

## COULD AND SHOULD AMERICA HAVE MADE AN OTTOMAN REPUBLIC IN 1919?

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Generations of American school children have memorized the words of Jefferson's Declaration of Independence. Its evangelical spirit was echoed in Lincoln's Gettysburg Address and scores of other presidential addresses. Partly on that account, numerous Americans, perhaps especially American lawyers, have since the 1780s presumed to tell other peoples how to govern themselves. In 2006, that persistent impulse was echoed once again in an address to the American Bar Association by a Justice of the United States Supreme Court.<sup>1</sup>

The purpose of this Essay is to question the wisdom of this evangelical ambition. Sometimes cited as examples of successful political evangelism are the constitution of Japan and the Basic Law of Germany.<sup>2</sup> Both of those constitutions were for numerous reasons congenial to the existing local cultures and traditions.<sup>3</sup> The 2003 invasion of Iraq was in important respects a product of the notion that orderly democratic government can be imposed almost anywhere, an idea that seems to have had special appeal to the

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1. For a video of Justice Kennedy's keynote address to the ABA, see *Justice Kennedy Declares World Jury Still Out on Meaning of Freedom* (Aug. 5, 2006), <http://www.abavideo.org/ABA374/media/kennedy/wmv>.

2. See, e.g., JOSHUA MURAVCHIK, *EXPORTING DEMOCRACY: FULFILLING AMERICA'S DESTINY* 94 (1991); James Dobbins, *Nation-building: The Inescapable Responsibility of the World's Only Superpower*, *RAND REV.*, Summer 2003, at 17.

3. For brief accounts and references, see Carrington, *supra* note \*, available at [http://www.law-journal.de/fileadmin/user\\_upload/PDF/ausgabe012007v3.pdf](http://www.law-journal.de/fileadmin/user_upload/PDF/ausgabe012007v3.pdf), and Paul D. Carrington, *Writing Other Peoples' Constitutions*, 33 *N.C. J. INT'L L. & COM. REG.* (forthcoming 2008) (describing American engagement in the writing of the Liberian, Hawaiian, Filipino, Siamese, Japanese, and German constitutions).

militant “neo-conservatives” who expressed their hopes and expectations in the *Statement of Principles of the Project for a New American Century*, an instrument that should be read and remembered with remorse for centuries to come.<sup>4</sup>

The missionary impulse to change the political cultures of other peoples by force that is expressed in that Statement is often misguided, hopeless, and even counterproductive. But just possibly there are times and places when cultural change can be externally imposed. One of the limits of our human condition is our preoccupation with recent experience that sometimes teaches the wrong lesson. As a possible example, this Essay considers whether a democratic regime could or should have been imposed on all or parts of the former Ottoman Empire in 1919, after its collapse following World War I.

### I. THE IMPERIAL IMPULSE

Before addressing the question posed, one should note the resemblance of legal evangelism to imperialism. Andrew Bacevich has vigorously urged Americans of the “neo-con” persuasion<sup>5</sup> to try to see themselves as others do: as overbearing imperialists.<sup>6</sup> He followed Reinhold Niebuhr, who noticed long ago that Americans “frantically avoid[] recogni[z]ing their own] imperialis[t] impulses.”<sup>7</sup>

This American tendency was prefigured by other imperialists who long explained their military initiatives as a service to the peoples they subjected to conquest. The Spanish explained their imperial search for precious minerals as a dissemination of the Christian faith,<sup>8</sup> just as Moors had earlier justified their conquest of Spain as necessary to inform the vanquished that Muhammed was a prophet

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4. This statement was published on the internet in 1997. See Project for the New Am. Century, Statement of Principles (June 3, 1997), <http://www.newamericancentury.org/statementofprinciples.htm> [hereinafter Statement of Principles].

5. Forcefully expressed in *id.*

6. ANDREW J. BACEVICH, AMERICAN EMPIRE: THE REALITIES AND CONSEQUENCES OF U.S. DIPLOMACY 242-44 (2002).

7. REINHOLD NIEBUHR, ON POLITICS 294 (Harry R. Davis & Robert C. Good eds., 1960).

8. The classic account of Spanish missionary zeal is WILLIAM H. PRESCOTT, HISTORY OF THE CONQUEST OF MEXICO AND HISTORY OF THE CONQUEST OF PERU 148-50, 636-38 (Modern Library 1936) (1853).

sent by God.<sup>9</sup> Wise and learned Germans professed in 1914 the belief that the German people were called to defend the humane values of western civilization against the evil threat of Czarist Russia and its craven French ally.<sup>10</sup> Gladstone, that most eminent Victorian, oblivious to the class-ridden nature of Victorian law, explained the aims of the British Empire as equally benign:

We think that our country is a country blessed with laws and a constitution that are eminently beneficial to mankind, and if so, what [is] more ... desired than that we should have the means of reproducing in different portions of the globe something as like as may be to that country which we honor and revere?<sup>11</sup>

Earlier evangelical imperialists were also sometimes warned of their failure to see themselves as others did. Long before Jefferson wrote the Declaration, John Milton cautioned his fellow legislators that they should not “[l]et ... England [] forget her precedence of teaching nations how to live.”<sup>12</sup> And in 1899, James Bradley Thayer, then the most eminent scholar of American constitutional law, would echo Milton:

[We Americans have] an opportunity to illustrate how nations may be governed without wars and without waste, and how the great mass of men’s earnings may be applied, not to the machinery of government, or the rewarding of office-holders, or the wasteful activities and enginery of war, but to the comforts and charities of life and to all nobler ends of human existence,—so, I say, to our country ... that [the] solemn warning of Milton, “God-gifted organ-voice of England,” might well have come [to us]: “Let not America forget her precedence of teaching nations how to live.”<sup>13</sup>

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9. On traditional Islamic evangelism, see BETTY KELEN, *MUHAMMAD: THE MESSENGER OF GOD* 240-48 (1975). See also MICHAEL BRETT & WERNER FORMAN, *THE MOORS: ISLAM IN THE WEST* (1980). On the evangelical aggressiveness of the Ottomans, see LORD KINROSS, *THE OTTOMAN CENTURIES: THE RISE AND FALL OF THE TURKISH EMPIRE* 197-215 (1977).

10. See JÜRGEN VON UNGERN-STERNBERG & WOLFGANG VON UNGERN-STERNBERG, *DER AUFRUF “AN DIE KULTURWELT!”* 162-64 (1996).

11. PAUL KNAPLUND, *GLADSTONE AND BRITAIN’S IMPERIAL POLICY* 202 (1966).

12. JOHN MILTON, *TO THE PARLIAMENT OF ENGLAND, WITH THE ASSEMBLY* (1645), available at [http://www.dartmouth.edu/~Milton/reading\\_room/ddd/parliament/text.shtml](http://www.dartmouth.edu/~Milton/reading_room/ddd/parliament/text.shtml).

13. James Bradley Thayer, *Our New Possessions*, 12 HARV. L. REV. 464, 466 (1899).

The lesson Milton and Thayer sought to teach was substantially learned by many Americans in the two decades that followed his utterance. And the United States adhered to that teaching in 1919 when the future of the collapsed Ottoman Empire was open to consideration. But might not a little cultural imperialism in 1919 have spared the United States and the people of the Middle East from the grief being experienced in 2007? Maybe Milton and Thayer are sometimes wrong.

## II. THE OTTOMAN EMPIRE IN 1919: A PROBLEM FOR AMERICA?

The great Ottoman Empire, it may be recalled, was the successor to the great Byzantine Empire.<sup>14</sup> Seljuk Turks had gained control of the Greek imperial capital of Constantinople in 1453.<sup>15</sup> That city, earlier known as Byzantium, had been since 305 the seat of the emperor Constantine and his successors who long ruled the more stable eastern half of what had been the Roman Empire.<sup>16</sup> The Turks renamed it Istanbul as the capital of a Turkish empire that they then extended to include the valleys of the Danube, Tigris, and Nile Rivers and much of the shores of the Black and Mediterranean Seas, reaching to the gates of Venice and Vienna and to the Straits of Gibraltar.<sup>17</sup> Thus, for about 1400 years, the city was the seat of the wealthiest and most powerful nation on earth.<sup>18</sup> However, by 1900 the Sultan's dominion no longer extended across the Balkans or Africa, but was limited to the eastern shore of the Mediterranean, Mesopotamia, and the Arabian peninsula.<sup>19</sup>

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14. The era of its great power is depicted by JOHN JULIUS NORWICH, *BYZANTIUM: THE EARLY CENTURIES* 26 (1989). On the decline of the Byzantine Empire, see MICHAEL ANGOLD, *THE BYZANTINE EMPIRE 1025-1204*, at 284-95 (1984).

15. NORWICH, *supra* note 14, at 26.

16. *See id.* at 34-35, 381-82.

17. KINROSS, *supra* note 9, at 116-22, 231-344.

18. *See* CAROLINE FINKEL, *OSMAN'S DREAM: THE STORY OF THE OTTOMAN EMPIRE 1300-1923*, at 3 (2005).

19. *See generally* DONALD QUATAERT, *THE OTTOMAN EMPIRE, 1700-1922* (2d ed. 2005) (recording the decline of the Empire).

*A. American Relations with the Empire*

The relationship between the Ottoman Empire and the United States opened in the eighteenth century with the piracy practiced on American ships by the forces of Ottoman satraps or beys ruling Algiers, Tunis, and Tripoli as subordinates to the Sultan in Istanbul.<sup>20</sup> The United States waged a successful naval war on those pirate states in the first years of the nineteenth century.<sup>21</sup>

Thereafter, the Empire became the object of Americans' religious concern. With occasional exceptions, it had long been a place of religious and ethnic tolerance for almost every variation of Christian, Judaic, and Muslim faiths, more tolerant indeed than contemporaneous European empires.<sup>22</sup> Turks, Kurds, and Arabs were divided among many diverse forms of the Islamic faith.<sup>23</sup> In addition to many adherents of the ancient Orthodox faith long centered in Constantinople and along the Aegean coast, there were hundreds of thousands of Armenian Christians spread through the realm.<sup>24</sup> A substantial community of Maronite Christians loosely associated with French Catholicism, who answered to the Pope in Rome, was centered in Lebanon.<sup>25</sup> And there was a vestige population of observant Jews in Palestine, the place to which all manner of Christian pilgrims had been drawn since the fourth century.<sup>26</sup>

By 1818, American Protestants were increasingly ambitious to bring the world to their faith.<sup>27</sup> They would begin by correcting the failures of the Crusades to recover the Holy Land for those of correct

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20. See MICHAEL B. OREN, *POWER, FAITH, AND FANTASY: AMERICA IN THE MIDDLE EAST, 1776 TO THE PRESENT* 18-20 (2007).

21. See *id.* at 17-79.

22. Some Christian sects found the Sultans more tolerant than the governments of Austria or Venice. See KINROSS, *supra* note 9, at 207-10.

