The arbitration panel, consisting of Root, the vice president of the bricklayers’ union George Thornton, and an organizer for the AFL, Hugh Frayne, decided in October of that year that neither side behaved appropriately in various aspects of the ordeal. The commission outlined its decision where legally each side went wrong. As a matter of good faith, Root wrote the unanimous opinion in the decision so that both sides could triangulate how the commission arrived at its findings. Both unions respected the commission’s findings and abided by them, bringing this long-simmering labor dispute to a close.

¹¹⁰ Jessup, *Elihu Root* vol. 1, 482.

In addition to the unanimous decision, Root communicated to both groups, they had started down this path by “drifting away from the old kindness and desire for harmonious action to a condition of irritation which warped and misled the judgment of both parties.” Instead of focusing on the pettiness of the dispute, both unions needed to work toward restoring that “great idea “embodied in the formal and customary address and signature in letters—Dear Sir and Brother—Fraternally yours.” Root warned each group not to miss the proverbial forest for the trees. He pointed out it mattered little which local organization a member belonged to and mattered much more that the “infectious spirit of dislike and hatred shall not extend through the ranks of labor organization.”¹¹¹

In his conclusion, Root got to the heart of his view on organized labor. Despite his disagreements with labor in the past and those he may have had in the future, he poignantly admitted the “efficient organization of labor . . . is rendering the great and indispensable service to the maintenance of order and justice.”¹¹² The editor of the Plaster Union’s Journal, *The Plasterer*, praised Root for having “dignified the labor movement” and acting as an “inspiration and an influence.”¹¹³ So despite his anti-labor image developed in history, he steadfastly supported the idea of organized labor as an efficient force in industry and a necessary tool in pushing for better conditions, hours, and pay. Additionally, even at the age of eighty-two, Root remained committed to the cause of peacefully handling labor disputes through arbitration.

¹¹¹ Ethelbert Stewart, ed., “Labor Agreements, Awards, and Decisions,” *Monthly Labor Review* 24:4, (Apr. 1927), 171; Jessup, vol. 1, 484.

¹¹² *Ibid.*

¹¹³ *Ibid.*

Throughout his time in the State Department, Root attempted to standardize and centralize a dispute resolution process brought about peaceful labor relations and international stability. He viewed international arbitration as the progressive foundation that might finally put an end to war and allow global conflicts to be solved using diplomacy. Root's effort to standardize arbitration internationally and domestically connected two seemingly different brands of progressive reform. The same legal minds that attempted to solve issues of state as part of the American Peace Movement also pursued solutions to problems that threatened the state of the new economy through various reform organizations such as the NCF and the American Association for Labor Legislation.¹¹⁴ Active in both of these movements, Elihu Root subscribed, assembled, coopted, and improved on the arbitration process, forging it into a tool of progressive reform. Far from its earlier roots in partisanship and interest-dominated tribunals, he worked to professionalize, centralize, and standardize the arbitration process. In the years following the Great Coal Strike, labor unions and many industrial owners increasingly turned to arbitration as it became a more acceptable and peaceable method for solving

¹¹⁴ "Novel Peace Meeting Here at Short Notice," *The New York Times*, September 27, 1904; Marchand, *The American Peace Movement and Social Reform*, 95. The head of the National Civic Federation Oscar Straus, before a group of foreign dignitaries and French workers at the meeting, declared, "National happiness was the best guarantee of international peace." Additionally, he promised the "aid of the Federation to that cause." Even one of the Belgian deputies commented, "You [the NCF] are proceeding in such a commendable way to bring about both industrial and international peace." Marchand illustrates within the membership of National Civic Federation, the "overlapping of leadership," between socially conscious, big business owners, such as George Perkins or Robert Bacon, and reform minded lawyers, such as George Gray and Elihu Root, "was not merely coincidental." In fact the NCF devoted at least two its meetings to international arbitration. He also points out the correlation between arbitration at the industrial level, the main purpose of the NCF, and at the international level was "too enticing to ignore." He admits that such analogies between the two types of arbitration received little public attention.

labor disputes, in no small part, no doubt, due to the efforts of groups such as the NCF and its members. Root's duties as secretary of state quickly consumed his attention but allowed him to apply the same basic methods of conflict resolution to foreign affairs, the use of arbitration and adjudication.

CHAPTER VIII

THE ROOTS OF PROGRESSIVISM: PROFESSIONALIZATION, STANDARDIZATION, AND CODIFICATION

“Honest people, mistakenly believing in the justice of their cause, are led to support injustice. To meet this tendency there should be not merely definite standards of law to be applied to international relations, but there should be general public understanding of what those standards are. Of course it is not possible that all the people of any country can become familiar with international law, but there may be such knowledge and leadership of opinion in every country on the part of the most intelligent and best educated men that in every community mistaken conceptions can be corrected and a true view of rights and obligations inculcated.”

**Elihu Root
Nobel Prize Address, 1914**

Throughout his political career, Root championed public education and civic duty as the only way to guarantee the health and longevity of a democracy. Progressive reformers throughout the nation proclaimed the need for and merit of various types of education for a variety of reasons. Despite numerous differences over the type and method, reformers almost universally agreed that the application of education ultimately empowered the individual and improved the society as a whole. If people discovered and understood how to better themselves through education, domestic progressives maintained, then their very lives could be improved. Internationally, progressives stressed education in much the same way to improve the plights of nations. If national leaders desired to promote an international policy of peace, then their citizenry needed to embrace the art of effective self-government and a devotion to “good government.” In the

chaotic international scramble of the twentieth century, national leaders and their people needed an understanding of how modern nations interacted in order to coexist peacefully.

Increasingly, American officials turned to international legal experts such as Root to design and implement US foreign policy. As part of the Progressive Era, outside experts and organizations, for the first time, exerted substantial influence on the renovation and reform of the judicial system.¹ American officials, along with other national government leaders, encouraged the resolution of disputes through the peaceful means of commissions, conferences, and treaties. Accordingly, professional experts in international law accounted for the majority of international commissioners, conferees, and treaty negotiators and played an increasing role in the foreign policy establishment. As a result, Root pressed for increased international legal training as embodied in the American Society of International Law for which he served as president from its founding in 1906 until 1924 and its quarterly publication, the *American Journal of International Law*. As one its main goals, Root saw ASIL as a tool to train progressive and professional diplomats who, once in the field, could promote progressive international policies and ideals.²

Like his domestic progressive counterparts, Root stressed the progressive impulse for standardizing law throughout the nation. As part of the process of professionalization, progressives, such as Root, favored legal standardization as a way to simplify and

¹ Justin Crowe, *Building the Judiciary: Law, Courts and the Politics of Institutional Development*, (Princeton: Princeton University Press, 2012), 196.

² James Brown Scott, ed., "Constitution of the American Society of International Law," in *Proceedings of the American Society of International Law* (New York: Baker, Voorhis, And Co., Publishers, 1908), 5.

streamline what appeared to be an increasingly complex legal world.³ In doing so, they attempted to explain laws and the legal ideals behind them, and to educate the public in a way that it increasingly understood. If laws and regulations made up such a large part of everyday life, the public needed an understanding of these controls as a way to both justify such measures and hold individuals and institutions accountable for them. One historian referred to this practice as “not leveling but egalitarian in terms of its legal advocacy of impartial opportunities.”⁴ According to one jurist, standardization distilled legal ideas into a system that promised to be universal, making it possible for a set of uniform laws to be adopted by and applied to disparate states, and eventually nations of the world.⁵ Root, like many of his domestic progressives, especially those in the legal profession, demanded the increased centralization of power in the federal government to equally apply laws that states often failed to pass.⁶ Along with serving as organization president in 1916, he assisted the American Bar Association in its promotion of the “science of jurisprudence” and the “uniformity of legislation throughout the Union.”⁷

³ Crowe, *Building the Judiciary*, 20.

⁴ Burton J. Bledstein, *The Culture of Professionalism: The Middle Class and the Development of Higher Education in America* (New York: W.W. Norton and Company, 1978), 189.

⁵ Thomas Skouteris, *The Notion of Progress in International Law Discourse* (The Hague: TMC Asser Press, 2010), 107.

⁶ Sidney Milkis and Jerome Mileur, *Progressivism and the New Democracy* (Amherst: University of Massachusetts, 1999), 87. The author stated, “Progressive thinkers, however, justified them [centralization measures] as necessary responses to the default and incapacity of state governments.”

⁷ American Bar Association, *The American Bar Association: Call for a Conference; Proceedings of Conference; First Meeting of the Association; Officers, Members, Etc.* (Philadelphia: Jackson Bros., Printers, 1878), 16.

Additionally at the state level, these groups called for the passage of uniform laws within the states for the purposes of creating national legal standardization and equality.

In foreign relations, Root and other international progressives pushed for the standardization and codification of international law across the globe to promote efficiency, unity, and peace. In varying capacities, he worked and led organizations such as the American Society of International Law, the American Institute for International Law, and the Carnegie Endowment of International Peace. After nearly two decades worth of struggling to create a progressive legal standard, Root served an instrumental role in the establishment of the Permanent Court of International Justice, also known as the World Court. Although he harbored concerns about sovereignty issues at first, Root definitely believed that an international court system provided enough stature to compel states to act within the limits of the law. In the wake of World War I, Root realized that for these institutions to prevent conflicts, a more authoritative body was needed to ensure that nations abide by accepted international legal standards. Though he never achieved his ultimate goal of standardizing international law, his efforts along with his progressive vision paved the way for organization still in existence today, the United Nations and the European Union.

Professionalization: The Rise of Progressive Legalism and Legal Organizations

In the post-Civil War period, the legal profession, like many in the country, struggled to redefine itself amidst a background of momentous change afoot in the United States. For most of the nineteenth century, the vast majority of lawyers remained entrepreneurial in mindset. Even though “working class” lawyers offered a wide array of legal services, the majority still lacked the ability to earn a living with the practice of law

alone. Newly wed to his wife Clara in 1878 and still new to the legal field, Elihu Root viewed his prospects in the legal business with trepidation. In a letter to an acquaintance, he lamented, “There never has been a worse time within my experience to undertake to make a beginning as a lawyer in New York.” He cited the post-war recession along with the Panic of 1873 as the causes of the legal business “contracting steadily,” forcing “a great many layers of experience and ability” to find other work.⁸ Even though lawyers enjoyed formal societal status, they viewed law as a neutral system divorced from societal realities, something that had changed little since the Revolutionary War. A legal scholar of the period referred to the Gilded Age as a “time of general deprofessionalization” for those in the profession.⁹ Such a reality demonstrated that lawyers, just as those in other occupations, lacked the formal professional status until they modernized the way that law was taught, understood, and practiced in the rapidly changing world of the late nineteenth and early twentieth centuries.

As a result, Root, along with organizations such as the American Bar Association (ABA), focused its efforts in the years leading up to the Progressive Era touting its judgment “as indispensable to the administrative functions of an orderly society.”¹⁰ Lawyers consciously struggled at cultivating a new professional image that emphasized themselves as specialized craftsmen who practiced an increasingly complex legal science

⁸ Philip C. Jessup, *Elihu Root, vol. 1*, (New York: Dodd, Mead & Company, 1938), 108.

⁹ Mary O. Furner, *Advocacy and Objectivity: The Crisis of Professionalization of American Social Science, 1865-1905* (New Brunswick, NJ: Transaction Publishers, 2011), xi. For further discussion on the tenets of legal classicism, see William Wiecek, *The Lost World of Classical Legal Thought: Law and Ideology in America, 1886-1937*, (New York: Oxford University Press, 1998).

¹⁰ Bledstein, *The Culture of Professionalism*, 186-87.

along rapidly dissolving national and international borders. Like Root, legal scholar Simeon Baldwin outlined the need for advancing the “science of jurisprudence,” promoting the uniformity of state laws, supporting reforms in the law, elevating the integrity of the profession, and facilitating a national discussion of legal issues confronted by the states.¹¹ The social, economic, and political pressures exerted by industrialization and corporatization required a national response, and with it, a national standard of law and legal practices. The efforts of the early ABA laid a good foundation for Root’s future endeavors by trying to turn the legal occupation into a respectable profession.

Both Root and the American Bar Association stressed the need for lawyers to behave in an ethical manner and to embrace the social responsibility that came from their position as a learned man of law. During the first twenty-five years of its existence, the ABA chiefly contributed to raising the ethical expectations of its membership and attempting to clean up its moral image among the public. They worked to distance themselves from the so-called “lowlifes” of the profession—ambulance chasers, morally bankrupt practitioners, and small-time debt collectors.¹² As a member of the ABA, Root also viewed the practice of law as part of a larger social responsibility that lawyers had to the nation. According to him, any individuals who benefited from being lawyers, while not upholding their larger duty to society, attempted to “swindle the public, which ought

¹¹ Whitney North Seymour, "The President's Annual Address," *American Bar Association Journal* 47, no. 9 (Sept. 1961): 861; Lewis, 1002.

