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Civil liberties in an American territory: Treatment of Filipinos after the U.S.
Purchase of the Philippines
Danvers High School
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AP U.S. History
Grade 11

Abstract: Typically, we teach AP students about imperialism as part of an early twentieth century unit on American foreign policy. Teaching about imperialism offers us an opportunity to provide students with essential questions regarding whether or not our country's political leaders always live up to the values and beliefs that we study at the beginning of the year when we look at the founding of our nation. In this 4-day lesson plan, students will be asked to consider the treatment of Filipinos during the war fought to prevent their independence.

Students will read about race and American society at the turn of the last century as a means to discuss how racism toward Filipinos might have motivated American leaders in their treatment of this population. Once the U.S. acquired the Philippines, the leaders of this country restricted the civil liberties of the inhabitants of the islands and the U.S. Supreme Court upheld these restrictions in the "Insular Cases." Students will use background readings on the war as well as an excerpt of a Supreme Court ruling to better understand these issues. Students will also view a video from a History Connected seminar called, "Savage Acts: Wars, Fairs and Empire 1898-1904" to gain further information regarding arguments for and against imperialism, and the ways race factored into U.S. policy-makers decisions. Finally, students will be asked to analyze political cartoons from the era to demonstrate understanding of the themes and ideas taught during the previous three days.

This four-day lesson plan was inspired by the seminars and book discussion groups we attended as part of our participation in the class, "War, Society, State and Citizenship" provided by History Connected. Specifically, the themes of citizen and personal experiences during wartime and limits placed upon citizens' rights during wartime resonated with us as we decided on a topic. Race and ethnicity were factors that arose in almost every seminar and book discussion group we attended as part of this class. As already noted, the documentary, "Savage Acts," which will provide a great overview and rich details of the topic for our students, was generously given to our school at a History Connected seminar.

Massachusetts History and Social Science Curriculum Frameworks

Standards: USII.6 Analyze the causes and course of America's growing role in world affairs from the Civil War to World War I.

- A. the influence of the ideas associated with Social Darwinism
- D. the Spanish-American War
- E. U.S. expansion into Asia under the Open Door policy

Standards in Historical Thinking Addressed:

Standard 2: Historical Comprehension (especially B, C, D and F)

Standard 3: Historical Analysis and Interpretation (especially B, C, D)

Standard 4: Historical Research Capabilities (especially C, F)

Essential questions: Was the administration of the Philippine Islands by the United States characteristic of American values, beliefs and practices? Did the actions of the U.S. demonstrate American beliefs of life, liberty and the pursuit of happiness? Did it demonstrate the American values of self-rule, autonomy and national sovereignty, or did the U.S. approach with regards to the Philippines reveal a type of American hypocrisy? How might commonly held beliefs in white -superiority have contributed to the decisions made by the United States?

Learning Objectives: Students will be able to identify causes of the Filipino-American War. Students will understand the main arguments for and against acquiring the Philippines. In addition, students will understand the connection between the scientific racism of the era with the eagerness to fight this population in order to civilize them. Students will be able to explain how American policy toward the Philippines was contrary to the core values of the U.S., especially regarding individual rights and liberties.

Learning Activities

Day One: Students will come into day one with background information of the Spanish-American War through the treaty that allowed the United States to buy the Philippines from Spain. On day one students will read "Race and American Society in the 1890s" from the Choices for the 21st Century Education Project booklet, *Reluctant Colossus: America Enters the Age of Imperialism*. Students will answer the following questions in small groups of 2-3 students.

1. In a few sentences, characterize the general attitudes that white Americans had toward African-Americans during the 1890s. Pay special attention to: methods used to control the black population, segregation, blacks' social standing within American society.
2. What factors led whites to believe they were the supreme race?
3. For what reasons did African-Americans feel compelled to join the military to fight in the Philippines? In what ways does African-American soldiers' involvement in this war seem contradictory to their own position in American society?

4. How did William Howard Taft's quote that Filipinos were our "little brown brothers" reflect U.S. policy-makers racial attitudes of non-white people.

The teacher should spend the last segment of class reviewing the answers with the students.

Day Two: The first 30 minutes of day two will be spent viewing the documentary, "Savage Acts: Wars, Fairs, and Empire: 1898-1904." This short film presents the complex history of American involvement in the Philippine War. It explores racial attitudes of that time period, justification for fighting to retain the Philippines and some criticism of the war by some Americans. While students view this film, they will be required to answer the following questions. In addition, a chart that pertains to question #4 should be printed out and attached to the questions or embedded with the questions.

1. What did the Filipinos expect from the U.S. after Spain was defeated?
2. How did the United States government respond to Filipinos expectations for independence?
3. What reasons did McKinley give for opposing independence for the Philippines?
4. Listen carefully to the arguments for and against the United States keeping the Philippines. Students should use the attached chart to explain anti and pro imperialist arguments of each speaker.

Note: stop the film at 18:10 minutes when you see a chart of faces displayed in the frame. Students will answer questions 5 and 6 while viewing this chart.

5. What beliefs about race and ability does this chart represent?
6. How does the chart legitimize the belief by white Americans that Filipinos are not capable of governing themselves?
7. How do you think U.S. troops justified burning villages, interring civilians and torturing Filipinos as the war dragged on?

Day Three: Students will examine a segments of the Supreme Court case, *Dorr v. U.S.* (1904), and create a brief in order to understand the reasoning behind why American civil liberties will not be extended to Filipinos.

The following link will provide you with the entire case. To make this case more manageable for students, we decided to excerpt the most relevant sections for use in writing the brief. The excerpt and the activity explanation of how to write a student legal brief are in the extra materials folder.