23. On the demographic diversity of the Empire, see ALBERT HOURANI, *A HISTORY OF THE ARAB PEOPLES* 59-97 (1991); on the story of the Kurds, see *PEOPLE WITHOUT A COUNTRY: THE KURDS AND KURDISTAN* (Gerard Chaliand ed., Zed Press trans., Zed Press 1980) (1978).

24. On the Greek population, see JASON GOODWIN, *LORDS OF THE HORIZONS: A HISTORY OF THE OTTOMAN EMPIRE 275-82* (First Owl Books 2000) (1998); on the Armenians, see NICOLE POPE & HUGH POPE, *TURKEY UNVEILED: A HISTORY OF MODERN TURKEY* 7-20 (paperback ed. 2004).

25. GOODWIN, *supra* note 24, at 95.

26. See BARBARA W. TUCHMAN, *BIBLE AND SWORD: ENGLAND AND PALESTINE FROM THE BRONZE AGE TO BALFOUR* 22-49 (Ballantine Books 1984) (1956).

27. OREN, *supra* note 20, at 80-83.

beliefs.<sup>28</sup> Missionaries went forth from the Old South Church in Boston to take their faith to the Holy Land of Palestine. It was, however, viewed by the Sultan as a capital offense to attempt to convert a Muslim away from the Islamic faith.<sup>29</sup> Since they were not allowed to convert Muslims, they would start with the Jews, Maronite Christian, Orthodox, and Armenian populations in the region and bring all of them to the Protestant faiths. It was also envisioned that Jews in other lands could be brought back to their place of cultural origin and converted to Christianity.<sup>30</sup>

American religious missionaries were at first resisted by the Sultan. This was changed by the revolution in Greece that ended in 1827 with the separation of that nation from the Empire.<sup>31</sup> Many Europeans and Americans had lent support to the Greek revolutionaries, but the United States Navy had, unlike those of England, France, and Russia, stood aside lest its involvement undermine the hope of the United States to isolate the world's hemispheres that it had expressed in the Monroe Doctrine.<sup>32</sup> In 1830, the Sultan rewarded American disengagement in the Greek Revolution with a trade agreement.<sup>33</sup>

Meanwhile, the Sultan's former state of Egypt occupied the neighboring territories of Palestine, Syria, and Lebanon.<sup>34</sup> When the Europeans forced the Egyptians to restore the Sultan to power in that area, the Sultan promised greater freedom with regard to religious practices. The result was a steady and sustained effort of American Protestants to convert the population of the region to their faith. The missionaries came from diverse sects. The first Mormon missionaries, for example, arrived in 1844,<sup>35</sup> decades before they settled Utah. Congregationalist missions were established in distant Mesopotamia and in Armenia.

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28. *Id.* at 81.

29. *Id.* at 92; *see also* SAM HARRIS, *THE END OF FAITH: RELIGION, TERROR, AND THE FUTURE OF REASON* 113 (2004) (citing BERNARD LEWIS, *THE CRISIS OF ISLAM: HOLY WAR AND HOLY TERROR* 55 (2003)).

30. OREN, *supra* note 20, at 87-90.

31. *Id.* at 114-18.

32. *Id.* at 110-11.

33. *Id.* at 115-16.

34. *Id.* at 128-29.

35. *Id.* at 142.

Very little success was achieved in converting either the Jewish or Arab population of Palestine to any Protestant faith.<sup>36</sup> More progress was made in Lebanon and Syria, primarily among those of other Christian faiths. Education became the primary means of spreading the word. These efforts had the support of the United States government to the extent of providing occasional protection for missionaries by numerous consular officials spread about the Empire, and on a few occasions by the United States Navy.

Not everyone was impressed with this missionary enterprise. William Makepeace Thackeray encountered the American consul in Jerusalem. Learning of the scheme to make Palestine and Syria an independent state for Christianized Jews, he concluded that the minister “has no knowledge” of the region “except what he derives from prophecy.”<sup>37</sup> But the minister was expressing a widely shared idea that had been advanced in 1844<sup>38</sup> by George Bush, a biblical scholar at New York University and an ancestor of two American Presidents. Perhaps more apt was the comment attributed to an Arab guide of that time: “You Americans think that you can do everything .... But you cannot conquer Almighty God.”<sup>39</sup>

In the decades that followed, the Protestant missions in the Holy Lands attracted, in addition to pilgrims, American tourists.<sup>40</sup> Mark Twain was among them. In 1869, he recorded his exploration of the region, reporting among many other things the deeply moving discovery in Jerusalem of the grave of his ancestor Adam.<sup>41</sup>

### *B. The Empire's Collapse*

In the nineteenth century, as their empire was driven out of Europe, much of the Muslim population of the Balkans retreated

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36. *Id.* at 122-24, 285-90.

37. *Id.* at 143.

38. GEORGE BUSH, *THE VALLEY OF VISION, OR, THE DRY BONES OF ISRAEL REVIVED* (1844).

39. OREN, *supra* note 20, at 128 (internal quotation omitted).

40. *Id.* at 149-73.

41. MARK TWAIN, *THE INNOCENTS ABROAD, OR, THE NEW PILGRIMS' PROGRESS* 567 (1869) (“The tomb of Adam! How touching it was, here in a land of strangers, far away from home, and friends, and all who cared for me, thus to discover the grave of a blood relation. True, a distant one, but still a relation. The unerring instinct of nature thrilled its recognition. The fountain of my filial affection was stirred to its profoundest depths, and I gave way to tumultuous emotion. I leaned upon a pillar and burst into tears.”).

into the shrinking Ottoman territory and the Sultan began to posture as a religious leader to Islam.<sup>42</sup> In 1893 the disintegration of the Empire was marked by the beginning of a genocidal conflict between the Sultan's Turkish subjects and their Armenian neighbors, an extermination that the Sultan could not or would not control.<sup>43</sup> There was, however, no persecution at that time of the one hundred thousand or so Jews residing at peace among the Arab population of Palestine or of the Roman Catholic minority in Lebanon, for they were not threats to the Empire.

The Empire's participation in the World War was an act of desperation. Among the nation's frailties was the questioning of the loyalty of the Armenian population that had long provided an important core to the social order resulting in the renewal in 1915 of the genocidal conflict of 1893.<sup>44</sup> There was also rising tension between the Turkish population of Asia Minor and their Christian Orthodox neighbors of Greek ancestry, who were also suspected, perhaps with cause, of disloyal sentiments resulting from their religious ties to the enemy, Czarist Russia, and their identity with neighboring and hostile Greece.<sup>45</sup>

In the course of the war, the British supported a successful revolt against the Sultan by Arabs in the southern region of the Ottoman Empire.<sup>46</sup> That revolt had been led by Prince Feisal with the help of the legendary British officer, Lawrence of Arabia.<sup>47</sup> In 1916, the British Army occupied the valleys of the eastern region of the Empire that would in time become Iraq. Then in 1917 the British Army invaded the center of the Ottoman territory, marching north from Suez through Jerusalem to take Damascus.<sup>48</sup>

By the time of the assembly at Versailles, the Sultan no longer governed even the streets outside his palace. Indeed, in 1919 there

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42. KINROSS, *supra* note 9, at 549-53.

43. OREN, *supra* note 20, at 292-93. A full account is provided by GUENTER LEWY, *THE ARMENIAN MASSACRES IN OTTOMAN TURKEY: A DISPUTED GENOCIDE* 15-27 (2005).

44. *See, e.g.*, DAVID FROMKIN, *A PEACE TO END ALL PEACE: CREATING THE MODERN MIDDLE EAST 1914-1922*, at 212-15 (1989); YUSOF HALAÇOĞLU, *FACTS ON THE RELOCATION OF ARMENIANS (1914-1918)*, at 44-57 (2002); JUSTIN MCCARTHY ET AL., *THE ARMENIAN REBELLION AT VAN* 168-69, 180-86 (2006).

45. *See* SALÁHÍ R. SONYEL, *MINORITIES AND THE DESTRUCTION OF THE OTTOMAN EMPIRE* 256-57 (1993).

46. HOURANI, *supra* note 23, at 315-22.

47. *See* ADRIAN GREAVES, *LAWRENCE OF ARABIA: MIRAGE OF A DESERT WAR* (2007).

48. HOURANI, *supra* note 23, at 315.

was a brutal struggle between Turks and the Greek population within the Empire, renewing the hostilities of a century earlier.<sup>49</sup> With the encouragement of France and Great Britain, Greece claimed the coastal provinces of Asia Minor. “Turkey is no more,” Lloyd George exulted.<sup>50</sup> But peace between Greece and Turkey would be crafted at Lausanne in 1922 by forced removal of all Muslims from Greece and all Orthodox Christians from Asia Minor, ending a millennium of peaceful coexistence.<sup>51</sup>

### *C. International Zionism*

An additional issue for those at Versailles was posed by the Balfour Declaration. In 1916, Britain had proclaimed that it “view[ed] with favour” the aspiration of Zionist Jews to establish a homeland in Palestine.<sup>52</sup> Palestine had been occupied by the British Army in 1917. The Declaration had been made on the initiative of Chaim Weizmann, the English leader of the Zionist movement that had emerged among the Jewish population of Europe in the late nineteenth century<sup>53</sup> in response to the pogroms to which Jewish subjects of the Czar were being subjected.<sup>54</sup> The British government in making the Declaration was at least partly motivated by the hope of elevating the patriotism of British Jews who were, not without reason, skeptical of the war being fought in the trenches of France, and also perhaps of weakening the support given to the German and Austrian governments by their large and generally patriotic Jewish subjects.<sup>55</sup>

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49. POPE & POPE, *supra* note 24, at 36-39; SONYEL, *supra* note 45, at 431-34, 540-47; ERIK J. ZÜRCHER, *TURKEY: A MODERN HISTORY* 153-55 (new ed. 2004).

50. FROMKIN, *supra* note 44, at 431.

51. See BRUCE CLARK, *TWICE A STRANGER: THE MASS EXPULSIONS THAT FORGED MODERN GREECE AND TURKEY* 87-101 (2006); ONUR YILDRIM, *DIPLOMACY AND DISPLACEMENT: RECONSIDERING THE TURCO-GREEK EXCHANGE OF POPULATIONS, 1922-1934*, at 2-3, 8-9, 87-91 (2006).

52. See LEONARD STEIN, *THE BALFOUR DECLARATION* app. at 664 (1961).

53. JEHUDA REINHARZ, *CHAIM WEIZMANN: THE MAKING OF A STATESMAN* 74-75 (1993).

54. BEN HALPERN & JEHUDA REINHARZ, *ZIONISM AND THE CREATION OF A NEW SOCIETY* 11-18 (1998); DAVID VITAL, *THE ORIGINS OF ZIONISM* 51-55, 65 (1975); DAVID VITAL, *A PEOPLE APART: A POLITICAL HISTORY OF THE JEWS IN EUROPE 1789-1939*, at 701-02 (1999). More than a few English Protestants had envisioned such a return as the occasion for the return of Christ and had long lent support to the Zionist idea. See TUCHMAN, *supra* note 26, at 121-46.