¹² Lawrence A. Friedman, *A History of American Law*, 3rd ed., (New York: Simon And Schuster, 2005), 227.

to protect itself just as it does against quack doctors and untrained motor car drivers.”¹³ Even President Roosevelt decried the nation “never stood in greater need of having among its leaders men of lofty ideals, which they try to live up to and not merely talk of . . . and we need them just as much in business and in such a profession as law.” The president also warned the outgoing class that any so called “great lawyer” who utilized his skills to help wealthy clients circumvent the law aided in creating “a spirit of dumb anger against all laws and of disbelief in their efficacy.”¹⁴ In order to gain respectability, Root understood that the legal system needed to be rid of morally undesirables and to encourage into its ranks members who practiced law as a natural extension of their societal obligation. As for the organization itself, he had some definite ideas about the challenges the legal profession faced.

Reforming the Bar: Root as President of the ABA

Once he retired from the Senate in 1915, Root now refocused his efforts on improving and reforming his profession through the American Bar Association (ABA). He succinctly broke down the major problems confronting the American legal establishment and recommended that the ABA take decisive action. He, along with other lawyers, contributed to an open letter put together by Michigan attorney Herbert Harley,

¹³ Herbert Clark, "A Proud Record In Legal Education: The Milestones In Its Evolution," *American Bar Association Journal* 39, no. 8 (Aug. 1953): 735; Jessup, vol. 1, 469.

¹⁴ Theodore Roosevelt, "Address At The Commencement Exercise In Memorial Hall, June 28, 1905," *The Harvard Spirit* 14, no. 53 (Sept. 1905): 8; Henry St. George Tucker, "Address of the President of the American Bar Association," *The American Law Review* 39, (Nov.-Dec., 1905): 808.

a legal progressive and founder of the American Judicature Society.¹⁵ Almost like an introduction, Harley inserted a massive quote by Root that listed his complaints in almost laundry list detail, everything from unnecessary court delays, a lack of justice on behalf of the poor, and the practice of unscrupulous lawyers. Taken in its totality, he concluded that the institutions of law along with many of the laws themselves “require a thorough and radical change.” He insisted that any solutions needed to go deeper than just increasing the power of the judiciary, a previously attempted and ineffective solution. In fact, Root considered “the only real remedy is to be found in reforming the system.”¹⁶ So, despite his categorization as “conservative,” his words and more importantly his actions displayed his tendency toward progressive thought. In order to reform and change, Root needed the appropriate platform and, in 1915, he finally got it.

In August of that year, members gathered in Salt Lake City, Utah for the annual meeting of the American Bar Association. Unanimously, the membership elected Root *in absentia* to serve as the President of the ABA, due to his work at the New York Constitutional Convention in Albany.¹⁷ Despite the over two thousand miles separating him from the annual meeting, the ABA officials quickly wired a message to him,

¹⁵ After a visit to Ontario’s Law Society of Upper Canada, Harley envisioned creating an effective national bar association along the same lines as Root. In 1913, he founded the American Judicature Society was created as a non-partisan, national organization working to reform law and legal institutions. He incorporated the AJS in Illinois after taking a job at Northwestern University Law School. With the financial backing of Charles Ruggles, Harley founded the *American Judicature Society Journal*, a journal that reached over 35,000 lawyers throughout the nation. For a further discussion, see “A Salute to Herbert Harley,” *American Bar Association Journal* 58 (Feb., 1972), 161.

¹⁶ Herbert Harley, *A Circular Letter Concerning the Administration of Justice* (Manistee, 1912), 274.

¹⁷ “Root Honored By Lawyers,” *New York Times*, August 20, 1915.

advising him of its selection. Rather quickly he responded to the group's message by thanking the ABA for "extending one of the greatest honors of his life."¹⁸ The group gathered in Utah stood, raised their glasses, and toasted to their new president's "health, prosperity, and continued usefulness."¹⁹ Positive reactions to his election ran throughout newspapers and legal journals throughout the country. In one, the author referred to his selection as a "most happy choice," given that "he is the actual, as well as the nominal head of his profession."²⁰ As he was known to do, he wasted no time in using his position to push for systematic reforms and calling for greater democracy among the varied bar associations.²¹

In his inaugural address to the ABA in August 1916, Root's demanded a renewed sense of social responsibility within the legal profession. Mirroring the famous line of President Kennedy's inaugural address almost fifty years later, he warned his colleagues "that too many of us [lawyers] have been trying to get something out of the country, and too few of us have been trying to serve it."²² He called on the ABA to take the necessary steps to thin down the number of lawyers, ridding it of the incompetent and unscrupulous

¹⁸ American Bar Association, "Speeches Delivered At The Banquet," *American Bar Association Journal* 1, no. 4 (Oct. 1915): 550.

¹⁹ Ibid.

²⁰ Charles E. George, "Hon. Elihu Root," *The Lawyer and Banker and Southern Bench and Bar* 9, no. 1 (Feb. 1916): 178.

²¹ "For Lawyers' Democracy: Root Urges Closer Co-operation At Bar Association Conference," *New York Times*, August 29, 1916.

²² "Root Suggests Weeding Out Numerous Lawyers," *Evening Herald* (Klamath Falls, OR), August 30, 1916; "Root Tells Lawyers of After-War Duty," *New York Times*, August 31, 1916. For more on Kennedy's speech, see, Thurston Clarke, *Ask Not: The Inauguration of John F. Kennedy that Changed the World*. New York: Owl Books, 2005.

out of the approximately 140,000 practicing attorneys throughout the country. The ABA remained small with a membership of just over 10,000, but Root looked to expand its influence exponentially. As part of his progressive ideology, he called on lawyers to rededicate themselves to a higher, public calling and emphasized the need for more efficiency within the profession. In a speech at New York's Hotel Astor just after his election as bar president, Root implored 1,200 lawyers and members of the New York Lawyers' Association to "make men believe again in the jurisprudence of their country again."²³ According to Root, most lawyers erred in how they misappropriated their professional priorities. All too often, those in the legal profession myopically focused on treating the "business of administering justice as something to be done for private benefit, instead of public service."²⁴ In fact to Root, the two principles of devotion and efficiency provided the best determinates in defining a good lawyer. Thus, qualified lawyers needed not only a commitment to their craft and its ideas, but the sheer ability to do their job well and in the best interest of the public good. While he no doubt understood that some young men entered the profession to gain fame and fortune, he hoped that they aspired to loftier principles as their "controlling consideration." He explained this logic to his bar colleagues by illustrating the importance of upholding the public trust. In order to accomplish the "people's business," the practice of law required a basic set of expectations. At the podium, he emphatically declared, "No incompetent sailor is entitled to command a public ship; no incompetent engineer is entitled to construct a public

²³ "Ovation To Root At Welcome Feast," *New York Times*, March 14, 1915.

²⁴ "Root Suggests Weeding Out Numerous Lawyers," *The Evening Herald*, August 30, 1916; Elihu Root, *Public Service by the Bar*, (Philadelphia: George H. Paine, 1916), 7.

ship.”²⁵ Given that, Root wondered why the ABA allowed untrained and incompetent lawyers to “impair the efficiency of the great and costly machinery which the people of the country provide . . . for the administration of the law.”²⁶ In his address, Root rallied the ABA to hold its members to higher ethical and professional standards, ushering in a new era.

As a part of the national conference of the ABA, Root organized a side gathering made up of delegates from state and local bar associations, known formally as the Conference of Bar Association Delegates. To drum up attendance, he extended invitations to various bar associations throughout the country, asking that they send delegates. City bar associations sent one representative, while two men represented the state associations. Initially, Root harbored a “great deal of doubt” as to whether the gathering would attract any interest or followers, but attract it did.²⁷ At this first conference, delegates assembled from almost every state, representing more than six hundred fifty bar associations, both large and small. In his opening address to the Bar Association delegates, Root focused the meeting on cultivating, “better co-operation of the National, State, and Local Associations in the great field of preservation and development of our Law.”²⁸ He, along with the other organizers, hoped to ascertain what

²⁵ Elihu Root, *Public Service by the Bar* (Philadelphia: George H. Paine, 1916), 6.

²⁶ *Ibid.*

²⁷ Proceedings of the Sixth Annual Conference of Bar Association Delegates, *Report of the Forty-Fourth Annual Meeting of the American Bar Association* (Baltimore: The Lord Baltimore Press, 1921), 568.

²⁸ *Ibid.*; Philip Wickser, "Bar Associations." *Cornell Law Review* 15, no. 3 (Apr. 1930): 400; Report of the Delegates to the Conference of Bar Association Delegates, *Report of the Twenty-Third Annual Meeting of the Pennsylvania Bar Association*, (Philadelphia: George H. Buchanan, 1917), 162.

steps “may be expediently taken to bring about a closer relationship” between the various bar associations at all levels.”²⁹ On top of this, he expressed regret that his profession as a whole failed in “exercising the full influence to which it is entitled in the development of our law and institutions.” This failure to act by the nation’s legal institutions exemplified just a small part of the “defective machinery.”³⁰ At the urging of Root, the delegates supported a measure that amended the ABA Constitution in 1917, allowing members of the state and local bar organizations to participate in the national bar’s referendums. This equated to giving these smaller associations a voice within the ABA concerning any proposed changes to the law and its institutions. Additionally, he proposed changing the ABA constitution to allow members of local and state associations the ability to serve on the ABA’s General Council, with all the privileges of any other member, including voting on key issues that arose before the group.³¹

Root’s proposed recommendations, taken together, further fused the efforts of local and regional groups with those of the national organization. Along with the presidents of five state bar organizations, the ABA’s Committee on Cooperation organized the next year’s meeting considered the first formal gathering complete with a conference constitution. Beyond that, the delegates named Root the chairman of the convention given his devotion to unifying the various bar associations. By 1920, the conference became a permanent part of the national bar, organized effective leadership,

²⁹ Alexander H. Robbins, "The Conference of Bar Association Delegates--what It Is And What It Is Doing," *Central Law Journal* 92, (Jan.-Jun. 1921): 79.

³⁰ Will Shafroth, "American Bar Association Notes," *Indiana Law Journal* 11, no. 1 (Oct. 1935): 70.

³¹ Robbins, "The Conference of Bar Association Delegates--what It Is And What It Is Doing," 79.

and passed an ABA approved constitution. Not surprisingly, the conference delegates selected Root as a member of the group's Governing Council. He described the Associations of the Bar as "an institution for the public service of the profession of the law."³² He envisioned the group's goals as growing membership, refining legal procedure, increasing efficiency, and strengthening the public appeal for law and its institutions. For the next twenty years, the seed of unification planted by Root between the local, state, and national bar associations bore fruit, ushering in the so-called "representative era." By 1921, he reflected on the conference' success in "fulfilling a need which takes in the multitude of associations of the Bar in the states and cities, towns, and counties all over this great land." During the climax of this era, the ABA more than doubled its membership from 15,000 to 30,000. Laying aside some of his traditional modesty, he ballyhooed before conference delegates at the institution's success in providing "every reason to feel that you are rendering God's service to your country."³³ Thus, Root provided much of the impetus for the ABA to take on a truly national character by assembling local, state, and national organizations under one tent and conveying the idea that the interests of one group inherently rested on the actions of the whole.

For the previous quarter century, the ABA had attempted several times to institute meaningful educational requirements as a precursor for practicing law, but failed. According to Bledstein, the majority of lawyers practicing law by 1860 lacked any formal law school training, while only three percent of lawyers attended for more than two

³² Root, *Public Service by the Bar*, 24.

³³ Robbins, "The Conference of Bar Association Delegates--what It Is And What It Is Doing," 79; E. Smythe Gambrell, "The President's Page," *American Bar Association Journal* 42, no. 1 (Feb. 1956), 99; Sixth Annual Conference of Bar Association Delegates, 569.

years.³⁴ Moses Strong, the president of the Wisconsin Bar Association, worried that there existed “practically no prerequisites, of either knowledge of laws, or knowledge of anything else, as conditions of admission to the bar.”³⁵ Root described this longstanding feeling as something within the ABA that “was not functioning quite right.”³⁶ At the urging of his colleague William Draper Lewis, Root accepted the chairmanship of the Section on Legal Education and Admission at the annual meeting of the ABA in 1920. Known informally as the “Root Committee,” the ABA leadership tasked this group of seven with creating “conditions which will tend to strengthen the character and improve the efficiency of persons to be admitted to the practice of law.”³⁷ In short, this committee needed to evaluate the educational requirements needed for admission to the bar. Their far-reaching effort lasted for a year. The committee sent out questionnaires to just about any group or individual related to the practice of law: law school deans, state and local bar associations, state bar examiners, and practicing attorneys. Its members also conducted hearings and interviewed prominent legal minds from around the nation. After compiling a mass of information, the Root Committee released its long awaited “Root Report” at the 1921 ABA meeting in Cincinnati, Ohio.