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=195&page=138>

Once students complete their briefs, teachers should engage in discussion with the students regarding why Sixth Amendment rights did not apply to the Philippines and why the Supreme Court believed that Congress, and not the Constitution, had jurisdiction over the islands.

Assessment

Day Four: Students will be assessed using political cartoons from the era. Students will be required to analyze the cartoons using the themes and ideas that they have learned in the previous three days. The teacher should use one of the cartoons to model the exercise so that expectations for the students are clear. (We recommend modeling “What will he do?” cartoon for the model as it has a great explanation attached and the timing of the cartoon is early in the history).

Students will use SIGHT analysis method worksheet (found in the materials folder) introduced during the Spanish-American War. In addition, teachers may want to follow-up with these two essential questions:

- 1). How do these cartoons show the way Americans legitimized imperialistic beliefs?
- 2). Why did Americans feel they could colonize people who lived in the Caribbean and Pacific Islands?

Annotated Bibliography

The American Social History Project/Center for Media and Learning. City University New York. Accessed on May 27, 2011.

[<http://ashp.cuny.edu/wp-content/images/cuba.jpg>]

This unnamed cartoon depicts the paternal aspect of colonization as Uncle Sam is seen as a fatherly figure watching his Cuban and Filipinos children playing in the sand. Students will use this as part of the day four assessment.

Bender, Pennee, Joshua Brown, Andrea Ades Vasquez, dirs. *Savage Acts: Wars, Fairs and Empire 1898-1904*. American Social History Project, City University of New York, 1995.

This short film presents the complex history of American involvement in the Philippine War. It explores racial attitudes of that time period, justification for fighting to retain the Philippines and some criticism of the war by some Americans. We use this documentary film as the centerpiece in the second day of this four-day lesson plan.

DORR v. U S, 195 U.S. 138 (1904). Accessed on Find Law website on May 27, 2011.

[<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=195&page=138>]

The *Dorr* case is one of several “Insular Cases” decided by the U.S. Supreme Court during the early 1900s dealing with questions of whether or not the rights guaranteed by the Constitution extended to newly acquired territories. In this particular case, students will examine whether or not Sixth Amendment rights extend to Filipinos. We excerpted parts of this case for ease of student use. Our copy can be found in the extra materials folder.

“Filipinos First Bath.” Cleveland Heights-University Heights City School District. Accessed on May 27, 2011.

[<http://resources.chuh.org/CHHS/allaboutu/worldhistory/FilipinosFirstBath.jpg>]

This political cartoon demonstrates President McKinley cleaning the perceived dirt off the Filipino. It suggests the uncivilized nature of the people of the Philippines. Students will use this as part of the day four assessment.

Gillam, Victor. “A Powerful Democratic Argument Against Imperialism” Harper’s Weekly website. Accessed on May 27, 2011.

[<http://elections.harperweek.com/1900/cartoon-1900-large.asp?UniqueID=41&Year=1900>]

This cartoon depicts the “foolish” anti-imperialist position taken by some politicians of the early 1900s. Students will use this as part of the day four assessment.

Gillam, Victor. “White Man’s Burden (Apologies to Kipling)” *Judge*. New York: Judge Publishing Company, 1899. University of Minnesota libraries website. Accessed on May 27, 2011.

[<http://blog.lib.umn.edu/globerem/main/Judge%20cartoon.bmp>]

This cartoon shows the Anglo-American connection and depicts the white man as the savior that will deliver uncivilized people to the promised land of civilization. Students will use this as part of the day four assessment.

“Imperialism Cartoon” State Historical Society of Wisconsin Visual Materials Archive. Accessed on May 27, 2011.

[http://www.google.com/imgres?imgurl=http://us.history.wisc.edu/hist102/photos/assets/photos/1084.jpg&imgrefurl=http://us.history.wisc.edu/hist102/photos/html/1084.html&usq=__7GnSeyi6qaJ_PQNoc0rxSmwaHyc=&h=482&w=407&sz=46&hl=en&start=1&zoo m=1&um=1&itbs=1&tbnid=6Sgt2h iT033M:&tbnh=129&tbnw=109&prev=/search%3Fq%3D%2522what%2Bthe%2Bus%2Bhas%2Bfought%2Bfor%2522%2Bimage%26um%3D1%26hl%3Den%26client%3Dsafari%26sa%3DN%26rls%3Den%26tbn%3Disch&ei=46raTZKGJ4GtgQebs-xX]

This cartoon demonstrates the uncivilized nature of the inhabitants of the American territories and the transformation that will result from American colonization. Students will use this as part of the day four assessment.

“Pears’ Soap” advertisement. Wikimedia Foundation. Accessed on May 27, 2011.

[http://upload.wikimedia.org/wikipedia/commons/9/95/1890sc_Pears_Soap_Ad.jpg]

Although not a political cartoon, the Pears’ soap advertisement subtly suggests white supremacy. The ad indicates that their soap is so effective that it can even clean up the non-white inhabitants of the uncivilized world. Students will use this as part of the day four assessment.

“Race and American Society in the 1890s.” *Reluctant Colossus: America Enters the Age of Imperialism*. Choices for the 21st Century Education Project. Brown University, 1998.

This article provides students with historical background information on race and American attitudes toward people of color. It defines the term “scientific racism” which is an important component of our lessons because it is a driving force behind imperialism.

“The Types and Development of Man.” University of Illinois at Urbana-Champaign website. Accessed on May 27, 2011.
[http://teachingresources.atlas.uiuc.edu/chinese_exp/resources/resource_1_3.pdf]

This cartoon depicts the hierarchy of man as seen from the perspective of those who viewed Caucasians as the superior race. In addition, a description follows the cartoon. Students will use this as part of the day four assessment.