55. TOM SEGEV, *ONE PALESTINE, COMPLETE: JEWS AND ARABS UNDER THE BRITISH*

The Zionist movement had also gained footing in the United States.<sup>56</sup> It is to be distinguished from the longstanding movement of Protestant Americans to restore the Jewish population of Palestine as converted Christians.<sup>57</sup> A leader of Zionism in the United States was Louis Brandeis, a person of Jewish ancestry who was not observant of any religious faith but who admired the Jewish culture and sympathized with the victims of pogroms.<sup>58</sup> He was joined by his friend and follower, Felix Frankfurter.<sup>59</sup>

But many Jewish Americans of that time were not supportive of the international movement. One such person, Henry Morgenthau, served as American Ambassador to the Sultan from 1913 to 1917.<sup>60</sup> He was a native of Germany brought to New York by his parents and educated at City College and Columbia Law School. After a career in New York real estate, he undertook an active role in the Democratic Party and was appointed by President Wilson as Ambassador to the Ottoman Sultan. He was not altogether pleased with this appointment because he regarded himself as an assimilated American and he preferred to represent his country in a role in which his religious beliefs were irrelevant.<sup>61</sup> He was nevertheless persuaded to perform the assigned role. Like many European Jews, he feared that Zionism would evoke widespread mistrust of their loyalty and diminish their opportunity to assimilate to the cultures of the nations in which they were residing.<sup>62</sup>

Brandeis was, however, a formidable figure commanding great personal respect from the President, and his support of Zionism was itself enough reason for the President to make no adverse comment

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MANDATE 53 (Haim Watzman trans. 2000). *See generally* STEIN, *supra* note 52.

56. On American reactions, see MELVIN I. UROFSKY, *AMERICAN ZIONISM FROM HERZL TO THE HOLOCAUST* 213-20 (1975).

57. *See supra* notes 27-30 and accompanying text.

58. HALPERN & REINHARZ, *supra* note 54, at 177-78; PHILIPPA STRUM, *LOUIS D. BRANDEIS: JUSTICE FOR THE PEOPLE* 224-26 (1984).

59. On their relationship, see LEONARD BAKER, *BRANDEIS AND FRANKFURTER: A DUAL BIOGRAPHY* 289-92, 338-41 (1984); ROBERT A. BURT, *TWO JEWISH JUSTICES: OUTCASTS IN THE PROMISED LAND* 37-38 (1988).

60. *See* Roger W. Smith, *Introduction* to HENRY MORGENTHAU, *AMBASSADOR MORGENTHAU'S STORY* xxv (Wayne State Univ. Press 2003) (1918). On his anti-Zionism, see BARBARA TUCHMAN, *THE ASSIMILATIONIST DILEMMA: AMBASSADOR MORGENTHAU'S STORY*, in *PRACTICING HISTORY* 208, 216-17 (1981).

61. OREN, *supra* note 20, at 332-37.

62. *See* MORGENTHAU, *supra* note 60, at 285-86, 309.

about a British Declaration viewing with favor an event unlikely to happen. While anti-Semitism was abroad in the United States, there was no anti-Zionism, save among some assimilationist Jewish Americans.

American Zionism was to be distinguished from the international movement led by Weizmann. Brandeis and his followers were concerned to assimilate the Jewish immigrants with the Arab residents of Palestine in a democratic society. Democracy was not a primary concern of Weizmann, who envisioned a Palestine governed by the world-wide organization representing all Jews everywhere that he was then leading. That vision was not appreciated by the majority Arab population of the region.

By the time of Versailles, the British were having second thoughts about their relation to Palestine.<sup>63</sup> Both Sir Arthur Balfour, the Foreign Minister and author of the Declaration, and Field Marshall Sir Henry Wilson argued that the resources of the British Empire were already spread far too thin.<sup>64</sup> Although Arabs and Jews in Palestine had gotten along well enough for many centuries, the larger Arab population was displeased by the Declaration.<sup>65</sup> And the British military did not relish the task of governing that agitated population.

#### *D. A Suggestion at Versailles*

Thus the Ottoman Empire was in a terminal condition as the World War came to an end and the victors assembled at Versailles.<sup>66</sup> Not only the Ottoman Empire, but those of the Czar, of Hapsburg Austria, and of Hohenzollern Germany were in states of collapse. The Empires of Britain and France were very nearly so.<sup>67</sup> One item on their agenda was: what to do with the collapsed domain of the Sultan. Among the ideas on the table were that the United States might assume responsibility for governing the territories of Armenia

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63. SEGEV, *supra* note 55, at 118-19.

64. *Id.* at 147.

65. See generally EDWARD W. SAID, *AFTER THE LAST SKY: PALESTINE LIVES* (1985). For an account of the turmoil, see FROMKIN, *supra* note 44, at 415-65.

66. For a full account, see A. L. MACFIE, *THE END OF THE OTTOMAN EMPIRE 1908-1923* (1998).

67. On the stupidity of the war, see BARBARA TUCHMAN, *THE GUNS OF AUGUST* (1962).

and Palestine, at least until such time as the peoples of those areas were suited to self-government. Prime Minister Lloyd George, an ardent imperialist and not himself in favor of the idea, tentatively asked if the United States might be willing to step in and take responsibility for bringing peace and order to the Holy Land.<sup>68</sup>

Colonel Edward House, Wilson's unofficial advisor, advised the Prime Minister that the United States was unsuited to imperial responsibilities such as he suggested.<sup>69</sup> But there were in 1919 other Americans at Versailles who were concerned about the future of the Ottoman territories and eager to address the issues. One was Ambassador Morgenthau. He had in 1915 found himself heavily involved in the issue of Armenia. He was distressed beyond measure over the reports he received from American observers of the slaughter, over the indifference of the Sultan's government as much as by its inability to prevent it, and over the unwillingness of the German Ambassador to join him in bringing pressure to bear on the Sultan. When America entered the war and he was recalled, Morgenthau had returned to America to raise money and support for the Armenian cause.

Embittered by his experience with the Ottoman government, but inspired by the American experience and sharing the American evangelical spirit, Morgenthau proposed that the Ottoman Empire be converted into a federation of ethnically centered but heterogeneous democratic states that would have included Arabia, Armenia, Cyprus, Kurdistan, Mesopotamia, Lebanon, Palestine, Syria, and Turkey. It would be the role of their federal government, not unlike that established in Philadelphia in 1787, to maintain order among these culturally distinct entities and conduct foreign affairs. His plan was warmly supported by Protestant religious groups desiring unfettered access to the Holy Land<sup>70</sup> and by Armenians who had relocated and organized to defend themselves. It was opposed by Zionists for the reason that the plan did not fit with their ambition to control a nation to be erected around Jerusalem, an ambition Morgenthau deemed imprudent. Felix Frankfurter attended the Conference as a representative of the American Zionists to advocate

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68. SEGEV, *supra* note 55, at 118-19.

69. *Id.*

70. BEN HALPERN, A CLASH OF HEROES: BRANDEIS, WEIZMANN, AND AMERICAN ZIONISM 191-94 (1987).

compliance with the promise of the Balfour Declaration, and he was among the critics of Morgenthau's proposal.<sup>71</sup>

Another American at Versailles was Howard Bliss, a founder of the American University in Beirut.<sup>72</sup> He had come on his own ticket on behalf of those interested in Protestant missions in the Ottoman region. He urged that the people of the region be asked what solution they preferred. He was supported in this recommendation by Prince Feisal.<sup>73</sup> President Wilson had himself at the outset protested against secret agreements made between Britain and France dividing the Ottoman territories to be conquered and, in light of his own former positions and declarations, he could hardly disagree with the proposal. An effort was made to establish a commission including French and British members to conduct the factual inquiry. Neither Clemenceau nor Lloyd George could oppose the idea of such a survey although both thought it "childish."<sup>74</sup> They lent no support to the effort, and thought to divide the Ottoman Empire between themselves. The relationship between them became so estranged over the issue of Syria that Clemenceau at one point challenged Lloyd George to a duel.<sup>75</sup>

When British and French cooperation was not forthcoming, President Wilson appointed two notable Americans to seek out the sentiments of those residing in the Ottoman territories.<sup>76</sup> Henry Churchill King was the President of Oberlin College, Charles Crane a valve manufacturer who had early "decided to make an art and science of traveling"<sup>77</sup> and had made many trips to the Near East over a period of many years. Both had connections to Protestant missionary programs.<sup>78</sup>

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71. *Id.*

72. SEGEV, *supra* note 55, at 120-21.

73. *Id.*

74. See FROMKIN, *supra* note 44, at 396-97.

75. See MARGARET MACMILLAN, PARIS 1919: SIX MONTHS THAT CHANGED THE WORLD 436 (1992) (claiming that Clemenceau offered Lloyd George a choice of pistols or swords).

76. See HARRY N. HOWARD, THE KING-CRANE COMMISSION: AN AMERICAN INQUIRY IN THE MIDDLE EAST 31-36 (1963); SEGEV, *supra* note 55, at 120.

77. HOWARD, *supra* note 76, at 39.

78. JOSEPH L. GRABILL, PROTESTANT DIPLOMACY AND THE NEAR EAST: MISSIONARY INFLUENCE ON AMERICAN POLICY 1810-1927, at 199-200, 230-33 (1971).

## III. DOMESTIC CONSIDERATIONS: A TIME FOR PACIFISM

A problem that those interested in addressing the Ottoman problem could not overcome was the domestic political situation in the United States. It must have been on the mind of Colonel House when he dismissed the idea of American involvement out of hand. The recent history of the United States had cast grave doubt in the public mind on the possibility that any good could come from American engagement in the reconstruction of foreign lands. Most visible to Americans in 1919 were the lessons learned from the 1898 war with Spain. As Colonel House recognized, they pointed the American people away from any new imperial ventures.

*A. The Splendid Little War*<sup>79</sup>

That war with Spain had been occasioned by a revolution sustained on the island of Cuba during the last quarter of the nineteenth century, largely by or on behalf of peasants and slaves who were brutally suppressed.<sup>80</sup> Because journalists provided horrifying accounts of the many brutalities perpetrated in Spanish concentration camps in Cuba on the impoverished revolutionaries and their kin, popular support in America for the revolution became widespread.<sup>81</sup> Feeling pressed,<sup>82</sup> President McKinley announced in December 1897 that American patience with Spain's governance of Cuba was "not infinite." In February, the press somehow acquired and published a letter written by the Spanish Ambassador to the United States to his superiors in Madrid commenting on McKinley's speech and describing the President as "weak and a bidder for the

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79. The term was attributed to Secretary of State John Hay, but was widely used. *See, e.g.*, Letter from John Hay to Theodore Roosevelt (July 27, 1898), in 2 WILLIAM ROSCOE THAYER, *THE LIFE AND LETTERS OF JOHN HAY* 337 (19th impression 1915).