³⁴ Bledstein, 190; Robert W. Gordon, "The American Legal Profession, 1870-1900," in *The Cambridge History of Law in America, vol. 3: The Twentieth Century and After, (1920-)*, ed. Christopher Tomlin (Cambridge: Cambridge University Press, 2008), 75-76.

³⁵ *Ibid.*

³⁶ Elihu Root, "Address of Elihu Root," in *Special Session on Legal Education of the Conference of Bar Association Delegates* (Baltimore: The Lord Baltimore Press, 1921), 14.

³⁷ Herbert W. Clark, "A Proud Record In Legal Education," *American Bar Association Journal* 39, no. 8 (Aug. 1953): 734.

The Root Report received mixed reactions across the ABA, but proponents described it as “one of the milestones in the evolution of legal education.”³⁸ The prepared resolutions required applicants to the bar to have graduated from a law school that required two years of pre-law study and mandated a course of three years education at a law school. The committee concluded, however, that graduation from law school should not secure a candidate automatic admission to the bar until he or she passed a bar examination. As a way to centralize its efforts, the ABA reached out to state and local bar associations to adopt this same set of standards. To accomplish this end, the committee authorized the ABA Council on Legal Education to call yearly conferences on legal education and invite delegates from local and state bar associations to attend. Root and others envisioned these conferences as a way to distill ABA practices to the lower levels that state and local bar groups could then adopt. All of this centralization taken together provided uniformity in bar requirements and promoted unity amongst local, state, and national bar associations. Root more modestly considered the committee report as a “concrete and practical step” toward the establishment of an adequate set of legal education standards.³⁹

As part of the Root Report, the committee addressed a number of educational concerns. Given the amount of change in society and even in law, Root admitted the need to create a “new science of jurisprudence.”⁴⁰ To further such an effort, the committee

³⁸ Ibid; Ross L. Malone, “Our First Responsibility: The President’s Annual Address,” *American Bar Association Journal* 45, no. 10 (Oct. 1959): 1023.

³⁹ Root, “Address of Elihu Root,” 24.

⁴⁰ Arthur L. Corbin, “Yale and the New Science of Jurisprudence,” *Case and Comment* 21, no. 9 (Feb. 1915): 953.

called for law colleges to provide students with an adequate law library and a fully dedicated full time faculty. They recommended the annual release of a list of ABA compliant law schools as a way of both compelling other educational institutions to accept the requirements and shunning those that did not. Many of these proposed recommendations mirrored the 1910 Flexner Report that studied the educational requirements of the medical schools across the United States and Canada.⁴¹ The Root Report praised the American Medical Association's efforts at raising the educational standards of the medical profession, calling them "so great as almost to challenge credulity." The committee believed that following such an example "can produce like results if its members have a like willingness to recognize and discharge the duty laid upon them."⁴² Root relished the fact that several "great law schools," those mainly associated with Ivy League institutions, started to move away from what he called "bread-and-butter machinery of law" toward a more modern and "scientific" approach to legal education.⁴³

The Root Report resolutions gained approval by a large majority of the ABA. Despite this initial acceptance of the Root Report resolutions, he needed to steer them through the ABA as a whole. In February 1922, representatives of forty-four states and over one hundred local bar associations, along with a number of law schools gathered in

⁴¹ For more information, see Abraham Flexner, *Medical Education in the United States and Canada* Bulletin 4, (Boston: The Merrymount Press, 1910). This revolutionary report totally changed medical field by professionalizing the institutions, practices, and policies relevant to modern medical education.

⁴² American Bar Association, "Proceedings of The Special Conference On Legal Education," in *Annual Report of the American Bar Association, vol. 46* (Baltimore: The Lord Baltimore Press, 1922), 468.

⁴³ "Elihu Root Makes Defense of Bench," *New York Times*, March 18, 1915.

Washington, DC for the annual National Conference of Bar Associations. For two days, bar groups vigorously debated the Root Report proposals while critics attempted to water them down. Despite the opposition, the original resolutions passed and were adopted by the entire organization. In addition, the conference adopted resolutions demanding that law schools not be operated as “commercial enterprises” and that steps be taken to prevent any economic class from monopolizing access to them.⁴⁴ Root along with his fellow committeemen developed the first real legal education standards for entry into the profession and paved the way for the standardization and accreditation process for law schools. A former ABA president expressed the magnitude of Root’s reforms when he wrote, “It is doubtful if this association has ever taken action which had a more far reaching effect upon the legal profession or its relationship with the public.”⁴⁵

Throughout his work on the committee, Root consistently argued “the standard of public service is the standard of the Bar, if the Bar is to live.” In order for the ABA to reach its full potential as a truly professional organization, the members needed to strive toward the “rendering of justice to rich and poor alike,” putting within their reach “prompt, inexpensive, and efficient justice.”⁴⁶ Contemporaries credited Root with navigating the proposals through to adoption. For his efforts, the ABA in 1930 awarded Root with the association’s medal for dedicated service both to the profession and to its organization.

⁴⁴ Alfred Z. Reed, *The Process of Legal Education: The Washington Conference and the Association of American Law Schools* (Boston: The Merrymount Press, 1922), 16.

⁴⁵ Ross L. Malone, "Our First Responsibility: The President's Annual Address," *American Bar Association Journal* 45, no. 10 (Oct. 1959): 1024-1025.

⁴⁶ American Bar Association, "Proceedings of The Special Conference On Legal Education," in *Annual Report of the American Bar Association, vol. 47* (Baltimore: The Lord Baltimore Press, 1922), 468.

In spite of his success, Root's efforts at professionalizing and modernizing the practice of law garnered a fair amount of criticism regarding his supposed anti-immigrant views toward foreigners joining the ABA. Often critics parsed his speeches and pulled out rhetoric that, taken on its own, contributed to their suspicions of him as a nativist and xenophobe. One speech, in particular, given at the New York Bar Association in 1916, received considerable attention. Root discussed the arrival of European immigrants by the millions to large cities such as New York. A great number of them journeyed from:

communities which have not the traditions of individual liberty . . . from communities in which the courts are part of the administrative system of the government, not independent tribunals to do justice between the individual and the government . . . from communities in which the law is contained in codes framed and imposed upon the people by superior power, and not communities like ours, which the law is the growth of the life of the people, made by the people, through their own recognition of their needs.⁴⁷

Throughout his discussion, he referred to immigrants, not as scourges, but as masses of “good men, good women,” who lacked an understanding of the American legal system. Immigrants, according to Root, needed to bridge their legal understanding of their home country with American systems of law, along with a larger sense of “Americanism.” Unless someone reached out to these new arrivals, he worried that immigrant traditions “will change us unless we change them,” a comment taken more cryptically than intended.⁴⁸ In his 1916 speech, he specifically mentioned that in New York City foreign-born lawyers accounted for 15 percent of the profession, the same portion often cited by critics charging him with anti-immigrant views. Yet instead of offensively berating immigrants individually or their legal ideas, he commented on the great majority of “able

⁴⁷ Elihu Root, *Addresses on Government and Citizenship* (Cambridge: Harvard University Press, 1916), 516.

⁴⁸ Root, *Addresses on Government and Citizenship*, 516.

and brilliant and good and noble men among them.”⁴⁹ If anything Root fell guilty to being outspoken toward the “Americanization” of immigrants who worked in the field of law.

Root’s call for immigrant acculturation fit into wider efforts by a number of social and cultural clubs, educational institutions, business organizations, and even immigrant aid groups. According to one historian, the issue of immigrant assimilation “troubled immigration defenders and restrictionists alike.”⁵⁰ Due to those concerns, leading groups on both sides of the issue called for programs to “introduce greater ‘order’ and ‘efficiency’ to the assimilation process.”⁵¹ The Progressive Era “Americanization” movement included groups as diverse in philosophy as in the methods they subscribed to. Some groups worked solely to teach and inform about American culture and life, while others sought to find a way to instill loyalty. The Daughters of the American Revolution, US Chamber of Commerce, Young Men’s Christian Association, North American Civic League for Immigrants, and countless other groups sought to provide immigrants with avenues for learning about the culture and customs of their adopted homeland. Admittedly, when it came to the issue of immigration in 1912, Root spoke out while senator on behalf of a bill to require literacy tests for would-be immigrants that then President Taft vetoed.⁵² In many ways, Root’s views paralleled this larger

⁴⁹ Root, *Addresses on Government and Citizenship*, 516.

⁵⁰ Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control in America* (Princeton: Princeton University Press, 2002), 139.

⁵¹ *Ibid.*

⁵² In a speech given on the floor of the Senate on April 18, 1912, Root called the creation of a literacy test that “will be beneficial to the people of the United States.” When referring to the American people, he included “all the millions of immigrants who

“Americanization” movement, on the one hand representing the suspicion of immigrants during the era, while also holding out optimism for the immigrant’s ability to successfully transition to American life.

The critics of Root’s professionalization of law failed to draw on his larger point. In a 1922 speech, Root addressed the Conference of Bar Association Delegates from inside the Memorial Continental Hall in the nation’s capital. In a portion of his speech, he turned his concerns about the legal profession toward “immigrant” attorneys making their way up the legal ranks in major cities. These “continental” lawyers represented more a concern to Root than any real threat. They looked at law through their national lens. These men “by inheritance” gained their legal views from the European systems of law and “cannot help it.”⁵³ In fact during several points his speech, he qualified his comments not as attack on immigrants or their legal system. He freely admitted, “I am not saying that the systems of the countries from which they come are not just as good as ours.”⁵⁴ Later in the speech he returned back to this, declaring, “I said a few moments ago that I do not criticize any continental view of jurisprudence.”⁵⁵ His discussion

have come into this country in recent years.” In his speech, he illustrated his concern that “we have been taking in immigrants from the Old World in recent years rather more rapidly than we have been assimilating them . . . more rapidly than they have been acquiring American habits of thought and the American spirit of government.”

⁵³ Root, *Addresses on Government and Citizenship*, 516.

⁵⁴ American Bar Association, "Proceedings of The Special Conference On Legal Education," in *Annual Report of the American Bar Association*, vol. 46 (Baltimore: The Lord Baltimore Press, 1922), 492.

⁵⁵ "Proceedings of The Special Conference On Legal Education," 493.

focused no attention on ranking and comparing legal systems and, instead, just served to show that differences existed between them.

So, instead of taking the approach of preventing immigrants from gaining membership in the Bar, he emphasized the need to assimilate them into the American legal system. Instead of outright fearing and opposing their integration into American society, Root called on bar associations across the country, along with the nation's law schools, to reach out to immigrants educationally. Such measures ensured that immigrants grasped the "ground rules" of American legal jurisprudence by providing a minimum standard of knowledge. Additionally, Root's approach armed immigrant attorneys with the proper information to best defend their clientele. In doing so, instead of emphasizing his xenophobia, Root displayed his commitment to promote a better understanding of the American legal system. This practice of legal assimilation differed little from the same underlying progressive ideology toward immigrant assimilation as that of well-known progressives Jane Addams or John Dewey.⁵⁶

Throughout his entire legal career, Root investigated and embraced ways to further professionalize his occupation and uplift those around him. Through his work with and for the ABA, he continually sought to increase the quality of the American legal practice to reflect the progressive values of education, centralization, and standardization.

⁵⁶ A debate exists amongst historians as to where benevolence ended and paternalistic conformity began. This debate, writ large, runs throughout the historical study of the Progressive Era. Root differs little at all from his progressive era counterparts in living the life of a white elite. Additionally, he differs little in that he believes such reform measures to be the best for everyone involved, providing stability for the profession while creating pathways of legitimacy within a field undergoing significant change. For more discussion on the conflict nature of historians toward Addams benevolence or cultural hegemony, see Ruth Crocker, *Social Work and Social Order: The Settlement Movement in Two Industrial Cities, 1889-1930*, (Chicago: University of Illinois Press, 1992).

He not only desired to reform the legal practice, but also focused his efforts on reforming and nationalizing state laws. By stressing the need for uniformity within the legal profession and state laws, he endeavored to create better efficiency for those practicing law along with the people served by it.