“What Will He Do?” *Minneapolis Tribune*. UMWblogs, Mary Washington University website. Accessed on May 27, 2011.
[<http://amst312.umwblogs.org/2009/03/19/what-will-he-do/>]

In this cartoon, President McKinley is seen holding small Filipino child to prevent this confused and unguided child from going back to his master. This cartoon also shows the decision-making process that McKinley is struggling with whether or not to annex the Philippine Islands. Students will use this as part of the day four assessment.

“White Man’s Burden\$.” University of California Santa Barbara history department website. Accessed on May 27, 2011.
[[http://www.history.ucsb.edu/faculty/marcuse/classes/2c/images/1899WhiteMansBurden\\$Denver200dpi380pxh.jpg](http://www.history.ucsb.edu/faculty/marcuse/classes/2c/images/1899WhiteMansBurden$Denver200dpi380pxh.jpg)]

This political cartoon suggests the monetary burden on the United States of imperialistic policies. It clearly questions the wisdom of taking on new territories considering the high financial costs. Students will use this as part of the day four assessment.

Part II: Race and American Society in the 1890s

The Spanish-American War and the debate which followed over the U.S. role in the Caribbean and the Philippines brought the race issue once again to the forefront of American society.

Before the fighting began, racial issues entered into the effort to form an effective army. Thousands of black men came forward as volunteers. U.S. officials questioned if they should be accepted into the military. Once enlisted, controversy focused on whether they should be led by black or white officers.

After Spain's surrender, race became part of the discussion about the Spanish colonies that had fallen under U.S. control. The United States was suddenly left to decide the fate of millions of people, most of them non-white, in the Caribbean and the Philippines. Concern was voiced by many Americans about the danger of contact with "inferior" races. Others felt that the "white races" had a special mission to spread Western civilization.

The issue of race, of course, had haunted America since the formation of the first colonies. By the late 1890s, however, rapid economic and social change had given the problem new dimensions. Industrialization, immigration, the growth of cities, and rising expectations had altered the way Americans of all races looked at each other and the world. In this section of the background reading, you will come to better understand how race and racism shaped our country's first important steps into the arena of international affairs.

BLACK AMERICA IN THE 1890s

Although more than thirty years had passed since the Civil War ended slavery in the United States, African-Americans in the late 1890s still lived in the shadow of oppressive racism. At the conclusion of the Civil War, Republicans in Congress had attempted to open opportunities for blacks Americans, including the recently freed slaves, through a series of laws and constitutional amendments. While Amendment XIII (ratified in 1865) abolished slavery throughout the United States, Amendment XIV (ratified in 1868) clarified the legal and political status of former slaves.

Black Americans were granted citizenship, and states were required to provide all citizens with "due process of law," and "equal protection of the laws." Amendment XV (ratified in 1870) further prohibited states from denying blacks the right to vote.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Constitution, Amendment XIV, Section 1

From 1865-1877 federal troops occupied the former Confederate states in order to keep the peace and to enforce federal law. However, as the years passed, white enthusiasm and political momentum



Newly freed blacks voting shortly after the Civil War.

for reform began to wane. By 1877, the last federal troops were withdrawn from the states of the defeated Confederacy. Increasingly, Washington abandoned its efforts to promote the rights of blacks in the South.

How was white supremacy enforced?

Southern states quickly seized the initiative to erect new barriers to racial equality. By 1890, blacks were largely denied their most basic civil rights in the South, including the rights to vote, to serve on juries, and to hold public office. The Republican Party, which had earlier pinned its political hopes on gaining votes from newly registered black voters in the South, quietly shifted its strategy.

White supremacy was enforced through both legal means and brutal violence. In most southern states, state constitutions required that citizens pass a literacy test to register to vote. For example, a revision of the Mississippi constitution issued in 1890 required that voters "be able to read any section of the constitution of this state, or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof." The local registrar of voters had the authority to choose the most difficult sections of the document and to judge the applicant's response.

We took the government away. We stuffed ballot boxes. We shot them. We are not ashamed of it....We eliminated all of the colored people whom we could under the 14th and 15th amendments....The brotherhood of man exists no longer, because you shoot negroes in Illinois, when they come in competition with your labor, as we shoot them in South Carolina when they come in competition with us in the matter of elections. You do not love them any better than we do. You used to pretend that you did, but you no longer pretend it, except to get their votes.

—Senator Ben Tillman, South Carolina

African-Americans who dared challenge the system were often physically attacked. From 1890 to 1900, more than 120 black men were murdered by lynch mobs on average each year. Those responsible for the murders were almost never brought to justice.

Rather, the lynchings reinforced a climate of fear and intimidation that reached into nearly every black community. Occasional attempts by northern Republicans in Congress to stop the violence were consistently thwarted.

White supremacists focused on keeping blacks out of positions of power. Even black government officials were not safe. Fraser Baker, for example, was the victim of a white mob after he was appointed postmaster in a small, largely black town in South Carolina in 1898. Baker and his infant son were killed in an attack on his home. His killers were never brought to trial. To compound the injustice, Congress rejected a bill introduced by the McKinley administration to compensate Fraser's widow.

How did Homer Plessy fight Jim Crow?

The 14th and 15th amendments to the constitution, ratified after the Civil War, established that blacks enjoyed the same political and legal rights as other Americans. In fact, the spirit of the amendments was soon subverted by new laws in the South, as well as in many northern states, that separated the races. Two sets of schools, parks, cemeteries, and other public institutions were created. Businesses were legally allowed to treat blacks and whites differently. In practice, the discriminatory laws, known as "Jim Crow," meant that blacks were typically denied a good education, adequate services, and job opportunities.