80. On the sad conditions prevailing on the island, see generally ARTHUR F. CORWIN, *SPAIN AND THE ABOLITION OF SLAVERY IN CUBA 1817-1886* (1967); FRANKLIN W. KNIGHT, *SLAVE SOCIETY IN CUBA DURING THE NINETEENTH CENTURY* (1970); *SLAVES, SUGAR, AND COLONIAL SOCIETY: TRAVEL ACCOUNTS OF CUBA, 1801-1899* (Louis A. Pérez, Jr. ed., 1992).

81. CHARLES H. BROWN, *THE CORRESPONDENTS' WAR: JOURNALISTS IN THE SPANISH-AMERICAN WAR* (1967); G.J.A. O'TOOLE, *THE SPANISH WAR: AN AMERICAN EPIC—1898*, at 56, 146-47 (1984).

82. On McKinley as a pacifist, see JOHN DOBSON, *RETICENT EXPANSIONISM: THE FOREIGN POLICY OF WILLIAM MCKINLEY* 6-17 (1988).

admiration of the crowd.”<sup>83</sup> On February 15, the battleship *Maine* exploded while on a peaceful visit to Havana, resulting in the deaths of many seamen. The explosion was never explained and many chose to believe that it was the result of a deliberate act by Spain.<sup>84</sup>

The explosion resulted in an ultimatum served on Spain demanding liberation of Cuba. When that was not forthcoming, Congress on April 20 resolved that military intervention to establish a “free and independent” Cuba was necessary.<sup>85</sup> Leading the opposition to the war was Orville Platt, a Republican Senator representing Connecticut.<sup>86</sup> His objection was that the resolution recognized a Republic of Cuba that did not exist. He denied that there was a government in Cuba that could be recognized and insisted that the United States military would have to remain there until it was satisfied that a responsible government was in place.<sup>87</sup>

The war that Congress declared was splendid because it lasted only 118 days. It resulted in few casualties and the lionization of Theodore Roosevelt.<sup>88</sup> As George Kennan would observe:

[T]he American people of that day, or at least many of their more influential spokesmen, simply liked the smell of empire and felt an urge to range themselves among the colonial powers of the time, to see our flag flying on distant tropical isles, to feel the thrill of foreign adventure and authority, to bask in the sunshine of recognition as one of the great imperial powers of the world.<sup>89</sup>

Indeed, America had with its stunning military victory established itself as an imperial power. The peace treaty resulted not merely in the liberation of Cuba but in the acquisition of former Spanish colonies in the Philippines, Puerto Rico, and Guam, marking America

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83. See ROBERT DALLEK, 1898: MCKINLEY'S DECISION, THE UNITED STATES DECLARES WAR ON SPAIN 109-16 (1969).

84. For a full account, see H.G. RICKOVER, HOW THE BATTLESHIP *MAINE* WAS DESTROYED (1976).

85. J. Res. 23, 55th Cong., 30 Stat. 738-39 (1898).

86. Platt's biography is LOUIS A. COOLIDGE, AN OLD-FASHIONED SENATOR: ORVILLE H. PLATT OF CONNECTICUT: THE STORY OF A LIFE UNSELFISHLY DEVOTED TO THE PUBLIC SERVICE (1910).

87. *Id.* at 260-61.

88. O'TOOLE, *supra* note 81, at 392-93.

89. GEORGE F. KENNAN, AMERICAN DIPLOMACY 1900-1950, at 17 (1951).

as the new imperial power.<sup>90</sup> But, as Colonel House recognized,<sup>91</sup> the smell of empire had by 1919 lost its fragrance.

### *B. Cuba*

First, there was the experience as liberator of Cuba. The island was occupied by the United States Army, the concentration camps were opened, their prisoners were released, and a government was established under the command of General Leonard Wood, a medical doctor who favored the annexation of Cuba. Wood proved to be highly energetic in imposing reforms on the Cuban people.<sup>92</sup> His administration rid the city of yellow fever by exterminating the mosquitoes carrying the infection and greatly relieved the squalor that the Spanish Empire had been powerless to reduce. General Wood's Havana may have for a time become the healthiest city in the western hemisphere.<sup>93</sup>

But in 1901, to prod the establishment of a democratic republic, Senator Platt attached a rider to the military appropriations bill directing the War Department to secure the agreement of the Republic of Cuba (if and when established) to the condition that the United States would have an obligation to intervene if and when democratic self-government on the island failed.<sup>94</sup> Despite objections by William Jennings Bryan and other anti-imperialists,<sup>95</sup> the Platt Amendment was written into the Cuban Constitution of 1902 and into the treaty between the United States and Cuba.<sup>96</sup> Thus, the Cuban constitution was fitted with a provision bearing some

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90. The treaty signed at Paris in 1899 provided that the former Spanish territories under the control of the American military—the Philippines, Guam, and Puerto Rico—would not be returned to Spain and that the victorious United States would pursuant to Article III pay vanquished Spain \$20,000,000 for the right to exercise sovereignty over them. Treaty of Peace, U.S.-Spain, Dec. 10, 1898, S. TREATY DOC. NO. 62, pt. 1 (1899), *available at* <http://www.yale.edu/lawweb/avalon/diplomacy/spain/sp1898.htm>.

91. *See supra* note 69 and accompanying text.

92. *See* WHITNEY T. PERKINS, *CONSTRAINT OF EMPIRE: THE UNITED STATES AND CARIBBEAN INTERVENTIONS* 6-7 (1981).

93. DOBSON, *supra* note 82, at 132.

94. PERKINS, *supra* note 92, at 7-12; *see also* EDWARD S. KAPLAN, *U.S. IMPERIALISM IN LATIN AMERICA: BRYAN'S CHALLENGES AND CONTRIBUTIONS, 1900-1920*, at 12 (1998).

95. KENDRICK A. CLEMENTS, *WILLIAM JENNINGS BRYAN: MISSIONARY ISOLATIONIST* 40-42 (1982).

96. O'TOOLE, *supra* note 81, at 399.

resemblance to the provision of the Constitution of the United States guaranteeing a republican form of government.<sup>97</sup>

On its face, as Bryan and others emphasized, the Platt Amendment was an affront to the responsibility of Cuban citizens for their own self-government. It proved to have the unwelcome effect on Cuban domestic politics foreseen by Bryan and other critics: it begot the disorders that it had been intended to prevent.<sup>98</sup> A government of religious conservatives was elected in 1902 and re-elected in 1906, but religious liberals questioned the vote counts, leading to violent disorders and the resignation of the government. Conservatives wanted the United States Marines to return to suppress the disorder, while the liberals wanted them to return to conduct an honest election.<sup>99</sup> So the Marines returned to resolve the chaos and re-liberate Cuba. And they would be summoned to return a second time in 1908, and a third time in 1912, and yet a fourth time in 1917.<sup>100</sup> This was more than a little embarrassing; it was by 1919 obvious that American efforts to democratize Cuba were a failure. Indeed, in 1934, the arrangement would be abrogated and the island would be subjected to the dictatorship of Fulgencio Batista, then to be followed by that of Fidel Castro.<sup>101</sup>

### *C. The Philippine Insurrection*

Meanwhile, the experience in the Philippines was equally disheartening to American imperialists. There had been no popular clamor in the United States about the brutalities of the Spanish Empire in that venue. There were rebels there, but American journalists had not discovered them and the American Navy's intrusion into Manila Bay had not been planned in Washington.<sup>102</sup> But Commodore George Dewey had attacked and sunk the Spanish fleet in Manila Bay.<sup>103</sup>

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97. DOBSON, *supra* note 82, at 134.

98. PERKINS, *supra* note 92, at 12-15.

99. *Id.* at 17-18.

100. *Id.* at 20.

101. *Id.* at 181-82, 184.

102. A. WHITNEY GRISWOLD, *THE FAR EASTERN POLICY OF THE UNITED STATES 18-19* (1938).

103. For an account, see ROBERT CONROY, *THE BATTLE OF MANILA BAY: THE SPANISH-AMERICAN WAR IN THE PHILIPPINES* (1968).

Gentle President McKinley acknowledged that he had been deeply troubled by the issues of imperialism and had prayed for wisdom in deciding what to do with the Philippines after his Navy had won there.<sup>104</sup> His prayer, he told a religious group, had been answered by God, who advised him that America could not honorably return the Philippines to Spain, nor could it allow the Germans to take them (as indeed Germany gave substantial evidence of intending to do),<sup>105</sup> and it was therefore a moral duty of the United States to govern and protect the islands and prepare the people for self-governance.<sup>106</sup> He was enthusiastically supported by the national hero, Theodore Roosevelt, and Senator Henry Cabot Lodge,<sup>107</sup> but there was vigorous protest by many anti-imperialists.<sup>108</sup>

Arguments for imperialism in that venue were soon subordinated by the deeds of Emilio Aguinaldo y Famy. Aguinaldo had been leading a revolution against Spain, and in 1899 he redirected his militancy against the United States.<sup>109</sup> Before the naval battle had occurred, E. Spencer Pratt, the American consul at Singapore, had a secret meeting with Aguinaldo, a leader of a Filipino revolution that had been underway since August of 1896. He arranged a meeting between Dewey and Aguinaldo.<sup>110</sup> Controversy remains over whether promises were made by either Pratt or Dewey of an alliance between Aguinaldo's forces and the United States or of the

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104. 2 CHARLES S. OLCOTT, *THE LIFE OF WILLIAM MCKINLEY* 110 (1916).

105. See Paul Johnson, *Prayer in the White House*, FORBES.COM, Nov. 28, 2005, <http://www.forbes.com/columnists/forbes/2005/1128/037.html> (quoting President McKinley's prayerful resolution of the Philippines dilemma); on his political deliberations, see KENNETH E. HENDRICKSON, JR., *THE SPANISH-AMERICAN WAR* 66-67 (2003); on the German threat, see O'TOOLE, *supra* note 81, at 191-92, 223, 364-66.

106. OLCOTT, *supra* note 104, at 109-11; on McKinley's deliberations, see Ephraim K. Smith, *William McKinley's Enduring Legacy: The Historiographical Debate on the Taking of the Philippine Islands*, in *CRUCIBLE OF EMPIRE: THE SPANISH-AMERICAN WAR AND ITS AFTERMATH* 205 (James C. Bradford ed., 1993).

107. See WARREN ZIMMERMANN, *FIRST GREAT TRIUMPH: HOW FIVE AMERICANS MADE THEIR COUNTRY A WORLD POWER* 13 (2002).

108. See generally ROBERT L. BEISNER, *TWELVE AGAINST EMPIRE: THE ANTI-IMPERIALISTS: 1898-1900* (1968). The twelve notables identified included Andrew Carnegie, former President Benjamin Harrison, and Mark Twain. *Id.* at xiii.

109. Accounts of the insurrection include: DAVID HOWARD BAIN, *SITTING IN DARKNESS: AMERICANS IN THE PHILIPPINES* (1984); STUART CREIGHTON MILLER, "BENEVOLENT ASSIMILATION": *THE AMERICAN CONQUEST OF THE PHILIPPINES, 1899-1903* (1982); see also DOBSON, *supra* note 82, at 142-46.