Creating Accord from Discord: The Nationalization of State Laws

Root also pursued rationalization by working to standardize regulation. For much of American history, regulation behavior remained largely local, minimalist, and lacked consistency from state to state.⁵⁷ With the onset of the Gilded Age, innovation along with specialization in technology, transportation, and business contributed to the rise of the rich and diverse national economy. Conversely, the changes associated with industrialization and modernization also created a multitude of new societal problems throughout the country, while further exacerbating older ones, those relating to race, class, and gender. Under the banner of manufactured nationhood, a new view about the responsibility of state and federal government shifted toward the centralization of political power as a means to manage a “national” economy, develop “national” legislation, and confront seemingly “national” problems. Legal experts and reformers presented the concept of legal uniformity as a way of “maintaining a federalism that idealized local self-government,” while also “promoting social stability and affirming the absence of sectional prejudices.”⁵⁸ One study discovered that the “rise of centralized government also involved the reform of civil administration and the reorganization of the

⁵⁷ Marc Law and Sukkoo Kim, "The Rise of The Regulatory State: A View From The Progressive Era," in *Handbook on the Politics of Regulation*, ed. David Levi-Faur (Northampton, MA: Edward Elgar Publishing, Inc, 2011), 113-128.

⁵⁸ William Graebner, "Federalism In The Progressive Era: A Structural Interpretation of Reform," *Journal of American History* 64, no. 2 (Sept. 1977): 346.

army.”⁵⁹ Interestingly, Root led both efforts. Progressive reformers, most of them professionals, shared the idea that social, political, and economic controversies stemmed from inefficiencies and deformities in the system. Given this organizational structure, reformers developed solutions that were national in scope, but through differing methods.

While a number of progressive reformers called only for the passage of federal laws, Root typically supported the creation of uniform state laws to address the regulation of industry. Advocates of the national legislation method attempted to solve a multitude of social problems, from the regulation of workmen’s compensation to health insurance, child labor, mine safety, and factory inspection. These laws shared the commonality that they all dealt with aspects of regulating interstate commerce, giving them a federal character in construction. Historian William Graebner referred to uniform state laws as the “basic response of the Progressive Era,” especially when dealing with problems concerning interstate competition.⁶⁰ In fact, of all those proposed reforms, supporters of national legislation encountered only minimal success in helping to shape child labor regulations.⁶¹ At many points throughout his career, Root whole-heartedly supported federal intervention. However, in this instance he viewed state governments as the more efficient means to achieve nationalistic reform goals; almost as a first line of defense.⁶²

⁵⁹ Law and Kim, "The Rise of The Regulatory State: A View From The Progressive Era," 116.

⁶⁰ Graebner, "Federalism In The Progressive Era: A Structural Interpretation of Reform," 343-46; Robert Harrison, *Congress, Progressive Reform, and the New American State* (Cambridge: Cambridge University Press, 2004), 125-27.

⁶¹ Graebner, "Federalism In The Progressive Era: A Structural Interpretation of Reform," 344.

⁶² Elihu Root, *How to Preserve the Local-Self Government of the States: A Brief Study of National Tendencies* (New York: Bretano's, 1907), 14. In his speech, he states,

According to Root, the federal government lacked the capable enforcement mechanisms to prosecute them effectively, given the national scale and the sheer number of industries needing regulation.⁶³ Speaking before the reformers of the National Civic Federation (NCF), representing politics, business, and labor, he outlined his logic by stating, “this country is too great, its population too numerous, its interests too vast and complicated already . . . to be governed as to the great range of affairs, from one central power in Washington.”⁶⁴ He also worried that Congress lacked the constitutional ability, in some instances, to regulate certain aspects of American life. If advocates for national legislation wanted to press for expanded federal regulation, Congress needed to call for amendments to the Constitution, further empowering them to act. He warned, however, that in doing so, they endangered the survival and sovereignty of local and state governments. Again, he lamented national legislation due to his fervent belief that state and federal governments had separate, yet important roles to play, not any “states-rights”

“The Governmental control which they [the people] deem just and necessary they will have. It may be that such control would better be exercised in particular instances by the governments of the States, but the people will have the control they need either from the States or from the National Government; and if the States fail to furnish it in due measure, sooner or later constructions of the Constitution will be found to vest the power where it will be exercised—in the National Government.”

⁶³ Root, *Addresses on Government and Citizenship*, 372.

⁶⁴ Charles Meek, ed. "Senator Elihu Root On Error of Concentrating Too Much Power At Washington," *Bulletin of the National Association of Credit Men* 10, no. 1 (Jan. 15, 1910): 37. For more information on the National Civic Federation, see Christopher J. Cyphers, *The National Civic Federation and the Making of a New Liberalism, 1900-1915*, (Westport, CT: Praeger Publishers, 2002); Gordon Maurice Jenson, "The National Civic Federation: American Business in an Age of Social Change and Social Reform, 1900-1910," PhD diss., Princeton University, 1956. Cyphers argued the NCF “played a pivotal role in bringing the state into the realm of the nation’s economic and social life.”

mentality.⁶⁵ In this new era, state legislators needed to look outwardly, realizing “what every state does becomes more important to the people of every other state.”⁶⁶ In closing his remarks, he informed those gathered that the federal government should “exercise its constitutional powers to the fullest limit but do not let us in our anxiety for efficiency cast away, break down, reject, those limits.”⁶⁷ He declared such a path “marked a new departure” in the relationship between national and state government power. If state legislatures hoped to preserve their authority, they needed to aspire to higher standards of public service, provide effective legislation, and conform to the national moral

⁶⁵ Root, *How to Preserve the Local Self Government of the States: A Brief Study of National Tendencies*, 14; Bar Ferree, ed., *Year Book of the Pennsylvania Society 1907*, (New York: The Pennsylvania Society, 1907), 98. The responses to Root’s speech about the evolving nature of state and federal government, especially those in the *Year Book*, illustrate very well Root’s position and various reaction to it by newspaper writers and editors across the country. Some found his stance as acceptable, while many, especially Southerners, fumed about the perceived attack on states’ rights or viewed as part of a Northern conspiracy to control the government as they had during the Civil War. The San Francisco *Bulletin* editor wrote, “Root’s emphatic affirmation of his opinion in favor of a stronger and more centralized federal authority has, of course, inflamed the States’ rights men in every part of the country, and the rejoinders to the Secretary are not marked by their temperate character.” In another response, a writer for the Delaware *Every Evening* paper threatens, “If any attempt shall again be made, this time by the demoralized and degenerate Republican party, to override the rights of the States as guaranteed by the Federal Constitution, this country will witness another great civil convulsion.” A writer for the *News* in Atlanta sarcastically remarks, “The only thing about the speech that strikes us as remarkable in the naïve confession of the programme [sic] of centralization in advance of its proclamation. Others who have conspired to overturn thrones, exchange dynasties, and transform constitutions have felt it necessary to conceal their movements toward coup d’état.”

⁶⁶ Root, *Addresses on Government and Citizenship*, 372.

⁶⁷ Meek, "Senator Elihu Root on Error of Concentrating Too Much Power at Washington," 38.

character.⁶⁸ To him, if the states failed in this duty, the responsibility to protect the public then shifted to the federal government.

Given the popular national support for regulating industry, states served as the front line for the passage of effective and uniform legislation. Seth Low, a longtime friend of Root and president of the NCF, utilized the analogy of differing gauges of railroad track to effectively make his point about the need for better national legal efficiency. He argued the merits of either gauge of track, on its own, paled in comparison to the “advantages of standardization.” Though differing rail gauges in no way prevented the completion of the railroad’s tasks, such a practice dictated that work was “inconvenient, costly, and slow.”⁶⁹ In the years prior to the centralization movement, state and local legislatures across the nation often adopted wildly divergent regulations and differed even more in its application.

In December 1906 Root spoke before the NCF, giving rise to what one historian called the “intellectual trigger for an intensive, decade-long debate on the federal

⁶⁸ Root, *How to Preserve the Local Self Government of the States: A Brief Study of National Tendencies*, 14; Root, *Addresses on Government and Citizenship*, 373. For the precise quote, Root states, “The true and only way to preserve State authority is to be found in the awakened conscience of the States, their broadened views and higher standard of responsibility to the general public; in effective legislation by the States, in conformity to the general moral sense of the country; and in the vigorous exercise for the general public good of the State authority which is to be preserved.” In another speech, he said before a room full of governors, “it is high time that the sovereign states of the Union should begin to perform their duties with reference not only to their own local individual interests, but with reference to the common good.”

⁶⁹ Seth Low, "Seth Low, President of The National Civic Federation, Address At Conference, January 17, 1910," *National Civic Federation Review* 3, no. 9 (1910, Spring): 2.

system.”⁷⁰ In his speech, he admitted that more Americans realized that “the local laws of separate States are inadequate for the due and just control of the business and activities that extend throughout all States.”⁷¹ As one of earliest and active members in the NCF, he stressed the need for cooperation among national reform groups, national business organizations, and state lawmakers for the establishment of uniform “nationalized” laws.⁷² He, along with others, dedicated themselves to adopting legal uniformity to more efficiently deal with the needs of a continually centralizing economic and social structure.

Reformers such as Root, along with national organizations such as the National Conference on Uniform State Laws, the American Association for Labor Legislation, and the NCF, focused on the development of national strategies as a way to conceive coast-to-coast standards of law, while allowing states a hand in both the process of creation and

⁷⁰ Graebner, "Federalism In The Progressive Era: A Structural Interpretation of Reform," 347. Graebner argued that Root’s speech remains important due to the fact that it contained both of the elements of “consensus” concerning centralization—what he termed “the necessity of dealing with national problems and the value of federalism.” Uniform legislation represented a way to harmonize the constitutional concerns of federalized legislation, while allowing states to maintain a prominent position of power.

⁷¹ "Root, Crying For Power Meets A Judge's Reply," *New York Times*, December 13, 1906; Henry Litchfield West, “American Politics,” *Forum* 38:4 (Apr. 1907): 435.

⁷² Vilja Hulden, "Employers Organizations' Influence On The Progressive Era Press," *Journalism History* 38, no. 1 (2012, Spring): 44; Gerald Kurland, *Seth Low: the Reformer in an Urban and Industrial Age*, (New York: Twayne Publishers, Inc., 1971), 223. Just as Root stressed conciliation and arbitration, the NCF advocated “reasoned discussion and conciliation and cooperation between labor, capital, and the ‘public.’” The organization realized that in order to deal with disputes arising out of a national economy, reforms needed to be enacted in order to avoid much more radical and disturbing outbreaks of labor violence, calls for political revolution, and challenges to the modernity. They accepted the necessity of political and economic reforms to usher a period of peace, progress, and prosperity. So unlike some historians who view their actions as merely “conservative,” most of the members desired measured progress, the promotion of stability, and the limitation of radicalism. Kurland argues that while some referred to the work of the NCF as “conservative reform,” the organization embodied a “humanitarian, idealistic, optimistic, and essentially liberal” ideology.

enforcement. Reformers, national commissions, and politicians suggested and proposed the passage of a number of uniform state laws. The proposed laws differed as much in kind as in their solutions, confronting issues as diverse as child labor, women's working hours, anti-trust, workmen's compensation, road building, mine safety, life insurance, sexual hygiene, motor vehicles, consumer protection, marriage and divorce, widows pensions, the medical profession, conservation, accounting, and more.⁷³ State lawmakers responded to the efforts of these groups by adopting common language and standard forms of regulation in numerous areas of the law.

As more states signed on, standardized state laws paved the way for creating nationwide legislation . State governments, especially those in the northeast such as Root's New York, more easily embraced centralization than other parts of the nation, with major cities, not surprisingly, pushing for stricter regulations and more of them.⁷⁴ In growing urban centers such as New York, political and economic leaders stressed the need for an evolving system of laws capable of addressing the challenges of increased urbanization and the movement toward economic nationalization. One historian referred to the uniformity of state laws as "the political system's single most important structural and procedural problem-solving mechanism" of the period. This progressive period bridged the state based laws of the Gilded Age and the national legislation of the New Deal, bringing about even handed compromise of styles and making it "one of the

⁷³ Graebner, "Federalism In The Progressive Era: A Structural Interpretation of Reform," 344; Roy Lubove, *The Progressives and the Slums: Tenement House Reform in New York City, 1890*, (Pittsburgh: University of Pittsburgh Press, 1962), 140.

⁷⁴ Law and Kim, "The Rise of The Regulatory State: A View From The Progressive Era," 113-28.

progressives' distinctive contributions to reform."⁷⁵ Root embraced standardization as a way for states and the federal government to play an effective role in reform. In some instances, state laws via national standardization provided the more efficient and effective venue for reforms. At other times, when state governments failed to react to national problems or did so ineptly, the federal government stepped into the gap by providing universal legislation. Either way, both methods reinforced the ongoing centralization of government power right alongside the nationalization of the economy. Just as the process of standardization played an important role in the continued expansion of federal power domestically, Root attempted to apply the concept of legal codification on the international stage.