Jim Crow laws seemed to be an easy target for a legal challenge on constitutional grounds. A test case indeed came before the Supreme Court in 1896 in response to a Louisiana law that required "equal but separate accommodations" for white and black railroad passengers. Homer Plessy, a shoemaker who was one-eighth black, defied the law. Found guilty in state courts, he appealed his case all the way to the Supreme Court. By a seven to one majority, however, the court upheld the constitutionality of the law.

In the majority opinion, the justices held that the 14th amendment was not intended to promote integration between blacks and whites. They also rejected the notion that the constitution should be used to overcome racist attitudes.

We consider the underlying fallacy of the plaintiff's [Plessy] argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it....If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.

—Plessy v. Ferguson, majority opinion

The Plessy v. Ferguson decision was met with widespread disappointment in the African-American community. The Supreme Court had affirmed legal segregation of public institutions, allowing public schools and government entities to treat blacks and whites differently. The Supreme Court's ruling confirmed for many blacks their second-class status in society, especially since separate facilities were rarely equal to those reserved for whites. Other black Americans became more determined to break down racial barriers. However, more than fifty years would pass before significant progress could be made in breaking down this type of Jim Crow segregation.

What progress did black Americans make?

Despite the discrimination, blacks made notable progress after the Civil War. By the 1890s, over 30 percent of black children 5 to 19 years of age were enrolled in school. Thirty years earlier, the figure had been below 1 percent. At the same time, 40 percent of blacks over the age of nine could read and write. Although the black literacy rate was less than half the rate for whites, the pace of improvement was encouraging.

Blacks also made strides economically. The discrimination that forced blacks to live apart from white society also set the stage for the formation of a black middle class. Black doctors, lawyers, teachers, and other professionals emerged to serve other African-Americans. Small businessmen and craftsmen filled a critical niche in African-American communities.



Ku Klux Klan terrorists often wore white hoods.

How did black leaders disagree over fighting discrimination?

Within the African-American community, black leaders differed on how their people could best move forward. The most well-known was Booker T. Washington, a prominent educator. Washington urged blacks to concentrate on economic advancement through hard work and practical education. He believed that as blacks climbed the economic ladder, discrimination would gradually wither. In the political arena, he advised caution.

The wisest among my race understand that the agitation of questions of social equality is the extremist folly, and that progress in the enjoyment of all the privileges that will come to us must be the result of severe and constant struggle rather than of artificial forcing.

—Booker T. Washington

By the early 1900s, however, bolder voices were rising in the African-American community. W.E.B Du Bois, a Harvard-educated professor of history and economics, insisted that blacks needed to actively

combat racism. He criticized Washington's approach to education, arguing that young blacks should be encouraged to pursue the same career paths as whites.

Negroes must insist continually, in season and out of season, that voting is necessary to modern manhood, that color discrimination is barbarism, and that black boys need education as well as white boys.

—W.E.B Du Bois

What was "scientific racism"?

While racism was most deeply embedded in the South in the 1890s, it shaped the attitudes of the entire country. Racism was given added validity at the time by a peculiar branch of science that emphasized distinctions among ethnic groups.

According to the scientific thinking of the era, the impact of race and ethnicity went much deeper than physical appearance. Rather, scientists saw mental abilities and personality traits as racial characteristics. Whites were considered innately superior to other races. Even among white Europeans, sharp distinctions were drawn. The peoples of northern Europe, such as the English and the Germans, were thought to be the most intelligent and energetic.

Scientific racism rested on an odd foundation of biological research and historical analysis. Particular importance was attached to brain size and skull development.



The first African-Americans to serve in Congress, elected shortly after the Civil War.

(The same factors were used at the time to assert that men were innately more intelligent than women.) The achievements of individual blacks, such as the scientist George Washington Carver, were dismissed as rare exceptions.

Scientific racism went hand-in-hand with the theories of social Darwinism. Together, they affirmed the view that the United States and a handful of European nations were destined by nature to dominate the world. Scientific racism was lent further legitimacy by prominent universities and newspapers. America's leaders largely accepted the conclusions of scientific racism. Not surprisingly, its basic principles were seldom questioned by the majority of Americans.

By the nearly unanimous consent of anthropologists this type (the pure negro of central Africa) occupies the lowest position in the evolutionary scale....The attempt to suddenly transform the Negro mind by foreign culture must be as futile as the attempt would be to suddenly transform his physical type.

—Encyclopedia Britannica, 1884

ANSWERING THE CALL TO SERVE

Race influenced how Americans greeted the outbreak of the Spanish-American War. In the African-American community, the struggle of Cuba, which had a large black population, had gained particular sympathy. Like whites, most African-Americans were also caught up in the mood of patriotism that followed the explosion of the *Maine*. There was an added dimension, however, to the black response.

Why did black Americans volunteer to fight?

Many black leaders saw the war as an opportunity to elevate



"Civilization begins at home"

The symbol of justice draws McKinley's attention to anti-black violence.

their people's status in the United States. They hoped that black participation in the fighting would win the African-American community new respect and chip away at the wall of discrimination.

In the eyes of the world the Negro shall grow in the full height of manhood and stand out in the field of battle as a soldier clothed with all the inalienable rights of citizenship.

—Illinois Record (black newspaper)

After the end of the Civil War, military service had been one of the few avenues for advancement open to blacks in American society. The army's four all-black regiments (each comprised of 400 to 800 troops) were ranked among the country's most elite units. Stationed mostly in frontier posts, black soldiers had a much lower rate of desertion and discipline problems than their white counterparts. Nonetheless, they were denied promotion into the officer corps.

How did black soldiers contribute to the U.S. victory over Spain?