110. See RICHARD E. WELCH, JR., *RESPONSE TO IMPERIALISM* 13-14 (1979).

establishment of an independent Philippine Republic. In any case, Aguinaldo assured his supporters that the Americans would recognize his group as the government of the islands. That would almost surely have been the result if a treaty amendment favored by the anti-imperialists had been accepted.<sup>111</sup> Aguinaldo explained his expectation as resting on his own reading of the Constitution of the United States: "I find in it no authority for colonies and I [therefore] have no fear."<sup>112</sup>

The president of Cornell University upon his return in 1900 from an official visit to Manila observed that "we like big things in this country, and we have gotten in the Orient a big archipelago." The author assured his readers that "[w]hat the best Filipinos want is exactly what the best Americans want to give them .... It is the old American story; absolute religious liberty, civil liberties, and all the political franchises they are capable of exercising."<sup>113</sup> Such optimistic utterances confirmed in many American minds a missionary spirit eager to share American values with the benighted Filipinos.

But by November 1899, it was obvious that President McKinley did not plan to honor Aguinaldo's declaration of Philippine independence, and the rebellion was renewed, this time against American rule and in the form of guerrilla warfare.<sup>114</sup> The American military set about the task of suppressing Aguinaldo's army. This was necessarily to be done by a volunteer army. The pay for an enlisted private in the U.S. military was dismal. At \$15.60 per month, it was less than half that of a steelworker employed by Andrew Carnegie and only a third of the salary earned by a teacher in rural America.<sup>115</sup> Men nonetheless volunteered for the duty for reasons of patriotism,<sup>116</sup> adventure-seeking, and a desire to demonstrate manliness.<sup>117</sup> Most were young, white, single, and uneducated.<sup>118</sup> Some labor leaders urged them to come forward,

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111. The debate is summarized in BEISNER, *supra* note 108, at 215-39.

112. Thomas M. Anderson, *Our Rule in the Philippines*, 170 N. AM. REV. 272, 277 (1900).

113. Jacob G. Schurman, *The Philippines*, 9 YALE L.J. 215, 215, 219 (1900).

114. WINFRED LEE THOMPSON, *THE INTRODUCTION OF AMERICAN LAW IN THE PHILIPPINES AND PUERTO RICO 1898-1905*, at 53-55 (1989).

115. GLENN ANTHONY MAY, *BATTLE FOR BATANGAS: A PHILIPPINE PROVINCE AT WAR* 138 (1991).

116. *Id.*

117. *Id.* at 138-41.

118. *Id.* at 138.

saying, “The laboring man is patriotic, and he does not forget ... [that] laboring men constitute the great body of the army which will not forsake the flag and turn traitor in the hour of extremity.”<sup>119</sup> Even young black Americans volunteered for duty, it being explained by the editor of a Washington weekly that an African American “was first of all an American and would fight beside his white brother wherever it was necessary.”<sup>120</sup>

In the months leading up to the presidential election in 1900, Aguinaldo hoped that intensifying the insurrection would lead to a Democratic victory: “In America there is a great party that insists on the United States government recognizing Filipino independence.”<sup>121</sup> He predicted that “[t]he great Democratic Party of the United States will win the next fall election.... Imperialism will fail in its mad attempts to subjugate us by force of arms.”<sup>122</sup> Hedging his prediction, Aguinaldo’s instructions to the revolutionaries included executing people, and wounded American GIs were often put to death rather than held as POWs.

Contrary to Aguinaldo’s forecast, McKinley won reelection in 1900. Many concerns were elevated when, shortly after his inauguration for a second term, the burden of responsibility was taken from McKinley by an anarchist-assassin. Prior to the 1900 campaign, Vice President Hobart had died, and McKinley had been importuned to take the luminous hero, Colonel Roosevelt, as a running mate. Not only was Roosevelt the Governor of New York, but he was “the most famous man in America,”<sup>123</sup> so McKinley had yielded to popular demand in making the choice. Roosevelt thus acceded to the Presidency at the age of forty-two. No one expected him to surrender any power acquired in his splendid war.

But even President Roosevelt could not still the insurgency. The difficulty of fighting against guerilla fighters was the American

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119. WELCH, *supra* note 110, at 86 (alteration and omission in original) (internal quotation marks omitted).

120. *Id.* at 109 (internal quotation marks omitted).

121. H. W. BRANDS, *BOUND TO EMPIRE: THE UNITED STATES AND THE PHILIPPINES* 54 (1992) (internal quotation marks omitted).

122. *Id.* (omission in original) (internal quotation marks omitted).

123. On the origins of this description, see EDMUND MORRIS, *THE RISE OF THEODORE ROOSEVELT* 662-87 (1979).

soldiers' "inability to distinguish guerillas from noncombatants."<sup>124</sup> One captain complained that:

[W]hen a small force stops in a village to rest the people all greet you with kindly expressions, while the same ones slip away, go out into the bushes, get their guns, and waylay you further down the road. You rout them & scatter them; they hide their guns and take to their houses & claim to be amigos.<sup>125</sup>

In March of 1901, one colonel wrote, "[a] year ago, ... I believed that the insurgents were going to pieces. They are no more in pieces today than then."<sup>126</sup> An estimated 126,500 Americans served in the Philippine-American War, over 4200 of whom were killed.<sup>127</sup> Its financial cost far exceeded the cost of the war with Spain.

The United States responded to this "amigo warfare"<sup>128</sup> with draconian measures. General Bell, who was put in charge of pacifying the Batangas and Laguna provinces, announced that "[h]enceforth no one will be permitted to be neutral;"<sup>129</sup> essentially, the message was that the Filipinos were either with the Americans, or they were against them.<sup>130</sup> Bell closed ports, restricted travel and trade, allowed his troops to commandeer transportation, and required the rich *caciques* to pay a fine to avoid being forced to work.<sup>131</sup> He also organized "protected zones" where Filipinos from outlying areas were to be relocated.<sup>132</sup> Affected citizens were given about two weeks to bring as much of their animals, rice, and possessions as possible; after that time, remaining property and livestock were subject to confiscation by the American military.<sup>133</sup>

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124. MAY, *supra* note 115, at 142.

125. *Id.*

126. *Id.* at 161 (alteration in original).

127. See DOBSON, *supra* note 82, at 142-46; WELCH, *supra* note 110, at 42.

128. Reynaldo C. Ileto, *The Philippine-American War: Friendship and Forgetting*, in VESTIGES OF WAR: THE PHILIPPINE-AMERICAN WAR AND THE AFTERMATH OF AN IMPERIAL DREAM 1899-1999, at 3, 7 (Angel Velasco Shaw & Luis H. Francia eds., 2002).

129. *Id.* at 11 (internal quotation marks omitted).

130. See *id.* at 11-12.

131. See BRIAN MCALLISTER LINN, THE U.S. ARMY AND COUNTERINSURGENCY IN THE PHILIPPINE WAR, 1899-1902 (1989).

132. In one military document, the word "concentration camp" is crossed out. Ileto, *supra* note 128, at 12.

133. LINN, *supra* note 131, at 154.

Efforts were at times made to minimize the ordeal for those Filipinos affected, but food shortages and sanitation that “ranged from poor to appalling” nevertheless resulted.<sup>134</sup> Sixteen to twenty thousand Filipinos are estimated to have been killed in combat, and with the inclusion of those dying from war-related causes such as starvation and disease, one estimate has the total death toll at 200,000.<sup>135</sup> Destruction of property was also great; it was often done for punitive reasons. Even noncombatants who simply had contact with enemy forces would often see their homes torched.<sup>136</sup>

Physical torture was also used. One particularly heinous practice was known as “the water cure.” A syringe was forced into the mouth of a prisoner or suspect, and water was forced down his throat until his stomach expanded. This created the sensation that the person was drowning, causing a person to talk.<sup>137</sup> Even the protected zones were not free of atrocities. Inhabitants of one zone complained that the women were sexually assaulted by soldiers and threatened with imprisonment and death if they resisted.

In July of 1901, the transfer from military to civil law was consummated by the inauguration of William Howard Taft as the new civil governor of the Philippines. This caused a moment of optimism. But on September 28th, a band of *insurrectos* killed thirty-eight American soldiers who were eating breakfast in the town of Balangiga.<sup>138</sup> The assault was led by the town’s police chief and a local priest was a conspirator.<sup>139</sup>

General Jake Smith was given command of the troops assigned to retaliate for the assault at Balangiga.<sup>140</sup> He believed that the population of the island of Samar was uniformly disloyal and ordered that all males over ten should be executed and the island turned into a “howling wilderness.”<sup>141</sup> Though some officers did not follow Smith’s orders, several did. A major, who would later claim that he was simply following orders from Smith, executed

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134. WELCH, *supra* note 110, at 139.

135. *Id.* at 42.

136. MAY, *supra* note 115, at 149.

137. *Id.* at 147.

138. WELCH, *supra* note 110, at 40-41.

139. *Id.*

140. *Id.* at 41.

141. Brian McAllister Linn, *The Struggle for Samar*, in *CRUCIBLE OF EMPIRE: THE SPANISH-AMERICAN WAR AND ITS AFTERMATH* 171 (James C. Bradford ed., 1993).

eleven native guides.<sup>142</sup> A captain executed seven prisoners at Borongonan.<sup>143</sup> Another major kidnapped citizens, tortured suspects (including three priests), and was a conspirator in the killing of at least ten Filipinos.<sup>144</sup>

Word of the atrocities began to trickle out in the pages of American newspapers in 1901 and 1902.<sup>145</sup> The *Atlanta Constitution* began to ask if atrocities could be traced back to the administration, even suggesting that Roosevelt and Secretary of War Root were “coparceners with the Jake Smith campaign of torture and murder.”<sup>146</sup> On Memorial Day, President Roosevelt gave a speech castigating those whom were “walking delicately” in the “soft places of the earth” while criticizing the American soldier, whose face was “marred by sweat and blood.”<sup>147</sup> Secretary of War Elihu Root declared that the journalists’ reports of rape and torture were either unfounded or greatly exaggerated, and explained that any misconduct was a consequence of the barbarism of the uncivilized Filipinos.<sup>148</sup> Congress did at last conduct hearings and on April 14th, 1902, two soldiers from Massachusetts testified about the water cure, claiming that the information obtained was then used to burn down an entire town, leaving its ten thousand citizens with only the clothing they had on their backs. Moorfield Storey, the president of the American Bar Association, then presided over an investigation that led to numerous courts-martial.<sup>149</sup> General Smith was convicted and sentenced not to repeat his misdeed, and was dismissed from the service by the President.<sup>150</sup>

Aguinaldo was captured in 1902, but the insurrection lasted seven years.<sup>151</sup> It was waged on a scale comparable to the better remembered Vietnam venture. Whatever hope of national honor and

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142. WELCH, *supra* note 110, at 138.

143. Linn, *supra* note 141, at 172.

144. *Id.*

145. WELCH, *supra* note 110, at 133-36.

146. *Id.* at 141.

147. *Id.* at 144-45.