Thinking Globally through Acting Locally: Codification of International Law

A fellow New York lawyer and codification supporter, Arthur Kuhn, applauded the work of modernized nations of the world, those "characterized by national unity through dynastic and political consolidation," in their efforts at creating a "more effective [international] organization." Such success, he argued, resulted from the growing consensus amongst those nations in the "theory of the equality of the states."⁷⁶ In fact, international law served as an expression of a certain type of unity. Despite such significant progress, Kuhn conceded nations of the world needed to find a means to "compel [international] parties to accept peace on equitable terms," in order for the global

⁷⁵ Graebner, "Federalism In The Progressive Era: A Structural Interpretation of Reform," 332.

⁷⁶ Arthur Kuhn, "Should International Law Be Codified: And If So, Should It Be Done Through Governmental Agencies Or By Scientific Societies?," in *Proceedings of the Second Pan American Scientific Congress*, vol. 7 (Washington, DC: Government Printing Office, 1917), 284.

community to move toward that “next stage in its political evolution.”⁷⁷ Prior to 1899, participation in international conferences rarely rose above sixteen, even for those regarding a broad issue like the codification of international law. For the community of nations to move ahead, they needed to act and interact as just that, a community.⁷⁸

Despite debates and the questions they raised, arbitration cases involving the United States from the 1890s to the 1910s helped pave the way for international codification. Each one of them, including the fairly routine ones, established international legal precedents that were followed while resolving later conflicts between nations. Some cases, such as the *North Atlantic Fisheries*, *Chamizal*, and *Venezuelan Boundary* represented landmarks in cases concerning the defining international sovereignty and the process of territory acquisition. Even more mundane cases allowed for national leaders to better understand and define issues of state responsibility, judicial procedure, nationality, and conflicts within laws. Such disputes ironically led to a better understanding of each nation’s legal methods, customs, and vocabulary. However, the arbitration system, as it stood, lacked a truly international, centralized framework and so usually only worked on a bilateral, case-by-case basis.

Prior to Root’s arrival at the State Department, a significant portion of the political establishment resisted efforts at codification.⁷⁹ During his tenure as head of the

⁷⁷ Jesse S. Reeves, "The Codification of International Law," *Michigan Alumnus: Quarterly Review* 41, no. 17 (Apr. 1935): 441; Kuhn, "Should International Law Be Codified," 284.

⁷⁸ Norman Llewellyn Hill, *The Public International Conference: Its Function, Organization, and Procedure* (Stanford: Stanford University Press, 1929), 224-225.

⁷⁹ Reeves, "The Codification of International Law," 441. Though he admits in 1902, the United States “ was not favorable to the codification of international law,” Reeves discusses the sense of “changing times” as new officials with new ideas replaces

State Department, however, Root sought to establish an international order based on the objectivity and uniformity of international law. Slowly developing for the better part of the century, the so-called “codification movement” built momentum in the later part of the nineteenth and early twentieth centuries. Root defined international codification as a mechanism “to set in motion and promote the law-making process itself in the community of nations.”⁸⁰ Additionally, codification inextricably combined the simplification of law with a conscious effort at legal innovation in order to produce coherent, reasonable, and meaningful international law.⁸¹ Those who favored codification highlighted the need for standardizing international law in order to “remove uncertainty from international custom, fill the gaps or ‘blank areas’ in law, and give more precise content to general principles.”⁸² Root regarded codification as a way to “bring order out of confusion” and “furnish a methodical statement of the results . . . which may make the law plain to the people who live under it.”⁸³ Both tasks embodied different parts of the domestic progressive era mantra. The codification process encouraged the creation of stability in the face of rapid international change while studying problems and proposing

old officials and the status quo. He attributes these shifts in attitude as “largely . . . due to the effort of Mr. Elihu Root.”

⁸⁰ Root, *Addresses on International Subjects* (Cambridge: Harvard University Press, 1915), 59; Baldwin, 279-280.

⁸¹ Nicholas Onuff, *International Legal Theory: Essays and Engagements* (Abingdon, UK: Routledge Cavendish, 2008), 182-183.

⁸² Pavel Šturma, "The International Law Commission And The Perspectives of Its Codification Activities," *The Lawyer Quarterly* 1, no. 3 (Mar. 2011): 146.

⁸³ Root, *Should International Law Be Codified? And If So, Should It Be Done Through Governmental Agencies Or By Private Scientific Societies*, in *Proceedings of the American Society of International Law at its Ninth Annual Meeting* (Washington, DC: Byron S. Adams, 1916), 164.

solutions in a rational, scientific approach. As part of this “scientific enterprise,” trained international lawyers, especially those in professional organizations, attended international conferences to codify international legislation that sovereign states later considered for ratification. While some denounced the practice or downplayed its importance, Root considered codification as an absolutely necessary step in the progression of the international community, meaning much more than merely laying out a set of global ground rules.⁸⁴

The codification movement represented the most significant new development in an international environment defined by continuing progress and modernization. The formalization of international law during the period rendered it a Langdellian “transcendental subject,” a set of laws that speak to the universal nature of people.⁸⁵ Such a philosophy that is so universal in nature might be easy to realize, but incredibly difficult to incorporate given the vast differences in each nation’s culture and systems. So, despite the speed with which technology, industry, and communication transformed people’s everyday lives, international codification represented a more long-range process. In fact, prior to 1920, sources of international codification lacked any “settled domain of scientific or professional knowledge.”⁸⁶ Rather than trying to set up a utopian

⁸⁴ Skouteris, *The Notion of Progress in International Law Discourse*, 95; James O. Howard, “Elihu Root on the Settlement of International Disputes,” *Social Science* 22, No. 2, (April 1947), 114; Root, *Addresses on International Subjects*, 408-09. In his speech, Root proclaimed the “pressing forward of the codification of international law is made necessary by the swift moving of events among nations.” He further warned the crowd not to “wait for custom to lag behind the action to which the law should be applied.” For Root, the process of codification required the gathering of information by private individual and groups only to be accepted by governments.

⁸⁵ *Ibid.*, 113.

⁸⁶ Skouteris, *The Notion of Progress in International Law Discourse*, 109.

international system, Root endeavored to bring the international community, with all its differing needs, interests, and traditions, along a mutually agreed upon path of progress. He admitted that such a course proved of limited immediate value to governments. Once nations established that first consensus, they opened themselves up to further changes. He accepted that most national political bodies lacked the time, interest, or adequate qualifications to conduct such an effort productively. Therefore, he placed a great amount of the responsibility for codification in the hands of international professionals, especially the organizations they created. The declarations of various national courts, assortments of international agreements, countless scholarly articles addressing the subject, and a growing array of arbitral decisions provided a vast array of legal literature for international progressives to place into a “logical arrangement and somewhat authoritative structure.”⁸⁷ Put in a more legalistic way, codification provided for creating legally acceptable and enforceable customary international laws. Such a project prevented the language of international justice and peace from getting “lost in translation.” After organizing these legal precedents and ideas into easily understood international law, codification required the endorsement of the individual nations.

International codification emerged as the natural outgrowth of failed attempts by national governments to proficiently address and clarify international issues within a meaningful legal framework.⁸⁸ In much the same way as Root stressed the need for “nationalized” state laws, he hoped codification would create a set of common legal

⁸⁷ George Wickersham, "The Codification of International Law," *Foreign Affairs* 4, no. 2 (Jan. 1926): 240.

⁸⁸ Michla Pomerance, *The United States and the World Court as a "Supreme Court of Nations: Dreams, Illusions, Disillusion* (Cambridge, MA: Kluwer Law International, 1996), 48.

standards agreed upon by all nations. An irregular hodgepodge of wide ranging international customs, conflicting judicial precedents, and opposing legal interpretations posed a unique challenge in forming a community of nations bound together through the formulation of commonly accepted laws. Individual arbitrations provided a number of legal opinions and precedents unique to that case, but the very ad-hoc nature of them prevented legal continuity, based on precedents, from case to case. This defect also contributed to the call for a permanent court in order to institutionalize case law.⁸⁹ Thus, proponents of codification stressed the need for a written body of international laws.

Given the diverse systems, peoples, and ideas, some legal scholars questioned the practicality of international codification. In a *Foreign Affairs* article, a fellow New Yorker and former United States Attorney General George Wickersham argued any “popular notion that a Code of International Law may be easily prepared, covering every vital topic of the law of nations, arranged for ready reference, and . . . may be automatically decided, is plausible, but utterly impracticable and fallacious.”⁹⁰ Even Root wondered if “any agreement as to what the rule of justice is,” could be forged.⁹¹ In spite of this concern, he remained convinced the standardization and formalization of international law seemed attainable by applying objectivity to law in an effort to produce stable laws, far more superior to older style international law.⁹²

⁸⁹ Ibid., 49.

⁹⁰ Wickersham, "The Codification of International Law," 240.

⁹¹ Root, *Addresses on International Subjects*, 62.

⁹² Skouteris, *The Notion of Progress in International Law Discourse*, 115; Gary Minda, *Postmodern Legal Movements: Law and Jurisprudence at Century's End*, (New York: New York University, 1995), 15.

To further this effort, Root worked together with other nations, endeavoring to create a solid foundation and a sturdy framework upon which this new international legal system would rest. He admitted the codification movement represented a collective process, not a result.⁹³ In fact, his contention rested on the idea that “all international progress is the result never of compulsion but always of a process.” To get others to buy into the program, nations and, more importantly, its people needed to see the benefit of it. Like many of his day, he accepted human nature as unavoidable, but in the spirit of progressivism also embraced that people could “change their standard of conduct.”⁹⁴ Another proponent of codification, political science professor Jesse Reeves, succinctly described the evolutionary nature of the task. He described it as “not unlike the process employed in other fields of science,” except for the fact that “individuals cannot control conditions.” To these “investigators,” the methodology of codification involved the utilization of its “results of investigation” through the “technique” of international conference.⁹⁵ Such a view illustrated clearly recognizable elements of scientific management and the “gospel of efficiency.” Additionally, this mechanism created the ability of various nations from different systems to “secure agreement as to what the rules are,” in a shared process.⁹⁶ For Root, any chance at success for codification and standardization relied on his belief that no governmental system ever survived without

⁹³ Root, *Addresses on International Subjects*, 57.

⁹⁴ Elihu Root, "The Codification of International Law," *Advocate of Peace Through Justice* 87, no. 10-11 (Oct.-Nov. 1925): 606.

⁹⁵ Reeves, "The Codification of International Law," 436.

⁹⁶ Kuhn, "Should International Law Be Codified," 160.

the creation of orderly institutions.⁹⁷ Such efforts to create a larger and more efficient system at the international level promoted greater world harmony, increased a nation's transparency, reduced the likelihood of conflict, and provided an impartial mechanism to solve disputes that arose between nations. Beyond that, Americans themselves benefitted from the arrangement since they "could best be served in a world guided by codified standards of behavior."⁹⁸ So when nations consented to create and abide by uniform international laws it created an environment of greater visibility, predictability, and efficiency, yet another aspect of the progressive attitude.

Since international institutions lacked legislative bodies, the efforts to codify international law rested on the convening of international conferences such as those at The Hague. These gatherings represented, at least in spirit, the gathering of an international legislature for the purpose of hashing mutual legal guidelines. Even Root admitted that any effort to get forty-five nations to codify international law in a matter of weeks or months at these international conferences seemed a daunting task. He worried

⁹⁷ Samuel P. Hays, *Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920* (Cambridge: Harvard University Press, 1959), 266; Root, *Addresses on International Subjects*, 60. In this work, Hays discusses the gospel of efficiency as a "decentralized, nontechnical, loosely organized society, where waste and inefficiency ran rampant, into a highly organized, technical, and centrally planned and directed social organization." He goes on to say that the practice "required new administrative methods . . . the latest scientific knowledge and expert, disinterested personnel." These concepts absolutely applied to Progressive foreign relations and the efforts of Root. He sought to professionalize, organize, and centralize an international system geared toward global dispute resolution in an attempt to prevent the inefficiencies and wastes caused by the political, social, and economic disruption cause by unnecessary war. For Root, he stated, "no government has been or can be conducted successfully except through the creation of institutions by the orderly working of which the will of the governing power becomes transmuted into specific rules of action made effective and applied to the affairs of everyday life."