When war was declared, the black regiments were included among the first units to be mobilized. War Department officials assumed that black soldiers were better suited to Cuba's tropical climate and more likely to withstand tropical diseases. In the actual fighting, black troops earned widespread praise for their bravery. They played a leading role in breaking through Spanish defenses in the decisive battle of Kettle Hill.

In addition to the regular black units, thousands of black men offered to fight as volunteers. Initially, they were rejected by all but three states. In the second call for volunteers, five more states accepted black recruits. The African-American community also pressed for the inclusion of black officers, and in three states blacks were put in command of the volunteer units. At the same time, the War Department organized ten volunteer regiments made up of men

who were presumed to be immune to yellow fever. Four of the regiments consisted of black soldiers led by black lieutenants.

Black volunteers, however, were not given the chance to fight in Cuba. Only one black unit, a regiment from Massachusetts, saw action in the Caribbean, taking part in the invasion of the Spanish colony of Puerto Rico. Meanwhile, their uniforms seldom shielded them from discrimination at bases in the United States.

Did race influence U.S. policy in Cuba, Puerto Rico and the Philippines?

America's victory over Spain focused attention on the Spanish territories gained in battle. Again, race was central to American perceptions.

Many Americans saw Spain's possessions in the Caribbean — Cuba and Puerto Rico — as an extension of the American South. At first glance, both islands seemed to fit the economic and social profile of the

South. Cuba and Puerto Rico were both split along racial lines. Spaniards and their descendants occupied positions of power and authority in the two societies. At the bottom were blacks and those of mixed race. In Cuba, blacks comprised nearly one-third of the population and provided most of the labor for the sugar plantations. Slavery was not completely abolished on the island until 1886. (Slavery had been phased out in Puerto Rico by 1874.)

In line with the racial stereotypes of the day, most American leaders had little hope that Cuba and Puerto Rico's non-whites could be a force for progress on the islands. At the same time, the Spanish were thought of as backward and cruel. Few expected that the Cubans and Puerto Ricans were capable of developing a stable democracy on their own. Likewise, Americans worried that bringing the islands into the United States would threaten the American political system.

The Philippines presented Americans an even more alien picture than the Caribbean. Before the Spanish-American War, only a handful of Americans

had been aware of the Filipino revolt against Spain. In the political cartoons that appeared in U.S. newspapers after the outbreak of fighting, the Filipinos were often depicted as having African features.

Fancy the Senators and Representatives of ten or twelve millions of tropical people, people of the Latin race mixed with Indian and African blood;...fancy them sitting in the Halls of Congress, throwing the weight of their intelligence, their morality, their political notions, and habits, their prejudices and passions, onto the scale of the destinies of this Republic....Tell me, does not your imagination recoil from the picture?"

—Carl Schurz, newspaper editor

William Howard Taft, the first U.S. civilian governor of the Philippines, referred to them as "little brown brothers." While their cause won support in the African-American press, there was scant effort in the mainstream press to explain the position of the Filipino nationalists.

Chart for question #4 on day two

The following table organizes speakers for and against annexation of the Philippines in the order in which each is heard. **Students should explain each of the arguments** in their own words. Teachers may need to replay some of the more complex statements.

<u>Anti-imperialists</u>	<u>Imperialists</u>
<p>#1) “We protest forcing. . .” 10:21 min.</p> <p>A trade union delegate from the American Federation of Labor</p>	<p>#3) “The policy of expansion...” 11:07 min.</p> <p>Vice President Theodore Roosevelt</p>
<p>#2) “The colored people of Boston . . .” 10:40 min.</p> <p>Citizens group of Boston</p>	<p>#4) “Just beyond the Philippines is . . .” 11:28 min.</p> <p>Senator Alfred J. Beveridge</p>
<p>#5) “ A Republic cannot be an empire . . .” 12:05 min.</p> <p>William Jennings Bryan</p>	
<p>#6) “I have overflowing with wrath . . .” 12:35 min.</p> <p>Susan B. Anthony</p>	
<p>#7) “In a sorted slime harmonious greed was born . . .” 13:05 min.</p> <p>Mark Twain</p>	

U.S. Supreme Court

DORR v. U S, 195 U.S. 138 (1904)

195 U.S. 138

**FRED. L. DORR and Edward F. O'Brien, Plffs. in Err., v.
UNITED STATES. No. 583. Argued April 21, 22, 1904.
Decided May 31, 1904.**

[195 U.S. 138, 139] No brief or argument for plaintiff in error.

Solicitor General Hoyt and Mr. Lebbeus R. Wilfley for defendant in error

Mr. Justice Day delivered the opinion of the court:

The case presents the question whether, in the absence of a statute of Congress expressly conferring the right, trial by jury is a necessary incident of judicial procedure in the Philippine Islands, where demand for trial by that method has been made by the accused, and denied by the courts established in the islands.

'The power of governing and of legislating for a territory is the inevitable consequence of the right to acquire and to hold territory. Could this position be contested, the Constitution of the United States declares that 'Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.' Accordingly we find Congress possessing and exercising the absolute and undisputed power of governing and legislating for the territory of Orleans. Congress has

[195 U.S. 138, 141] given them a legislative, an executive, and a judiciary, with such powers as it has been their will to assign to those departments respectively.'

And later, the same eminent judge, delivering the opinion of the court in the leading case upon the subject (*American Ins. Co. v. 356 Bales of Cotton*, 1 Pet. 511, 542, 7 L. ed. 242, 255), says:

'The Constitution confers absolutely on the government of the Union the powers of making war and of making treaties; consequently that government possesses the power of acquiring territory, either by conquest or by treaty.