148. BRANDS, *supra* note 121, at 56.

149. MOORFIELD STOREY & JULIAN CODMAN, SECRETARY ROOT’S RECORD: MARKED SEVERITIES IN PHILIPPINE WARFARE—AN ANALYSIS OF THE LAW AND FACTS BEARING ON ACTIONS AND UTTERANCES OF PRESIDENT ROOSEVELT AND SECRETARY ROOT (1902).

150. MILLER, *supra* note 109, at 255.

151. See DOBSON, *supra* note 82, at 142-46.

dignity some Americans nourished in their support of the imperial venture was substantially dispelled by this squalid struggle.

Meanwhile, William Howard Taft, as governor of the Philippines, presided over a seven-member governing commission appointed by the President.<sup>152</sup> It was Secretary Root who drafted its directive; his orders were to establish the rule of law and individual freedom. The Filipinos would be required to accept these principles “for the sake of their liberty and happiness.” Yet, the Commission “should bear in mind that the government which they are establishing is designed, not for our satisfaction ... 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 customs, their habits, and even their prejudices.”<sup>153</sup> Privately, Taft described the ruling class *caciques* as “ambitious as Satan and quite as unscrupulous,”<sup>154</sup> and the peasant *taos* as “utterly unfit for self-government.” The ruling class were generally descendants of Spanish dons who maintained feudal estates that were increasingly prosperous as a result of the sugar quota which guaranteed their owners profitable exports to the American market. American efforts to uplift the poor and the ignorant got little sympathy from *caciques*. Many practiced extortion and embezzlement, habits that had been tolerated for centuries by viceroys from Madrid. Filipino judges shamelessly punished innocent rivals and exonerated their kinsmen and friends of obvious guilt, often falsely attributing their corrupt decisions to orders from American officers.<sup>155</sup>

As in Cuba and elsewhere, differences of class were reinforced by racial and ethnic differences.<sup>156</sup> The *caciques*, while descendants of *dons*, were generally *mestizo* of indigenous and Chinese origins.<sup>157</sup> The *taos* whom they held in peonage were members of numerous ethnic groups who spoke in as many as eighty different languages or dialects sufficiently distinct to preclude communication among

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152. On Taft's service on the Philippine Commission, see *id.* at 145-46.

153. 1 PHILIP C. JESSUP, ELIHU ROOT 356 (1938).

154. STEPHEN GRAUBARD, COMMAND OF OFFICE 107 (2004) (quoting LEWIS LAPHAM, THEATER OF WAR 77-79 (2002)).

155. KATHERINE MAYO, THE ISLES OF FEAR: THE TRUTH ABOUT THE PHILIPPINES 10-15 (1925).

156. *Id.*

157. MAYO, *supra* note 155, at 10.

them. Also, religious differences were keenly felt.<sup>158</sup> Indeed, the Moros, who were Muslims, spoke their own language and were matriarchal in their sexual mores, were deeply offended if described as Filipinos, a tribe whom they reviled.<sup>159</sup> Such ethnic groups on the large southern island of Mindanao felt no connection to those of Luzon, the large northern island.<sup>160</sup> In 1906, there was a new civil war in the South waged by people having no connection to Aguinaldo, and requiring yet another dispatch of American military forces.<sup>161</sup>

When Woodrow Wilson was elected to the presidency in 1912, many Filipinos expected an immediate transfer of sovereignty to themselves, for many Democratic legislators had professed to favor such a transfer. Moreover, Wilson had named William Jennings Bryan as his Secretary of State. Bryan had campaigned against imperialism as a presidential candidate in 1896, 1900, and 1908, and in 1898 had vigorously opposed the retention of the Philippines.<sup>162</sup>

Wilson appointed Francis Burton Harrison, a Congressman from New York, as Governor General of the Philippines. Harrison had served with Roosevelt in Cuba as a member of the New Yorkers' Rough Rider Regiment.<sup>163</sup> Harrison was soon genuinely enamored of Filipinos.<sup>164</sup> He brought word that America would surrender sovereignty and that "[e]very step we take will be taken with a view to the ultimate independence of the islands."<sup>165</sup> Congress in 1916 ratified President Wilson's promise of future independence.<sup>166</sup>

Meanwhile, in 1915 Robert Lansing succeeded William Jennings Bryan as Secretary of State. Lansing had been previously involved in East Asian matters.<sup>167</sup> He proposed the transfer of the Philippines

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158. DEAN C. WORCESTER, *THE PHILIPPINES PAST AND PRESENT* 660-61 (1914).

159. *See generally* MAYO, *supra* note 155, at 292-341.

160. *Id.* at 315.

161. MORRIS, *supra* note 123, at 157-58.

162. *See generally* WILLIAM JENNINGS BRYAN, *BRYAN ON IMPERIALISM: SPEECHES, NEWSPAPER ARTICLES AND INTERVIEWS* (Charles Gregg ed., 1900); KAPLAN, *supra* note 94.

163. Anne Cipriano Venzon, *Francis Burton Harrison*, in *10 AMERICAN NATIONAL BIOGRAPHY* 208 (John A. Garraty & Mark C. Carnes eds., 1999).

164. *Id.* at 209.

165. FRANCIS BURTON HARRISON, *THE CORNERSTONE OF PHILIPPINE INDEPENDENCE: A NARRATIVE OF SEVEN YEARS* 50 (1922).

166. STANLEY KARNOW, *IN OUR IMAGE: AMERICA'S EMPIRE IN THE PHILIPPINES* 246-47 (1989).

167. BURTON F. BEERS, *VAIN ENDEAVOR: ROBERT LANSING'S ATTEMPTS TO END THE*

to Japan, partly as a means of calming the Japanese appetite for expansion on the continent of Asia, and partly because he regarded continuing American involvement in the Philippines as a signal of imperial ambitions evoking mistrust on the part of other nations, especially Japan, a nation he regarded as a much more attractive market for American goods than the Philippines.<sup>168</sup> It seemed possible that such a transfer might have been made in September 1917 when Lansing began engaging in extensive negotiations with the Japanese, but in light of the collapse of Russia<sup>169</sup> and entry of both Japan and the United States into the European war, the proposal was not presented or discussed. In hindsight, it might seem that Lansing was possibly on to something. The likelihood of the attacks on China that began fourteen years later, or on Pearl Harbor twenty-four years later, would have been reduced if Japan had been challenged with the task of assimilating the Philippines to its empire.

It would be harsh to condemn as a total failure the missionary efforts of thousands of Americans who served in the Philippines in the quarter century after the islands had been pacified.<sup>170</sup> But there was little about America's later experience in the Philippines to justify the decisions made in 1898. That did not deter President Bush in 2003 from citing the Philippines as a model for what the United States could do for Iraq or other nations or peoples lucky enough to be subjected to American rule for forty years.<sup>171</sup>

#### *D. Puerto Rico*

Puerto Rico was the last Spanish colony to be invaded. Its "liberation" was casual and almost painless to Americans. The Spanish army resisted briefly, resulting in sixteen wounded Americans and six Spanish dead.<sup>172</sup> The troops encountered land-

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AMERICAN-JAPANESE RIVALRY 3 (1962).

168. *Id.* at 109.

169. On the impact of the Bolshevik Revolution on American policy in East Asia, see *id.* at 130-33.

170. For a full account, see KARNOW, *supra* note 166.

171. David E. Sanger, *Bush Cites Philippines as Model in Rebuilding Iraq*, N.Y. TIMES, Oct. 19, 2003, at N1.

172. WALTER MILLIS, *THE MARTIAL SPIRIT* 342-43 (1931). For a description of the campaign, see FRANK FREIDEL, *THE SPLENDID LITTLE WAR* 185-91 (1958).

owners of mixed origins who worked their land with peasants of predominantly African ancestry.<sup>173</sup> Few Spaniards had chosen the island as a home, and the King had taken little interest in it once it became clear that there was no gold to be had.<sup>174</sup> In 1868, there had been a failed revolution by peasants and slaves.<sup>175</sup> In 1873, in response to international pressure, slavery was abolished, but this did little to improve the conditions in which the peasants lived.<sup>176</sup> The freemen and other laborers were required to carry a *libreta*, a notebook in which their debts to their employers could be recorded.<sup>177</sup> It was little wonder that many *campesinos* not only welcomed the American invasion but took the occasion to sack the property of their oppressors.

There were at the time of their “liberation” almost a million Puerto Ricans; this number included about 30,000 Europeans and about 360,000 blacks, and the rest were *mestizo*.<sup>178</sup> Almost all lived in desperate rural poverty. Electricity, pure water, sewers, health care, literacy and roads were rare. To get crops to market, oxen were used to pull wagons, sometimes on rails.

President McKinley seems not to have consulted God about the decision to acquire Puerto Rico. It was included in the treaty with Spain as “indemnity” to the United States for the cost of the war of liberation, but then it paid cash to Spain to seal the deal. The French Ambassador asked how McKinley’s demand could be reconciled to the President’s disavowal of territorial ambitions; the President had no answer.<sup>179</sup> A Congressman later explained that Puerto Rico was needed in order to turn the Gulf of Mexico into an American lake.<sup>180</sup> By 1916, it was said to be the key to the defense

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173. RONALD FERNANDEZ, *THE DISENCHANTED ISLAND: PUERTO RICO AND THE UNITED STATES IN THE TWENTIETH CENTURY* 29 (2d ed. 1996).

174. *Id.*

175. OLGA JIMÉNEZ DE WAGENHEIM, *PUERTO RICO’S REVOLT FOR INDEPENDENCE: EL GRITO DE LARES* 115-16 (1985).

176. *Id.* at 116; *see also* FERNANDEZ, *supra* note 173, at 32.

177. JAMES L. DIETZ, *ECONOMIC HISTORY OF PUERTO RICO: INSTITUTIONAL CHANGE AND CAPITALIST DEVELOPMENT* 42-53 (1986).

178. JOSÉ TRIÁS MONGE, *PUERTO RICO: THE TRIALS OF THE OLDEST COLONY IN THE WORLD* 15 (1997).

179. CARMELO ROSARIO NATAL, *PUERTO RICO Y LA CRISIS DE LA GUERRA HISPANOAMERICANA (1895-1898)*, at 262 (1989).

180. 44 CONG. REC. H2926 (statement of Rep. Cooper).

of the continent against aggression from Europe.<sup>181</sup> But in truth, no plausible reason of self-interest has ever been supplied for the United States to retain dominion over the island other than the expectation that colonized Puerto Ricans, however destitute, might buy American goods.<sup>182</sup>

The military commander proclaimed that he “found it necessary ... to advert in strong terms to the general unfitness ... of the people for self-government.”<sup>183</sup> A Puerto Rican witness testified that “[t]he [American] occupation has been a perfect failure. We have suffered everything. No liberty, no rights, absolutely no protection.... We are Mr. Nobody from Nowhere.”<sup>184</sup> The new civil government was therefore conducted by the War Department in Washington. It embarked on a program of education, but in English. The United States Commissioner of Education protested that the “American teachers at the outset were mostly young men who came to Porto Rico with the American army. None of them knew Spanish, and some of them knew little English.”<sup>185</sup> The English language program was nevertheless supported by the local party opposing the resident landowners. Many children did soon learn, if not English, at least to recite the Pledge of Allegiance and sing The Star Spangled Banner, and perhaps the words of Jefferson and Lincoln.<sup>186</sup>

The military government was soon replaced by civilians. President Theodore Roosevelt first appointed William H. Hunt, a Montanan, to serve as governor. Hunt selected laws previously enacted in California, Montana, and Idaho and, with the consent of other presidential appointees, proclaimed them to be the law of Puerto Rico.<sup>187</sup> The laws he decreed would control such matters as municipal government, taxation, the school system, and the governance of the University of Puerto Rico. They could not be modified

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181. PEDRO A. CABÁN, CONSTRUCTING A COLONIAL PEOPLE 201-03 (1999).