⁹⁸ Patrick DeFroscia, "The Diplomacy of Elihu Root, 1905-1909" (PhD diss., Temple University, 1976), 45.

that waiting until the conferences to mete out proposals chewed up too much precious time, leaving little, if any, time to act. To give the conference any real chance at moving forward, he suggested that delegates only discuss and debate finalized proposals. Without engaging in the proper amount of preparation, Root lamented that “conferences will be helpless.” Such a mammoth endeavor required international codification experts and supporters to engage in an immense amount of outside, off-year preparation.⁹⁹

In order to develop an effective preparation process, international lawyers, or codifiers, in each of their respective countries needed to draft, systemize, and clarify international law. The job of codification went beyond rather inefficient individual efforts and required the participation of larger groups. Root warned that “no time ought to be lost in getting to work systematically.”¹⁰⁰ Just as progressive organizations spread its message through national publications, encouraged collective action, and supported educational campaigns, international law associations published articles and devoted series to the subject of codification, pressed for more national and international gatherings to hash out a clearer understanding of codification, and promoted the expansion of international law education at the nation’s top universities. So Root urged organizations such as the American Society of International Law (ASIL), the American Institute for International Law (AAIL), and the Carnegie Endowment for International Peace to foresee possible legal objections, reconcile philosophic views on law with pragmatic ones, and effectively promote and build support for their efforts. Other groups joined in the effort as well including: Institute for International Law, the *Union Juridique Internationale*, the *Institut*

⁹⁹ Root, "The Codification of International Law," 608.

¹⁰⁰ *Ibid.*, 609.

Ibérique de Droit Comparée, the International Maritime Committee, and the *Société de Legislation Comparée*. In all of these professional and peace organizations, Root led and supported collective efforts at international codification.

Prior to the Second Hague Conference, New York businessman William J. Coombs expressed a creeping disappointment at the state of international codification. At this, the first annual meeting of ASIL, he walked a fine line between cheerleading and criticism during his remarks about the group's inaction in leading the way toward codification. Though no legal expert himself, he decried the immediacy by which international lawyers within the ASIL needed to reach a "definite conclusion in relation to international relations."¹⁰¹ The world community, according to Coombs, largely respected the rule of law, but lacked an effective and truly international system of laws. Another ASIL member, well-known international lawyer and former US diplomat, John Foster clarified the focus of the codification effort. Toward the end of a long address to ASIL members, he admitted that while other associations contributed in moving the concept of international codification further, such efforts lacked anything approaching official sanction, especially by the consent of those very nations who put those international laws in place.

In an effort to garner more international sanction, Root along with others in the ASIL raised the issue of codification at a number of international conferences. Prior to the Second Hague Conference, Root witnessed the creation of the International Commission of American Jurists at the 1906 Third Pan-American Conference.

¹⁰¹ American Society of International Law, *Remarks of Mr. William J. Coombs*, in *Proceedings of the American Society of International Law*, vol. 1 (New York: Baker, Voorhis, And Company, 1908), 96.

Representatives from twenty-one American republics empowered this commission to codify laws that would then be presented for agreement at a future international conference. The commission, headed by the Brazilian jurist Amaro Cavalcanti, preferred a partial and gradual approach to codification rather than trying to formulate one omnibus system. Along the same lines, Root recommended the creation of a larger commission of legal experts at the Second Hague Conference to frame an international code. In a speech, Root defined the “pressing duty” of international lawyers of his day to determine which subjects seemed “ripe for embodiment of international regulation.”¹⁰² Regardless of his urging, representatives at the Second Hague created no formal commission, though they declared their general support of the codification effort. The outbreak of World War I halted additional codification efforts at both The Hague and Pan-American conferences.

Though the horrors of war erupted throughout World War I, Root and other international legalists remained devoted to the idea of international codification. Even at the beginning of the conflict, Root viewed the European fight as a merely temporary setback and hoped to quickly refocus his efforts promoting international law codification. He called on the “friends of civilization” to focus their efforts on understanding the

¹⁰² American Society of International Law, *Address of Hon. John W. Forster, of Washington, DC*, in *Proceedings of the American Society of International Law*, vol. 1 (New York: Baker, Voorhis, And Company, 1908), 240; Root, *Addresses on International Subjects*, 69. Despite the efforts of Cavalcanti and the rest of his commission, the commission failed to significantly progress in 1912. The commission deferred action until a further conference so that more time could be devoted to its study. However, the outbreak of World War I once again delayed their efforts. The effort was once again taken up in Santiago at the 1923 Fifth Pan-American Congress and the 1928 Sixth Pan-American Conference in Havana. Slowly, the nations at these conferences ratified a small number of public and private international laws. Regardless, the focus on gradual codification continued to be the mainstay of international relations. The process was embodied in the formulation of proceeding international organizations such as the League of Nations and even within the Charter of the United Nations entrusted to the General Assembly.

lessons of the war in order to “prepare for the ultimate reorganization of Europe on a basis that will prevent for the future the enormous armaments which have led to the present conflict.”¹⁰³ Caught off guard by the war, Root and others reevaluated the state of internationalism and the effectiveness of international institutions. Unlike those who argued that international law failed to prevent the war, he reminded observers, “the law was not like a teacup or a pitcher which, once broken, was irretrievably ruined.”¹⁰⁴ Instead, the sheer absence of clear legal boundaries along with an undeveloped system of international adjudication contributed to the breakdown leading to the war and made possibility of future conflicts quite high. At a meeting of the American Society of International Law after the war, he declared in frustration, “God knows what the law is! None of us know.”¹⁰⁵ The “Great War” destroyed what had been the growing optimism for international peace. Despite the setback, Root remained cautiously enthusiastic that the time had come:

It is time the world is beginning to get its second wind, time that somebody begins some proceedings toward finding out and declaring what there is left of international law; what is broken beyond repair and what remains; what is to be treated as a rule which has been violated, but which stands, just as the law against murder and theft stands even though people commit murder and theft; and what rules, if any, have been so smashed that they do no exist any longer.¹⁰⁶

¹⁰³ Philip C. Jessup, *Elihu Root*, vol. 2, (New York: Dodd, Mead And Company, 1938), 244.

¹⁰⁴ *Ibid.*, "The Reality of International Law," *Foreign Affairs* 18, no. 2 (Jan. 1940): 244.

¹⁰⁵ American Society of International Law, "Minutes of The Meeting of The Executive Council: November 13, 1920," *Proceedings of the American Society of International Law at the Meeting of Its Executive Council* 14, (1921): 21.

¹⁰⁶ *Ibid.*

Courting Consensus: Codification and the World Court

After negotiations between the Four Powers at Versailles Palace concluded in 1919, President Woodrow Wilson seemed optimistic for international peace. On his trip back, he carried with him the finalized version of the treaty that ended the “Great War.” More importantly to the president, the Treaty of Versailles contained an article he thought would forever prevent another global war from recurring; the charter for his League of Nations. While Root supported the treaty and the need for such an international institution, he, like others, questioned the constitutionality of the infamous Article Ten. Despite his portrayal historically as an out-and-out opponent of the treaty and the LON, his views about it were much more subtle and complex. A *New York Times* writer even described Root as “not an opponent of the League” and someone who “admits that a properly constituted League would be of great value.”¹⁰⁷ Ever so slightly, he even shifted his perspective toward the idea of creating a method for the enforcement of international law. He remained convinced, however, that codification needed to be the first order of business before the creation of any enforcement body. Put more simply, the community of nations needed a set of acceptable ground rules before having any authoritative organization enforce them.¹⁰⁸ Despite Root’s hesitancy for the United States to join, the

¹⁰⁷ "Mr. Root's Proposal," *New York Times*, June 24, 1919.

¹⁰⁸ For a further discussion on Root’s conflicting ideas on the League of Nations and its enforcement powers, see Martin David Dubin. "Elihu Root and the Advocacy of a League of Nations, 1914-1917," *The Western Political Quarterly* 19, no. 3 (Sept. 1966), 439-55.

League of Nations continued to advance the project for codification of international law.¹⁰⁹

A seed Root planted nearly two decades ago at the Second Hague Conference finally bore fruit in the form of the World Court. In the summer of 1920, the new Council of the League of Nations created an Advisory Committee of Jurists, consisting of ten members. The Council appointed five members from the “large powers” (US, UK, France, Italy, and Japan) and five representing the so-called “smaller powers” (Spain, Brazil, Belgium, Netherlands, and Norway). No longer serving in an official political capacity, Root represented the American delegation, accompanied by James Scott as his technical advisor. The committee drafted a formal document, the Statute for the Permanent Court, calling into creation the Permanent Court of International Justice (PCIJ). Additionally, these men established its organization, structure, membership, procedure, jurisdiction, and more. Because of his decades long effort to form a global legal organization based on international law, internationalists often referred to the body as the “Root Court.”¹¹⁰ With formalities out of the way, the Advisory Committee of Jurists focused their efforts on defining the purpose and composition of the PCIJ.

During the six-week, thirty-five session meeting, Root explained that the delegates wanted to create a court that effectively “will understand the sympathies of

¹⁰⁹ Ramaa Prasad Dhokalia, *The Codification of Public International Law* (Manchester, UK: Manchester University Press, 1970), 112-113. Dhokalia asserts that the Covenant of the League of Nations “embodied, in part, ideals and principles that had been advocated for . . . those who would codify international law.” Additionally, he argued the “content, form and method” of the Covenant “may be described as codification.”

¹¹⁰ Frederic L. Kirgis, Jr., *The American Society of International Law's First Century: 1906-2006* (Leiden: Martinus Nijhoff Publishers, 2006), 67.

thought, the opinions, the prejudices, the forms of expression, the ways of acting, of all the people of the world.”¹¹¹ As one of his first acts, Root introduced a resolution declaring the delegates’ intention to continue the work of the First and Second Hague Conference. This ingenious move allowed the United States to participate in the World Court, despite Congress’s inability to join the League of Nations. He expressly included language reaffirming the need for international codification, calling for all nations to “agree upon the law to be interpreted and applied” so that the World Court “might have an authoritative book of world law ready to its hand.”¹¹² At this first meeting, the committee also decided against immediately starting the process of codification. Lord Robert Cecil, of England, led the opposition against codification, citing its impracticability and his belief such a policy harmed more than it helped. Due to the recent global collapse caused by the war, the delegates agreed that they lacked significant public consensus to make a final decision as to what concrete steps should be taken next. Instead, Root and the others delayed formal action on codification until further legal study and preparation occurred to reassess international policies given the new realities of the postwar world. He called for another international conference as soon as practicable. Within a year, forty-six nations signed the PCIJ protocol and twenty-six states quickly ratified that decision with their respective governments.

In the summer of 1921, national leaders submitted their first round of nominations to the World Court. The PCIJ formally convened for the first time at the end of January

¹¹¹ James Brown Scott, *The Project of a Permanent Court of International Justice and Resolutions of the Advisory Committee of Jurists* (Washington, DC: Carnegie Endowment For International Peace, 1920), 64.

¹¹² Dhokalia, *The Codification of Public International Law*, 116; Reeves, "The Codification of International Law," 442.

1922 and met for cases starting that summer. Five separate nations selected Root to serve as a judge on the court, a position he kindly declined. He explained his gratification for their selection, but understood that accepting a position meant living in Europe for the rest of his life. In his seventy-sixth year, he realistically understood he was “too old to transplant” and refused to ask his wife to follow him yet again for another position so far from home. Yet another hallmark of his career, his humbleness, prevented him from seeking credit for himself and caused him to often cheerlead for others. Root passed up the ultimate opportunity to sit upon the court that he had spent countless decades of his life trying to establish as a way to benefit the public good and to a larger degree, international peace.¹¹³ He worked valiantly to get the US Congress to formalize membership in the World Court, but fell short at the outset in 1923 and again in 1935. Even without the ratification of the court statute, the resolutions of the Hague Conference in 1907 allowed for American representation on the court. Despite the Senate’s refusal to join the World Court in both instances, Root continued his efforts to promote the codification of international law on a number of fronts.

Upon his return to the United States, Root once again charged the ASIL, the AAIL, and the ILA with preparing for the long road toward codification at the next international gathering. Over the next few years, international conferences continued the methodical work toward codification. At the 1923 Fifth Pan-American Conference held in Santiago, the delegates created their own Commission of Jurists. The conference empowered this group to begin the process for the Pan-American codification of international law. Along with the American Institute of International Law in 1924, these groups readied to unveil a

¹¹³ Mary Ellen O'Connell, "Elihu Root And Crisis Prevention," *Proceedings of the Annual Meeting of the American Society of International Law* 95, (Apr. 2011): 118.

significant amount of codified international law at the Sixth Pan-American Conference to be held in 1925 at Rio de Janeiro. Also in 1924, the League of Nations appointed its own legal committee to study the process of “progressive codification of international law.”¹¹⁴ The committee, consisting of seventeen nations, including the United States, and eight different international law professional groups met at Geneva, Switzerland on the April 1, 1925, to discuss codification proposals.¹¹⁵ In October of 1925, representatives from the Inter-Parliamentary Union met in Washington, DC for their weeklong, twenty-third annual conference. The IPU largely criticized the seemingly slow movement of the League of Nations on many fronts, including codification. As an American delegate and rapporteur of the first commission on codification, Root presented a paper calling for the “establishment of a solid foundation of fundamentals” for an international code of law. This so-called “Root Plan” defined the fundamental conditions necessary for a “permanent regime of peace among nations, for methods of judicial settlement of disputes, which threaten that peace, and for methods of executing the law and applying punishments.” The IPU eventually adopted a resolution calling for “an international conference of nations called for the purpose of effecting the codification of international

¹¹⁴ Arthur Deerin Call, ed., "A Third Hague Conference," *Advocate of Peace Through Justice* 88, no. 5 (May 1926): 271.