'The usage of the world is, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation, until its fate shall be determined at the treaty of peace. If it be ceded by the treaty, the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or on such as its new master shall impose. On such transfer of territory it has never been held that the relations of the inhabitants with each other undergo any change. Their relations with their former sovereign are dissolved, and new relations are created between them and the government which has acquired their territory. The same act which transfers their country transfers the allegiance of those who remain in it; and the law, which may be denominated political, is necessarily changed, although that which regulates the intercourse and general conduct of individuals remains in force until altered by the newly- created power of the state . . .

Until Congress shall see fit to incorporate territory ceded by treaty into the United States, we regard it as settled by that decision that the territory is to be governed under the power existing in Congress to make laws for such

territories, and subject to such constitutional restrictions upon the powers of that body as are applicable to the situation.

For this case the practical question is, Must Congress, in establishing a system for trial of crimes and offenses committed in the Philippine Islands, carry to their people by proper affirmative legislation a system of trial by jury? . . .

If the treaty-making power could incorporate territory into the United States without congressional action, it is apparent that the treaty with Spain, ceding the Philippines to the United States [30 Stat. at L. 1759], carefully refrained from so doing; for it is expressly provided that (article 9): 'The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.' In this language it is clear that it was the intention of the framers of the treaty to reserve to Congress, so far as it could be constitutionally done, a free hand in dealing with these newly- acquired possessions.

The legislation upon the subject shows that not only has Congress hitherto refrained from incorporating the Philippines into the United States, but in the act of 1902, providing for temporary civil government (32 Stat. at L. 691, chap. 1369), there is express provision that 1891 of the Revised Statutes of 1878 shall not apply to the Philippine Islands. This is the section giving force and effect to the Constitution and laws of the United States, not locally inapplicable, within all the organized territories, and every [195 U.S. 138, 144] territory thereafter organized, as elsewhere within the United States . . .

The practice of the government, originating before the adoption of the Constitution, has been for Congress to establish governments for the

territories; and [195 U.S. 138, 148] whether the jurisdiction over the district has been acquired by grant from the states, or by treaty with a foreign power, Congress has unquestionably full power to govern it; and the people, except as Congress shall provide for, are not of right entitled to participate in political authority until the territory becomes a state. Meantime they are in a condition of temporary pupilage and dependence; and while Congress will be expected to recognize the principle of self-government to such extent as may seem wise, its discretion alone can constitute the measure by which the participation of the people can be determined.' Cooley, Principles of Const. Law, 164.

If the right to trial by jury were a fundamental right which goes wherever the jurisdiction of the United States extends, or if Congress, in framing laws for outlying territory belonging to the United States, was obliged to establish that system by affirmative legislation, it would follow that, no matter what the needs or capacities of the people, trial by jury, and in no other way, must be forthwith established, although the result may be to work injustice and provoke disturbance rather than to aid the orderly administration of justice. If the United States, impelled by its duty or advantage, shall acquire territory people by savages, and of which it may dispose or not hold for ultimate admission to statehood, if this doctrine is sound, it must establish there the trial by jury. To state such a proposition demonstrates the impossibility of carrying it into practice. Again, if the United States shall acquire by treaty the cession of territory having an established system of jurisprudence, where jury trials are unknown, but a method of fair and orderly trial prevails under an acceptable and long-established code, the preference of the people must be disregarded, their established customs ignored, and they themselves coerced to accept, in advance of incorporation into the United States, a system of trial unknown to them and unsuited to their needs. We do not think it was intended, in giving power to Congress to make regulations for the territories, to hamper its exercise with this condition. [195 U.S. 138, 149] We conclude that the

power to govern territory, implied in the right to acquire it, and given to Congress in the Constitution in article 4, 3, to whatever other limitations it may be subject, the extent of which must be decided as questions arise, does not require that body to enact for ceded territory not made a part of the United States by Congressional action, a system of laws which shall include the right of trial by jury, and that the Constitution does not, without legislation, and of its own force, carry such right to territory so situated . . .

Mr. Justice Harlan, dissenting:

I do not believe now any more than I did when *Hawaii v. Mankichi*, [190 U.S. 197](#) , 47 L. ed. 1016, 23 Sup. Ct. Rep. 787, was decided, that the provisions of the Federal Constitution as to grand and petit juries relate to mere methods of procedure, and are not fundamental in their nature. In my opinion, guaranties for the protection of life, liberty, and property, as embodied in the Constitution, are for the benefit of all, of whatever race or nativity, in the states composing the Union, or in any territory, however acquired, over the inhabitants of which the government of the United States may exercise the powers conferred upon it by the Constitution.

The Constitution declares that no person, except in the land [[195 U.S. 138, 155](#)] or naval forces, shall be held to answer for a capital or otherwise infamous crime, except on the presentment or indictment of a grand jury; and forbids the conviction, in a criminal prosecution, of any person, for any crime, except on the unanimous verdict of a petit jury composed of twelve persons. Necessarily, that mandate was addressed to every one committing crime punishable by the United States. This court, however, holds that these provisions are not fundamental, and may be disregarded in any territory acquired in the manner the Philippine Islands were acquired, although, as heretofore decided by this court, they could not be disregarded in what are commonly called the organized territories of the United States. *Thompson v. Utah*, [170 U.S. 343](#) , 42 L. ed. 1061, 18 Sup. Ct. Rep. 620. I