182. MONGE, *supra* note 178, at 41.

183. GEORGE W. DAVIS, REPORT ON CIVIL AFFAIRS IN PUERTO RICO, H.R. DOC. NO. 56-2, at 481 (1900).

184. MONGE, *supra* note 178, at 40 (third alteration in original).

185. M. G. BRUMBAUGH, REPORT OF THE COMMISSIONER OF EDUCATION FOR PORTO RICO, H.R. DOC. NO. 57-5, at 498 (1901).

186. MONGE, *supra* note 178, at 55.

187. *Id.* at 56-57.

by those elected to represent the people without the approval of federal officials.<sup>188</sup>

In 1904, a new Unionist party was organized to seek some form of self-government for Puerto Ricans.<sup>189</sup> They were dismissed by Governor Hunt as persons having “no acquaintance with the new National power.”<sup>190</sup> They nevertheless swept the elections to the legislature. They were led by Luis Muñoz Rivera, a journalist who had agitated for independence from Spain, and who would for four decades be the leading voice for Puerto Rican autonomy and eventual independence. In 1905, the party asked for a plebiscite on the political status of the island, but their request was rejected by President Roosevelt.<sup>191</sup>

In 1906, President Roosevelt appointed a protégé, Regis Post, first as secretary, and then as governor of the island to succeed Hunt. The Puerto Rican reaction to Post as governor was to elect a lower house composed exclusively of persons that Post had denounced as “extremists.”<sup>192</sup>

In response to such behavior, President Taft declaimed to Congress that although the United States had provided the Puerto Ricans with schools, 452 miles of macadamized roads, medicine, and free trade as gifts, they had proven themselves not only ungrateful but also incapable of self-government. He therefore recommended that the territorial government be stripped of its powers to tax and appropriate, powers it could in any case exercise only with the approval of the federal governor.<sup>193</sup> He explained that Puerto Ricans could not have either independence or statehood and also continue to enjoy the generosity of Congress. This would be “to eat their cake and have it, too.”<sup>194</sup>

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188. *Id.*

189. *Id.* at 59.

190. WILLIAM H. HUNT, FOURTH ANNUAL REPORT OF THE GOVERNOR OF PORTO RICO, S. DOC. NO. 58-35, at 32 (1904).

191. THEODORE ROOSEVELT, ANNUAL MESSAGE OF THE PRESIDENT TO CONGRESS 51 (1905).

192. REGIS POST, NINTH ANNUAL REPORT OF THE GOVERNOR OF PORTO RICO, H.R. DOC. NO. 61-103, at 25 (1909).

193. William Howard Taft, *Message Concerning Affairs in Porto Rico*, reprinted in 1 PRESIDENTIAL ADDRESSES AND STATE PAPERS OF WILLIAM HOWARD TAFT 88, 92-96 (1910).

194. MONGE, *supra* note 178, at 65.

In 1917, President Wilson announced his support for the plan to confer American citizenship on Puerto Ricans.<sup>195</sup> A new reason to be given was that it would make the Puerto Ricans less likely to align themselves with the aspiring German Empire. The law was enacted on the eve of World War I, the President declaring that “[w]e welcome the new citizen, not as a stranger, but as one entering his father’s house.”<sup>196</sup> Muñoz Rivera and his followers opposed the citizenship bill as an impediment to national independence, but leaders of the labor movement favored it as a means of access to more protective labor laws. Congress allowed Puerto Ricans specifically to reject citizenship if they did so within a stated period of time,<sup>197</sup> but only 288 did so, despite the fact that Puerto Ricans were in 1917 subjected to selective military service. The act conferring citizenship also created a bicameral legislature locally elected, but a veto power remained with the federal governor.

In 1918, the new legislature petitioned for a plebiscite to determine what political status was desired by the Puerto Rican people.<sup>198</sup> While a joint resolution to that effect was introduced in Congress, no action was taken.<sup>199</sup> As America went to war in Europe to make it safe for democracy, it had little to show in Puerto Rico to assure others as to how that safety might be achieved by American arms. Puerto Rico was being groomed neither for independence, nor for statehood.

From the perspective of Versailles in 1919, one considering the results of the 1898 war and the ensuing two decades of efforts to establish self-government in Cuba, the Philippines, and Puerto Rico would have concluded that few positive results for America or for the peoples to be governed would be likely to result from American intervention in former Ottoman territories. America had failed to impart democracy to indigenous tribes in North America. It had failed to reconstruct the South. And it had failed to establish democratic traditions in Cuba or in the Philippines or in Puerto

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195. FERNANDEZ, *supra* note 173, at 70-71.

196. *Letter from Woodrow Wilson to Arthur Yager* (Apr. 1, 1917), in 41 THE PAPERS OF WOODROW WILSON 515-16 (Arthur S. Link ed., 1983).

197. Jones Act, ch. 145, § 5, 39 Stat. 951, 953 (1917). Frequently amended, this complex legislation is now codified as 48 U.S.C. § 737 (2000).

198. MONGE, *supra* note 178, at 79.

199. *Id.*

Rico. Indeed, in 1908 a widely read professor of constitutional law at Princeton firmly concluded that

[s]elf-government is not a mere form of institutions .... It is a form of character.... [It] is not a thing that can be "given" to any people .... No people can be "given" the self-control of maturity.... We of all people in the world should know these fundamental things .... To ignore them would be not only to fail and fail miserably, but to fail ridiculously and belie ourselves.<sup>200</sup>

It is astonishing to consider that the author of those words would within a decade, as President of the United States, declare a war to make the whole world safe for democracy.

#### *E. Deflating Presidential Rhetoric*

Woodrow Wilson, entering the presidency in 1913, not only promised independence to the Philippines, but also, in disregard of the caution he had expressed as a lawyer-political scientist in 1908, announced that the primary aim of his foreign policy was "the development of constitutional democracy abroad."<sup>201</sup> "I am going to teach the South American republics to elect good men!", he told Congress.<sup>202</sup> As President, Wilson had been attracted to ventures in Mexico<sup>203</sup> and the Caribbean<sup>204</sup> that were resented in those venues as imperialistic. And his anglophilia moved him to share the concerns of those worried about the future of the British Empire in its engagement on the continent of Europe that began in 1914.<sup>205</sup>

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200. WOODROW WILSON, CONSTITUTIONAL GOVERNMENT IN THE UNITED STATES 52-53 (Gaunt, Inc. 1997) (1907).

201. TONY SMITH, AMERICA'S MISSION: THE UNITED STATES AND THE WORLDWIDE STRUGGLE FOR DEMOCRACY IN THE TWENTIETH CENTURY 60-64 (1994); *see also* N. GORDON LEVIN, JR., WOODROW WILSON AND WORLD POLITICS: AMERICA'S RESPONSE TO WAR AND REVOLUTION 2-5, 13 (1968); HARLEY NOTTER, THE ORIGINS OF THE FOREIGN POLICY OF WOODROW WILSON 460-61 (1965).

202. Woodrow Wilson, *The Ideals of America*, ATLANTIC, Dec. 1902, at 66.

203. *See generally* HALDEEN BRADY, PERSHING'S MISSION IN MEXICO (1966).

204. *See* KAPLAN, *supra* note 94, at 144-45. *See generally* BRUCE J. CALDER, THE IMPACT OF INTERVENTION: THE DOMINICAN REPUBLIC DURING THE U.S. OCCUPATION OF 1916-1924 (1984); ARTHUR C. MILLSPAUGH, HAITI UNDER AMERICAN CONTROL, 1915-1930 (1931).

205. *See* JOSEPH P. TUMULTY, WOODROW WILSON AS I KNOW HIM 229-31 (1921).

Wilson had appointed Bryan as his secretary of state. Bryan was a veteran of military service in 1898 who viewed the anglophilia of the President and others as economically motivated and unwise.<sup>206</sup> He had opposed intervention in the Philippines and was stern in his belief in the Miltonian principle:

[We have] sought to aid the world by example.... We have been the friend of all nations and the counselor of many .... [To enter the war] would not be an ascent to a higher plane; it would be a descent and would impair our influence and jeopardize our moral prestige.... [W]e cannot afford to exchange the moral influence which we now have for the military glory of all the empires that have risen and fallen since time began.<sup>207</sup>

Bryan repeatedly devised plans for settling the ongoing war, which was proving to be disastrous for every one of the participating empires. In 1915, he resigned in protest over the President's militancy in responding to German submarines attacking transatlantic traffic bearing arms as well as passengers to Britain and France.<sup>208</sup>

With the support of Bryan's successor, Secretary Lansing, Wilson led the United States into the European war in April 1917, soon after the fall of the Russian czarist regime with whom he could not bring himself and the nation to ally. The rhetoric he would employ to bring the nation to accept that decision would prove to be perhaps the best resource available to Ambassador Morgenthau and the Protestant missionaries who shared the desire to reconstruct the Ottoman Empire as a multicultural democracy. The President not only proclaimed the war to be one to make the world "safe for democracy,"<sup>209</sup> but that the truce reached on the battlefield in November 1918 was based on agreement that peace would be

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206. CLEMENTS, *supra* note 95, at 24-25; Merle Eugene Curti, *Bryan and World Peace*, 16 SMITH C. STUD. HIST. 111, 195-96 (1931).

207. LAWRENCE W. LEVINE, DEFENDER OF THE FAITH: WILLIAM JENNINGS BRYAN: THE LAST DECADE, 1915-1925, at 29-30 (1965) (internal quotations omitted). Bryan was not alone. *See, e.g.*, 55 CONG. REC. 223-34 (1917) (detailing Senator LaFollette's opposition to the declaration of war).