¹¹⁵ The nations included the following: Argentina, Belgium, China, Czechoslovakia, England, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, El Salvador, Spain, Sweden, Turkey, and the US. The international law groups consisted of the following: International Law Association, the *Institut de Droit International*, the *Société de Legislation Comparée*, *Institut Ibérique de Droit Comparée*, the American Institute of International Law, the *Union Juridique Internationale*, the American Society of International Law, and the *Comité Maritime International*.

law.”¹¹⁶ Root viewed the efforts toward codification by the Pan-American Congress, the League of Nations, and the Inter-Parliamentary Union as neither exclusive to, nor competitive with the other. Instead the two efforts demonstrated to Root the “sense that the time had come when there should be no further delay” in the larger process of international codification.¹¹⁷

To Root, renewed interest in international peace in the late 1920s offered another opportunity for the United States to join the World Court. With a growing backlash toward American involvement in the war and suspicion against League involvement, prominent politicians looked for ways to prevent unnecessary global conflict on the one hand, while remaining involved in leading world affairs. In 1921 and 1922, politicians such as William Borah (R-ID) pursued policies of disarmament, while the secretary of state under President Harding, Charles Evan Hughes, held the Washington Naval Conference to promote more moderate arms reduction in the form of Four-Power, Five-Power, and Nine-Power treaties. At the conference, Root played the role of elder statesman and expert advisor. He said of the conference, ten years on, “It got to be fashionable to decry the results of that conference. People assume you haven’t done anything if you haven’t done everything.”¹¹⁸ Despite this prevailing mentality, the

¹¹⁶ Arthur Sears Hemming, "Meet This Week To Tie Ribbon of Peace To World," *Chicago Tribune*, September 27, 1925; Call, 271.

¹¹⁷ Root, "The Codification of International Law," 610.

¹¹⁸ Hugh Gregory Gallagher, *Advise and Obstruct: The Role of the United States Senate in Foreign Policy Decisions* (New York: Delacorte Press, 1969), 208.

Washington Conference “was the only thing that had been done” to promote arms reduction.¹¹⁹ The 1927 Geneva Naval Conference continued efforts at arms reduction.

More utopian politicians, such as President Coolidge’s Secretary of State Frank Kellogg, placed their faith in outlawing warfare through treaty. Just five months after celebrating their golden anniversary in June of 1928, Root suffered the loss of his dear wife and confidant Clara. Despite her death or maybe as result of it, Root continued to monitor and contribute to international developments. He helped Kellogg promote his namesake, the Kellogg-Briand Pact of 1928, throwing the full weight of his support behind it. He took advantage of the popular support for these policies as a way to in turn promote his agenda; American involvement in the World Court. By supporting these policies, he believed that he might win over substantial political backing to join the World Court. Additionally, he considered any international involvement for the purpose of peace as better than the alternative, during this growing age of isolationist attitude in the United States.

Despite these few policies, Root grew increasingly disturbed at the direction of the Republican Party, especially in foreign policy. He complained to a friend that, “If I weren’t one hundred and fifty years old and had to make a public statement, I would have a hard time defending why I am a Republican.”¹²⁰ He lamented the fact that his party turned a political squabble with Wilson over the League, into a “formal policy.” Such decisions prevented the United States from taking a greater lead in world affairs, especially world peace. Despite his growing disdain for the American attitude of

¹¹⁹ Gallagher, *Advise and Obstruct: The Role of the United States Senate in Foreign Policy Decisions*, 208.

¹²⁰ Jessup, *Elihu Root* vol. 2, 477.

isolationism, Root unyieldingly held to the idea of codification by the community of nations, and promised to “facilitate the preservation of peace to a degree never before attained.”¹²¹

During the six-year period from 1924 until 1930, Root and his fellow international legalists prepared for the first meeting of the Hague Conference on the Codification of International Law in 1930. Preparatory commissions and international legal experts studied the issues along with the various issues raised by other national governments. Despite the preparation and the very high expectations of success, the conference faltered from the very start. The delegates from the forty-eight nations explored three major issues: the legal determination of nationality, the size of international waters, and legal responsibility for damages done to foreigners in a foreign land. One writer referred to these issues as “the rocks upon which the matter broke at the Hague Conference of 1930.”¹²² By the end of the conference, the delegates failed to agree on a convention regarding any of the three topics.

Conference organizers needed to more effectively set realistic agendas, limiting discussion to those issues that seemed to draw the greatest consensus amongst nations. Of all the topics up for discussion, national delegates differed widely on these three points, making them highly sensitive and controversial. Additionally, given the divisive nature of these topics, the delegates took on too many topics at once. Realistically, the conferees needed to limit their discussion to one topic, or two at best. An international law expert, Maley Hudson, claimed the work of the conference represented the “work of three

¹²¹ Root, "The Codification of International Law," 603.

¹²² Reeves, "The Codification of International Law," 442.

conferences simultaneously” in an incredibly short, one-month window. Compounding these issues, the staffs lacked the necessary personnel to cover all three of these topics. This pressure of these circumstances left the delegates, experts, and staffs with little time to effectively reflect and consult over major issues. Such results called into question the usefulness of the international conference format.¹²³

The conference, then, acted more as a guide for what not to do in the future than as a successful advance of international codification. It displayed the hardship of nailing down ever-evolving concepts of law in ever-changing times. Regardless, one Chilean delegate summed up the shift as a more universal, democratic law than those that Root saw occurring some years ago. “Never more than at this time,” Alejandro Alvarez declared, “are the masses of people in greater need of guiding principles to fortify and orientate public opinion towards peace and fraternity among nations.”¹²⁴ Even Root identified the trend that diplomacy “ceased to be a mystery confined to a few learned men . . . and has become a representative function answering to the opinions and the will of the multitude of citizens.”¹²⁵ Codification remained an important, though elusive topic, well beyond Root’s death in 1937 through modern institutions like the United Nations. Regardless of the differences in approach throughout the decades, codification reformers

¹²³ Hunter Miller, "The Hague Codification Conference," *American Journal of International Law* 24, no. 4 (Oct. 1930): 693; Dhokalia, *The Codification of Public International Law*, 127; Hill, *The Public International Conference*, 203. Hill referred to the international conference as a “specialized mechanism . . . not fitted for all kinds of tasks.”

¹²⁴ Alejandro Alvarez, "Impressions Left By The First Hague Conference For The Codification of International Law," *Transactions of the Grotius Society* 16, (1930): 127.

¹²⁵ Elihu Root, *Addresses on International Subjects*, (Cambridge: Harvard University Press, 1916), 7.

sought the same thing. Like Root, his more modern counterparts desired to unify the world under a common system of international laws to provide greater global stability and uniformity. More importantly, both Root and more modern codifiers wanted to create a more efficient institutional process to handle international disputes peacefully and to limit unnecessary war.

Conclusion

By the turn of the twentieth century, legal experts such as Root attempted to professionalize the practice of law by expanding the reach of groups such as the American Bar Association within the industry. Beyond that, Root and other progressives attempted to standardize the legislation across the nation to meet the needs of an increasingly complex legal world. Just like the movement at home, Root attempted to bring about the standardization and codification of international law as a way to establish more efficient methods of legal dispute resolution between nations. For more than a half-century, lawyers, diplomats, and intellectuals attempted to structure a workable system of codified law. Despite best efforts, the movement in the United States, headed by Root, established little in the way of definitive and permanent success in comparison with the vast array of international commitments between states. Regardless, Root and the others who devoted their public lives to the effort refused to give in, even though many of them never lived to see the fruits of their labors.

CONCLUSION

ROOTING THROUGH THE EVIDENCE

At the dawn of the so-called “American century” the nation, its people, and its institutions were in a state of flux. The Gilded Age, despite all of its technological progress and promise, displaced the economic, social, and political lives of Americans. Root and others grappled with how to correct the imbalance caused by decades of laissez-faire economics and government apathy. The outdated “conservative” wisdom of the day argued against government intervention in societal problems for fear it weakened a person’s self-reliance and moral character.¹ With the rise of industrial capitalism and the development of large-scale corporations, the problems facing American took on a larger and more national context. Beginning in the 1880s, reformers soon demanded government at every level become the instrument to help address societal problems. Progressives embraced numerous issues, ranging from prohibition to prostitution, corruption to child labor, and social justice to social work. Regardless of which reform the supporters and why, progressive reformers demanded a change in the status quo approach that held back individuals and the nation from achieving their full potential.

In a life that extended almost a century, Root spent the vast majority of his years serving the interests of the public. Though he garnered acclaim early in his life as

¹ Lewis Gould, *America in the Progressive Era, 1890-1914*, (New York: Routledge Publishing, 2013), 6.

corporate lawyer, the enduring legacy of the man revolved around his service to his greatest client, the United States government. Utilizing his position in government, Root promoted progressive ideals to tackle numerous national and global problems during the late nineteenth and early twentieth centuries. Root traded a lucrative law career, earning him upwards of \$100,000 annually, to serve as the secretary of war, secretary of state, and US senator, netting less than \$8,000 a year. He represented the United States government abroad on countless international commissions, conferences, and committees. In fact, one scholar claimed no other American official participated in more international conferences to promote world peace.² At home, Root served on numerous boards committed to the improvement of national and international life.³ In the end, Root's career evinced his progressive belief in the duty of public service, along with the power of the state to promote stability, peace, and order.

Throughout his career, critics such as media mogul William Randolph Hearst branded Root as a reactionary and a henchman for major corporations. With such a broad reach, newspaper reports heavily influenced the perception of Root and his principles. Media reporting, along with the public disdain for some of his bigger named clientele, unfairly jaded his image and worked to downplay Root's more progressive efforts.

Relying on these accounts, later historians overly stressed his "standpat" conservative

² James O. Howard, "Elihu Root on the Settlement of International Disputes," *Social Science* 22, no. 2 (Apr. 1947): 115.

³ He served on the board of the following organizations: the Union League, the New England Society in New York, the Century Club of New York, the New York Bar Association, the Bar Association of the City of New York, the American Bar Association, the American Society of International Law, the Carnegie Endowment for International Peace, the Metropolitan Museum of Art, the American Federation of Arts, the New York Public Library, the Institute for International Education, and the National Security League.

tendencies, some even going so far as to present him as the antidote to the progressive movement.⁴ Like his fellow progressives, Root, in some instances, disagreed over what constituted a needed reform, along with the means and method of how to move forward with it. In some areas, such as women's suffrage and judicial recall, Root's view ran counter to the perceived progressive agenda. On the other hand, he stood in advance of most progressives on issues such as campaign finance reform and views about race. Despite efforts to discredit him as a progressive, Root's decade's long commitment to the public reflected his connection to the larger movement.

Throughout his public career, Root shared the same values that bound the multifaceted progressive movement together. He rejected the cynicism of government inaction and promoted the need for an honest, efficient, and more responsive government. In situations where the problem took on a national context or states refused to act, he regarded federal government intervention as not just necessary, but welcome. Though he embraced the idea of government involvement, Root wanted to ensure that important components of the American legal establishment such as the separation of powers and individual liberties remained intact. Beyond constitutionality, the federal government lacked the resources to effectively enforce every piece of national legislation, so Root deemed it realistic for local and state authorities to do their part the reform effort. Regardless, government, at every level, needed to get involved to better the lives of the people it served.

Though much of the progressive effort focused on effective institution building, Root also recognized the need for reforming individuals' behaviors. Given the rampant

⁴ Elizabeth Sanders, *Roots of Reform: Farmers Workers, and the American State, 1877-1917*, (Chicago: University of Chicago Press, 1999), 167.

individualism of the preceding decades, reformers stressed the need for people to reconnect to society through the formation of groups that replaced individual desire with collective action. Root and others promoted the need for education to raise individual awareness and increase effective engagement with government about important issues of the day. Parallel to intellectual empowerment, reformers reinforced the societal obligation individuals had to a collective future. Civic engagements, by way of associations, societies, and clubs, provided a formidable avenue to discuss, study, and engage societal problems. In this period of great complexity, changes in society created a vast network of interdependence, greatly reducing the power of individuals over the lives they once had. Reformers like Root rechanneled the individual energies of everyday Americans toward a collective and societal good.