cannot assent to this interpretation of the Constitution. It is, I submit, so obviously inconsistent with the Constitution that I cannot regard the judgment of the court otherwise than as an amendment of that instrument by judicial construction, when a different mode of amendment is expressly provided for. Grand juries and petit juries may be, at times, somewhat inconvenient in the administration of criminal justice in the Philippines. But such inconveniences are of slight consequence compared with the dangers to our system of government arising from judicial amendments of the Constitution. The Constitution declares that it 'shall be the supreme law of the land.' But the court in effect adjudges that the Philippine Islands are not part of the 'land,' within the meaning of the Constitution, although they are governed by the sovereign authority of the United States, and although their inhabitants are subject in all respects to its jurisdiction,-as much so as are the people in the District of Columbia or in the several states of the Union. No power exists in the judiciary to suspend the operation of the Constitution in any territory governed, as to its affairs and people, by authority of the United States. As a Filipino committing the crime of murder in the Philippine Islands may be hung by the sovereign authority of the United States, and as the Philippine Islands are under a [195 U.S. 138, 156] civil, not military, government, the suggestion that he may not, of right, appeal for his protection to the jury provisions of the Constitution, which constitutes the only source of the power that the government may exercise at any time or at any place, is utterly revolting to my mind, and can never receive my sanction. The Constitution, without excepting from its provisions any persons over whom the United States may exercise jurisdiction, declares expressly that 'the trial of all crimes, except in cases of impeachment, shall be by jury.' It is now adjudged that that provision is not fundamental in respect of a part of the people over whom the United States may exercise full legislative, judicial and executive power. Indeed, it is adjudged, in effect, that the above clause, in its application to this case, is to be construed as if it read: 'The trial of all crimes, except in cases of impeachment, and except where Filipinos are

concerned, shall be by jury.' Such a mode of constitutional interpretation plays havoc with the old-fashioned ideas of the fathers, who took care to say that the Constitution was the supreme law, -supreme everywhere, at all times, and over all persons who are subject to the authority of the United States. According to the principles of the opinion just rendered, neither the governor nor any American civil officer in the Philippines, although citizens of the United States, although under an oath to support the Constitution, and although in those distant possessions for the purpose of enforcing the authority of the United States, can claim, of right, the benefit of the jury provisions of the Constitution, if tried for crime committed on those Islands. Besides there are many thousands of American soldiers in the Philippines. They are there by command of the United States, to enforce its authority. They carry the flag of the United States, and have not lost their American citizenship. Yet, if charged in the Philippines with having committed a crime against the United States of which a civil tribunal may take cognizance, they cannot, under the present decision, claim of right a trial by jury. So that, if an [195 U.S. 138, 157] American soldier, in discharge of his duty to his country, goes into what some call our 'outlying dependencies,' he is, it seems, 'outside of the Constitution,' in respect of a right which this court has said was justly 'dear to the American people,' and has 'always been an object of deep interest and solicitude, and every encroachment upon it has been watched with great jealousy;' a right which, Mr. Justice Story said, was, from very early times, insisted on by our ancestors in the parent country 'as the great bulwark of their civil and political liberties.' *Parsons v. Bedford*, 3 Pet. 433, 436, 7 L. ed. 732, 733; 2 Story, Const. 1779. Referring to the declaration by a French writer, that Rome, Sparta, and Carthage having lost their liberties, those of England must in time perish, Blackstone observed that the writer 'should have recollected that Rome, Sparta, and Carthage, at the time their liberties were lost, were strangers to the trial by jury.' 2 Bl. Com. 379.

In a former case I had occasion to say, and I still think, that 'neither the life, nor the liberty, nor the property of any person, within any territory or country over which the United States is sovereign, can be taken, under the sanction of any civil tribunal, acting under its authority, by any form of procedure inconsistent with the Constitution of the United States;' that 'the Constitution is the supreme law in every territory, as soon as it comes under the sovereign dominion of the United States for purposes of civil administration, and whose inhabitants are under its entire authority and jurisdiction.' [Hawaii v. Mankichi, [190 U.S. 197](#) , 47 L. ed. 1016, 23 Sup. Ct. Rep. 787.]

WRITING STUDENT BRIEFS

What are student briefs?

Student briefs are study aids written by law students and other people who are studying cases. They are summaries of court opinions. They are not the same thing as [appellate briefs](#), which are lengthy documents written by lawyers. Appellate briefs present each side's legal arguments in appellate cases.

Why write a student brief?

There are several reasons why it is advisable to brief the cases that you are assigned to read. First, briefing forces you to read a case carefully and understand it. You will understand a case much better if you brief it. Second, many case opinions are extremely long. Briefing summarizes the most important parts of an opinion. Third, briefs will help you study for tests. You will save a lot of time studying if you've briefed your cases, because you'll have less need to refer to the original opinions in your text. Finally, briefs come in very handy when you're called on in class. Instead of leafing frantically through the opinion, trying to jog your memory and make sense of your highlighting, you can simply glance at the pertinent parts of your brief. You'll impress your teachers this way!

While writing briefs may be a bit tedious at first, with practice you'll find that it only takes you a few minutes.

What are the components of a student brief?

Title

This is the name of the case and its citation. I like to circle the name of the party that wins.

Facts

This is a **short** summary of the events that led to the case. Include only the most important details, and omit any unnecessary information. Generally, the facts should be no more than a few sentences long. In some cases, they will be only a few words: e.g., "Defendant was convicted of murder and sentenced to death."

History or Procedure

This part should contain a description of how this case came to be in this particular court. For example: "Defendant was convicted of robbery. He appealed to the state court of appeals, which overturned his conviction. The state is now appealing to the state supreme court."

Issue(s)

This is the legal question (or questions) that the court is trying to answer in this case. Phrase each issue as a question, perhaps beginning with the word "does" or "whether". Make sure that the issue is framed in general terms, and that it includes all the pertinent details. Also make sure that it is a **legal** issue, rather than a factual one. For example, the following would **not** be good statements of the issue:

- "Was the defendant guilty of first degree murder?"
- "Were the defendant's constitutional rights violated?"

These statements would be better:

- "Whether a few moments is sufficient time to constitute premeditation for the purposes of first degree murder."
- "Does the 5th amendment require that a suspect in custody be informed of his constitutional rights by police prior to being interrogated?"