208. CLEMENTS, *supra* note 95, at 108-11.

209. His speech explaining the need to declare war is recorded in 41 PAPERS OF WOODROW WILSON 519-25 (Arthur S. Link ed., 1983).

negotiated in conformity with the political principles espoused by Wilson in his Fourteen Points.<sup>210</sup> On his way to the negotiations, Wilson visited the English church to which his grandfather had been minister; while there, he uttered extemporaneous remarks that were widely reported and further elevated his celebrity role in London and Paris. He spoke of his mother who had been baptized in that church as one who spoke “stern lessons of duty.”<sup>211</sup> He said that the world sought a return to that path, away “from the savagery of interest to the dignity of performance of right.”<sup>212</sup> And he spoke as only an American leader was likely to speak of the sources of right: “Like the rivulets gathering into the river and the river into the seas, there come from communities like this streams that fertilize the consciences of men, and it is the conscience of the world that we are trying to place upon the throne which others would usurp.”<sup>213</sup>

Wilson, thus taking the role of savior of Europe and dismantler of its empires, proceeded to try to organize the peace. Georges Clemenceau and David Lloyd-George shared a measure of contempt for Wilson.<sup>214</sup> They assumed responsibility for dictating terms of peace to punish the peoples whose governments had opposed them and to enlarge their own empires with no regard for Wilson’s Fourteen Points. The only significant concession to Wilson was their agreement to form the League of Nations.

That Bryan was, at least at the time, right and Wilson wrong in the decision to enter the World War, is the view that has since often prevailed.<sup>215</sup> Certainly Versailles was a disaster of global proportions, as many who were there recognized at the time.<sup>216</sup> It is not

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210. See AUGUST HECKSHER, *WOODROW WILSON* 468-72 (1991).

211. *Remarks at His Grandfather’s Church in Carlisle, December 19, 1918*, in 53 PAPERS OF WOODROW WILSON 559, 565 (Arthur Link ed., 1985).

212. *Id.*

213. *Id.*

214. 1 DAVID LLOYD GEORGE, *MEMOIRS OF THE PEACE CONFERENCE* 224-36 (1939); GEORGE BROWN TINDALL, WITH DAVID E. SHI, *AMERICA: A NARRATIVE HISTORY* 1008 (3d ed. 1992).

215. See, e.g., CHARLES A. BEARD, *THE DEVIL THEORY OF WAR* (1936); EDWIN M. BORCHARD & WILLIAM POTTER LAGE, *NEUTRALITY FOR THE UNITED STATES* (2d ed. 1940); C. HARTLEY GRATTAN, *WHY WE FOUGHT* (1929); KENNAN, *supra* note 89, at 69; MILLIS, *supra* note 172; MICHAEL SCHUDSON, *THE GOOD CITIZEN: A HISTORY OF AMERICAN CIVIC LIFE* 200 (1998); TUCHMAN, *supra* note 26.

216. See generally MACMILLAN, *supra* note 75; see also Jan Smuts, *Gen. Smuts of South Africa Estimating President Wilson’s Place in History*, N.Y. TIMES, Mar. 3, 1921, at 11; and the quotes of Felix Frankfurter in BAKER, *supra* note 59.

fanciful to observe Hitler and the Holocaust as a foreseeable consequence of the self-indulgence of those who had not won a war but merely survived it and who had little ambition to prevent its repetition.

#### IV. THE FINAL SOLUTION FOR THE OTTOMAN PROBLEM

##### A. *The San Remo Agreement*

No decision was reached at Versailles regarding the disposition of Ottoman territory except that the matter should be placed on the agenda of the new League of Nations, which could be expected to designate allied powers to accept temporary “mandates” over specified areas. But in March 1920, at San Remo, while Wilson lay stricken, Britain and France agreed without awaiting the King-Crane Report to a division of the territory.<sup>217</sup> They agreed that the monarchy of Feisal would be recognized as the independent government of that part of the Arabian peninsula not previously subjected to British “protection,” and that France would receive the mandate to govern Lebanon and Syria, with Britain remaining in Mesopotamia (Iraq)<sup>218</sup> and Palestine.<sup>219</sup> These mandates would be continued until each region was ready for self-rule, however long that might take.<sup>220</sup> It was also agreed that the terms of the Balfour Declaration would be incorporated into a peace treaty with the Sultan.<sup>221</sup> This last was done in the Treaty of Sèvres signed in August 1920.<sup>222</sup> But the Sultan was soon overthrown by a revolution, requiring that a new treaty be made in 1923 with his successors, led by President Mustapha Kemal, whose writ no longer ran to Palestine.<sup>223</sup>

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217. FROMKIN, *supra* note 44, at 396-99.

218. Notwithstanding that there was reportedly an insurrection under way there. *See generally* AYLMER L. HALDANE, *THE INSURRECTION IN MESOPOTAMIA*, 1920 (1922).

219. FROMKIN, *supra* note 44, at 410-11.

220. *Id.* at 11.

221. *Id.*

222. *Id.*

223. The British still occupied the territory. *See supra* text accompanying note 48.

*B. The King-Crane Report*

The King-Crane Report that had been commissioned by President Wilson at Versailles to study the popular will in Ottoman territories<sup>224</sup> was filed with the United States Department of State in July 1920. By that time, the President was too disabled to read it. It was not published until 1922.<sup>225</sup> Despite its lack of influence at the time, its observations are pertinent to the question posed in this Essay.

Based on conversations at many mosques and hundreds of petitions, King-Crane reported that most Arabs perceived that they could not without help maintain a government of their own because they were too divided into hostile sects and tribes.<sup>226</sup> They certainly did not welcome a return of the Turks,<sup>227</sup> who manifested no ambition to return, but who were confident of their abilities to manage affairs in Asia Minor, at least once they evicted their Armenian and Greek Orthodox minorities. And, indeed, the Turks proved their point by establishing a stable, secular constitutional republic that abides in the 21st century.<sup>228</sup>

Also, it was reported that there was nearly universal hostility among Arabs to the creation of a Jewish homeland in Palestine.<sup>229</sup> Because of the Balfour Declaration, most Arabs wanted no part in the British Empire. The only persons in the Ottoman territories who reportedly welcomed British rule were many of the 100,000 Jewish people of Palestine who were attracted to Britain by the Declaration.<sup>230</sup> The population of Mesopotamia, being remote from Palestine, reportedly cared less about the Balfour policy and

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224. See *supra* note 76 and accompanying text.

225. HOWARD, *supra* note 76, at 311.

226. *Id.* at 220-36.

227. On the deficiencies of Ottoman government of the area, see generally GÖKHAN ÇETINSAYA, *OTTOMAN ADMINISTRATION OF IRAQ, 1890-1908* (2006).

228. ZÜRCHER, *supra* note 49. On the constitution of Turkey, see generally Ergun Özburdun, *Constitutional Law*, in *INTRODUCTION TO TURKISH LAW* 19, 19-46 (Tuğrul Ansay & Dan Wallace, Jr. eds., 5th ed. 2005). It continues to experience stress over the presence of a Kurdish minority and over the relationship of the elected government to the Muslim clergy. See generally SONER CAGAPTAY, *ISLAM, SECULARISM AND NATIONALISM IN MODERN TURKEY* (2006).

229. See HOWARD, *supra* note 76, at 93.

230. See *id.* at 102-03.

thought British rule preferable to self-rule, or rule by Turkey or France.

Arabic-speaking people apparently did not admire the French. Feisal foretold that Syrians would prefer death to a French mandate because rule in the French Empire was deemed oppressive, not least because imperial subjects were required to learn French.<sup>231</sup> The only groups who favored French rule were the Maronite Catholics found in Lebanon.<sup>232</sup>

Astonishingly, King and Crane reported that most persons living in Arabia, Armenia, Lebanon, Palestine, and Syria preferred to be in the custody of the United States, so that America could do for them what it had allegedly done or was doing for the peoples of the Philippines. They may also have sensed that a nation committed to Jeffersonian principles of self-government would find it difficult to impose massive immigration on a subordinate people who did not welcome it. King-Crane agreed:

To subject [the Arab people] to unlimited Jewish immigration, and to steady financial and social pressure to surrender the land, would be a gross violation of the principle [of free acceptance set forth by President Wilson in his Fourteen Points], and of the people's rights, though it kept within the forms of law.<sup>233</sup>

This was a categorical rejection of the Zionist premise that the Holy Land belonged not to the millions of Arabs who lived there but to the millions of Jews who revered it. It was also a clear expression of Jeffersonian principles. Although King and Crane claimed to have commenced their work in favor of the Zionist idea, they reported that the facts on the ground were preclusive, for neither Christians nor Muslims trusted the prospective Jewish immigrants as impartial guardians of holy places.<sup>234</sup> A zone near the holy sites might be restricted to Jewish residents, they agreed, but primary reliance should be placed on absolute freedom of religion to be practiced throughout the region.<sup>235</sup>

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231. *Id.* at 35.

232. *Id.* at 125.

233. *Id.* at 225.

234. *Id.* at 224-25.

235. *Id.* at 236.

The King-Crane Report concluded that at least Syria, Palestine, and Lebanon, in keeping with the wishes of their citizens, should not be separated<sup>236</sup> but should be governed as a single federation with a monarch and a parliament, preferably under the mandate of the United States, but if that was not available, then of Britain. Anticipating American resistance to the burden of such an imperial responsibility, the King-Crane Report further concluded that American optimism was needed to destroy the “cynicism and disillusionment” rampant in the region. The United States itself might be saved from “a disastrous reaction” against its “generally high aims in the war” if it would involve itself in Near Eastern affairs. Although the costs might indeed be heavy, “America might well spend millions to insure relations of peace and good will among nations, rather than the billions required for another war, sure to come if the present cynical selfishness and lack of good will are not checked.”<sup>237</sup>

Congress never considered the King-Crane proposal. Legislation was introduced to accept a mandate from the League of Nations to provide a secure government of Armenia.<sup>238</sup> That proposal never came to a vote, and Armenia was assimilated into the Soviet Union.<sup>239</sup> Recent experience, it seems, had taught Congress the wisdom of Milton and Thayer.

At the same time, Justice Brandeis and his American followers for similar reasons withdrew their early support for Zionism as it seemed that the international organization led by Chaim Weizmann was intent on governing the holy land without regard for the welfare or sensitivities of the Palestinian Arabs. Weizmann dismissed these American concerns as an effort to extend the Monroe Doctrine to Palestine.<sup>240</sup>

## CONCLUSION

Given the present state of affairs in the Middle East, it may be instructive to reconsider the missionary proposals of Henry

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236. *Id.* at 223.

237. *Id.* at 238 (internal quotation omitted).

238. ZÜRCHER, *supra* note 49, at 152.

239. *Id.* at 171-72.

240. REINHARZ, *supra* note 53, at 225.

Morgenthau, Howard Bliss, and the authors of the King-Crane Report. Their willingness to impose a federal, democratic constitution on the nations of the Middle East was resistant to the advice of Milton and Thayer. They did not draw the lesson that many Americans drew, and continue to draw, from the failures of the military ventures in 1898, and the two decades that followed, to achieve their lofty goals. Nevertheless, with hindsight, could Morgenthau, Bliss, King and Crane have been right? Might there be a time or a place when the then recent experience is misleading, when indeed intervention to make a place safe for democracy is justified? If there is such a time and place, the Ottoman Empire in collapse might have been that time and place, given the circumstances that prevailed then and there. But as promised at the outset of this Essay, I leave the question to the reader.