To get beyond the petty partisanship of the period, Root attempted to employ “scientific expertise” in the way he reorganized departments and reformed bureaucracies. His thorough approach to reform rested on the need to engage all parties to an issue into discussions, establish effective directives to deal with the problems, and then revisit the results, changing and revising original assumptions about the problem if it required it. Such a style mirrored the scientific approach adopted by researchers who examined the workings of the natural world. Domestically, Root emphasized the needed for efficient government ran for the public interest and not the benefit of political machines. During his time in New York, he highlighted the need for civil service reform that favored merit and expertise over political, or even family connection. While working in the federal government, he applied this philosophy in the way he attempted to reconstruct the governments of Cuba and the Philippines. Additionally, Root used this approach in his

efforts to modernize the military and clean up the Foreign Service. In these instances, as well as others, Root exported the domestic ideals of progressivism beyond American borders to other governments and the bureaucratic machinery that affected foreign policy.

As with all progressives, Root's involvement in political issues and reforms of the period stemmed from his desire to labor toward a national and societal good. Given that for many Americans things could not get much worse economically, socially, and politically, reformers took it as the gospel truth that society could only improve and get better. Growing up with the carnage of the Civil War and witnessing the effects of the Gilded Age, Root and other reformers endeavored to lift the nation out of the mire that seemingly threatened its very existence. Borrowing from corporate design, he looked to organizing a wide range of reform efforts to create a more efficient and responsive government structure. He recognized that since problems were decades in the making, at least, it prevented them from being solved overnight. Although some spoke of miracle cures to societal ills, Root feared decisions made on the emotional whim and without ample knowledge. For their part, clubs and organizations helped in the process by providing venues and discussions about the issues at local, state, regional, and even national levels. Just like the experts, the American people needed to educate themselves on the issues in order to make informed decisions about them. Such efforts took time, but Root viewed reform as an evolutionary process, not revolutionary in nature. Only an educated, and therefore empowered, populace had any chance of overcoming foolish, flawed, or fraudulent appeals to action that failed to serve its interests. Root devoted the great majority of his years attempting to perfect organizations and equip individuals to eradicate the causes of domestic and international strife.

Though sometimes cast as the antithesis to progressivism, Root supported numerous progressive ideals at home, believing the government needed to mitigate the vast and varied excesses and influences of the Gilded Age. He called for better wages and the protection of unions for laborers, while appealing for limitations on the power of big business. Root wholeheartedly backed Roosevelt's efforts at trust-busting and regulating securities. He supported reform efforts that attempted to remove the taint of political machines and special interest from politics and elections. He wanted governmental institutions, and those within them, to take seriously their respective commitments to public service, representing them honestly and earnestly. As a result, Root promoted civil service reforms that professionalized civil servants, established civil service exams, and instituted merit based raises. He acted to put an end to voter fraud, while calling for campaign finance reform that prevented corporations from making political contributions. He advocated on behalf of the poor to raise awareness for their access to basic, but necessary legal services. His support for progressive ideals extended well beyond American borders.

In an increasingly complex world, fraught with peril, Root attempted to bring progressive stability and order to the international system. Borrowing from the transatlantic modern pipeline of ideas between Europe and the United States, Root instituted the reform and reorganization of the US military, despite his lack of military experience. He reached out to experts in military organization, relied on the fresh ideas of progressives in the War Department, and sent out fact-finding missions to study the military systems of nations throughout the world. He championed policies that increased the importance of and access to educational opportunities for military officers. In doing

so, Root looked to professionalize the officer corps of the US military. He also aided in truly nationalizing the National Guard by strengthening federal control over it and proscribing a set of standardized procedures for all guard units to follow. The corresponding “Root Reforms” that modernized the military also set the United States on a path of military preparedness by the time World War I arrived.

Like numerous progressives, Root remained optimistic that the lessons to be gleaned from progressive experiments at home might easily transfer to those abroad. The building up of American empire started well before the Root’s arrival to the federal government. Put in the position of secretary of war, he attempted to map out a process of transferring the colonial holdings of Cuba and the Philippines into self-governing and independent nations. In both regions, Root instituted significant reforms to the judicial and political systems that mirrored reform movements in the United States, from prisons to elementary schools. He relied, rightly and wrongly, on educated native elites to create a responsive, honest, and efficient government. Although the changes involved exporting a great deal of American ideals, Root attempted to utilize local custom and law, when possible. Such view on government intervention matched his outlook on domestic reform. Just as progressives viewed the government’s duty to protect the least among society at home, Root applied the same benevolent paternalism in the formulation of the Platt Amendment and the Roosevelt Corollary to the Monroe Doctrine. Despite allegations he authored these major instruments of foreign policy as a way to promote malicious American military intervention, Root constructed his policies as a way to protect economically and militarily weak governments from other imperial powers. Despite his efforts, succeeding political leaders, department officials, and presidential

administrations revised and reinterpreted these policies as a way to suit their own imperial endeavors.

Root relied on the scientific expertise and efficient problem solving as a way to guide the international community away from unnecessary conflict and war. Though some pointed to domination on the basis of race as the justification for imparting American ideals, Root pictured a much more equitable and international solution. He viewed war as an atypical and irrational enterprise. The vast majority of wars occurred, according to his philosophy, not as the result of a nefarious scheme, but because of miscommunication and misunderstanding. He participated in dozens of international conflicts and commissions to better understand the interests, expectations, and insecurities of nations throughout the world. To avoid wars, Root argued that national leaders needed a set of mutually agreed upon legal principles to guide their country's behavior. To achieve this goal, he called for the creation of a universal set of international laws that truly reflected the will of the global community. A standardized system of codification, according to Root, eliminated the need for unnecessary conflict and war by recognizing the modern realities of mutual dependence and interconnectedness.

To accomplish this lofty goal, Root advanced the progressive ideals of reconciliation, mutual protection, standardization, and codification to regions most hostile to American intentions, the Far East and Latin America. As the relationship between the United States and Japan eroded by 1906, instead of increasing tensions Root attempted to reconcile them by negotiating a limitation of Japanese immigration to the United States, while using the power of the federal government to enforce the civil rights of Japanese immigrants in California. Contrasted with Roosevelt's iron-fisted approach as US-

Japanese relations, as displayed through the tour of his Great White Fleet, Root's cool-headed diplomacy sought to cooperatively resolve issues with Japan, instead of taking actions that might fan the flames of war. In Latin America, Root worked to mend the longstanding distrust between the two regional neighbors. To assuage anti-American sentiment, Root, more than any secretary of state, reached out to Latin American leaders. He attempted to build a mutual understanding, while promoting Pan-American unity through a number of regional conferences. Root's keystone Latin American policy, his goodwill tour in 1906, served to reestablish the relationship between the United States and a number of key Latin American states, including Colombia. He repeatedly attempted to redefine the Monroe Doctrine, along with the addition of Roosevelt's Corollary, as a policy created to protect the sovereignty of smaller nations, rather than violate it. However, the gains remained short-lived as Roosevelt and succeeding administrations continued aggressive policies of military intervention. These actions eroded the goodwill he worked so hard to establish.

As part of new breed of lawyer-diplomats, Root labored to institutionalize the interactions of states via international institutions. Though nations differed from one another in numerous ways, the creation of basic, yet universal international laws, represented a way to connect such a divergent system together. In order to bring stability, order, and efficiency to international relations, Root promoted the standardization and codification of international law. The ravages of World War I only shook Root's confidence about world peace, but not his drive to attain it. Such an event halted international conferences on the subject until after the war's conclusion. He realized the need to institutionalize the mechanism of world peace. He proved instrumental in the

creation of the World Court, which was renamed the Court of International Justice after World War II. Despite Root's best efforts, codification proved illusive. However, the World Court still stands as a testament to Root's ideals. Later organizations, such as the United Nations and the European Union, reflected the principles embodied in much of Root's international progressivism.

At the dawn of a great age of change, Root dedicated his life to finding stability and order. He lived at a time in history fraught with both peril and possibility. From humble middle-class roots, he worked his way into the halls of power. Though he began his career as lawyer, Root ultimately dedicated his life to public service. His efforts, along with his legacy, served as a symbol of the Progressive Era and those who defined the period. He represented clients both rich and poor, worked with interests both great and small, represented the United States before governments both weak and strong. All throughout, he remained unshakable in his belief that law, when created for the right reasons, served as the great equalizer amongst peoples and nations. It provided a language that removed powerful and possibly destructive emotion and proscribed the settlement of differences in ways that avoided messy conflicts. Root admitted, on numerous occasions, that law remained an imperfect tool, but it served as the best instrument to navigate the complexities of modern life. As time passed by and life changed, the law needed to reflect the present and represent the will of the community it served. The Gilded Age reflected a period of vast inequality where law had not quite caught up to the changes in business, technology, and society. As a result, Root and his fellow progressives optimistically looked to the benevolent government intervention as

way to limit the irregularities of the system and reform as a way to maximize its efficiency.

Equally, Root labored at a pivotal juncture in the history of American foreign relations. He served under President McKinley, following the War of 1898, and remained involved in diplomatic efforts until his death 1937. His legal background made him an invaluable asset to negotiate the new ramifications of expansion, but his progressive mindset left an indelible legacy on his international efforts. Indeed, Root modernized the US military, but with the hopes of never having to go to war. Instead of shirking from foreign governments, who despised and distrusted American actions, he reached out to them in the name of international peace and friendship. As secretary of state, Root broke racial lines by interacting with governments other officials considered inferior. All the while, he treated these leaders like gentlemen, with dignity and respect. Instead of rattling sabers, he resorted to discussion. When those within his own party, some even his closest friends, called for military intervention, Root counseled for dialogue. He consulted with the international community to create international systems of peace and understanding. He promoted international education and interaction between nations as a way to reduce the likelihood of misunderstanding. Root's international efforts stood in stark contrast to Roosevelt's "Big Stick," but unfortunately the sting of the president's threats, along with the pop of his military bat, gained historical attention, muting the softer tones of Root's diplomacy of "kindly consideration and honorable obligation."

As time has passed, fewer and fewer Americans have recognized the importance of Root or his progressive legacy. The historic memory of Root suffered considerable damage for a number of reasons. In his own time, the media branded him as a heartless

corporate conservative. Also the fact that Root, as a lawyer, represented some elite clients in no way helped his image. With the exception of one very public spat with William Randolph Hearst, Root chose not to counter any of these unproven accusations and remained above the public fray. This again failed to rectify the story constructed about him that greatly exaggerated his conservative tendencies. During much of his time in the federal government, he fell victim to the power of Roosevelt's personality, as did so many others of the period. Contemporaries and early historians heaped credit upon the president, rather than apportioning it to those like Root and even Taft, who played major roles in Roosevelt's reform agenda. Not one for the spotlight, Root sought no praise and deferred any and all of it to his friend, the president. The political fallout of the election of 1912, along with Root and Roosevelt's very public break in friendship, served to separate the two men who shared much more in common ideologically than they ever disagreed. Roosevelt's desire to win caused him to take more radical positions than years earlier he found unacceptable, while it made Root appear much more conservative than he was. Later historians built upon many of these stereotyped images of Root, rather than seeing the man for what he was, a devoted progressive reformer at home and abroad.

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ABSTRACT

UNFADING HALO: THE UNTOLD PROGRESSIVISM OF ELIHU ROOT

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In the latter decades of the nineteenth century, reformers across the nation looked to study, understand, and resolve the major political, social, economic, and moral issues gripping the nation. This study uncovers the rather unlikely progressive credentials of a highly influential lawyer, diplomat, and statesman, Elihu Root. Contemporary critics and political opponents unfairly categorized him as a conservative, and callous corporate lawyer who opposed the Progressive movement at every turn. This inaccurate characterization unduly influenced historical conceptions of the Root and his legacy. On the contrary, Root modernized, reformed, and advanced progressive institutions at home and abroad.

Root recognized the growing need for reform, accountability, and efficiency of public institutions, while also promoting an individual responsibility need for education, morality, and self-restraint. Elite lawyers such as Root formed a significant majority of progressive reformers who sought restore public trust in civil government, depoliticize civil service appointments, destroy political machines, ensure the sanctity of the ballot, increase legal access for the poor, promote campaign finance reform, enact corporate and inheritance taxes, and bust trusts. Root devoted his public career to carrying out the public good and uplifting society.

Though Root's domestic reform agenda mirrored the efforts of his progressive counterparts, what set him apart was the fact he transplanted these progressive ideals into reforms into America foreign policy. Since progressives empowered the government to resolve domestic concerns, it only makes sense they used the full force of Washington to solve problems that confronted the globe. He represented a minority of internationally progressive lawyer-diplomats who sought to bring order to the interactions of states, reduce global conflicts, and introduce worldwide institutions comprised of more nations than ever before. He promoted American involvement in international institutions well before the creation of the League of Nations and developed many of the concepts that later comprised part of the United Nations created nearly a decade after his death. Presidents of both parties and numerous secretaries of state worked with Root to secure progressive international policies, ranging from the creation of the World Court to international policies of disarmament.