Holding

This is the answer that the court has given to the issues. It should be one word for each issue: either "yes" or "no". Make sure you get it right!

Reasoning

This is the reasons that the court has given for its opinion. It will often be the lengthiest part of your brief, but it should not exceed a few paragraphs. It is often useful to write this part in list or outline form. You should have enough information here to answer this question: "Why did the court decide the way it did?" Don't use exact quotes in this section; paraphrase and condense into your own words.

Dissents and Concurrences

Write a short summary (a few sentences long) of any dissenting or concurring opinions. Include the names of the dissenting and concurring judges.

A sample brief

[Click here](#) to see an example of a student brief. The sample brief is of the opinion in *Mapp v. Ohio* (367 U.S. 643 (1961)). The full text of the original opinion can be found at Cornell's University's [Supreme Court site](#).



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Using the **S.I.G.H.T.**[™] method, critically analyze the accompanying image

S.I.G.H.T.[™] → **S** scan for important details **I** identify the conflict or tension
G guess the creator's intent or message **H** hear the voices **T** talk or write about your observations

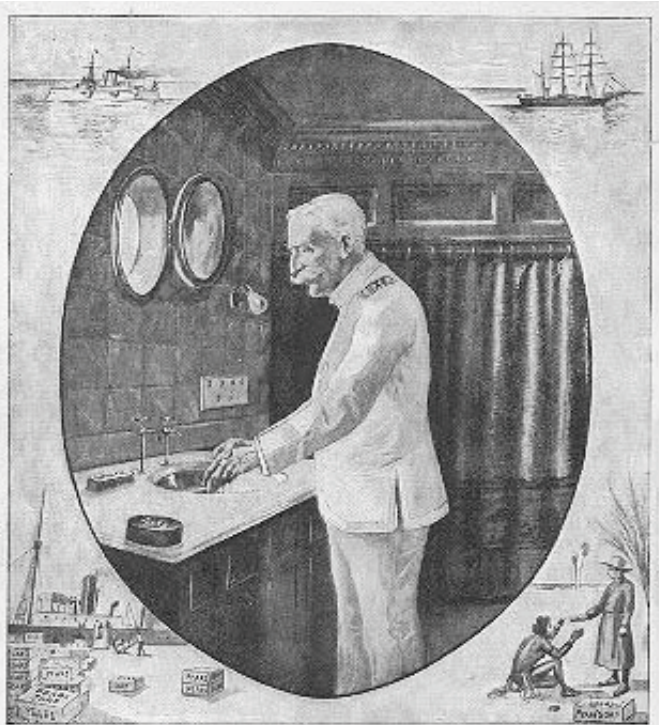
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G guess the creator's intent or message _____

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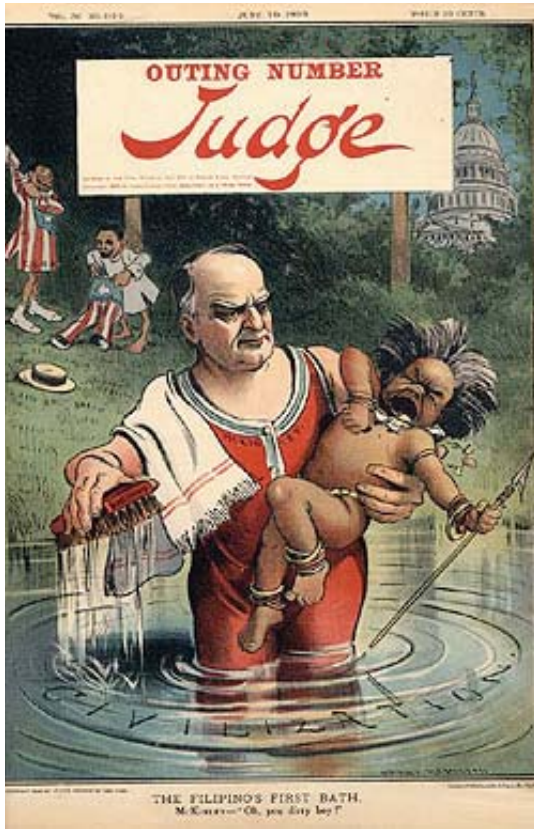
The first step towards lightening
The White Man's Burden
is through teaching the virtues of cleanliness.

Pears' Soap

is a potent factor in brightening the dark corners of the earth as civilization advances, while amongst the cultured of all nations it holds the highest place—it is the ideal toilet soap.







American History
102
Photo Gallery

Name: **Imperialism cartoon**
Subject: *Politics*
1914?



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SHSW Location:

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Notes: Text on cartoon:

"Before the United States intervened in behalf of these oppressed peoples. Philippines-Spanish oppression. Hawaii-Industrial slavery. Porto Rico, Cuba-Spanish yoke. Isthmus of Panama-Quinine. After the United States had rescued them from their oppression. Philippines-Philippine Assembly, Education, Busine[ss] Prosperity. Hawaii-Prosperity. Porto Rico-Prosperity. Cuba-Self gov't, prosperity. Panama Canal Zone-Health."

Modifications: The image is approximately 1/2 size original. Drop shadow border added; colors reduced to sixteen grays.

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Political cartoon: "What the United States Has Fought For"

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"THE WHITE MAN'S BURDEN (Apologies to Kipling)."²
Judge, Judge Publishing Company, New York, 1899 [artist: Victor Gillam]

I The Chinese Experience in 19th Century America



TYPES AND DEVELOPMENT OF MAN

*T*he photogravure herewith is from an excellent specially prepared drawing, which very accurately illustrates, as nearly as the science of ethnology is able to do, the characteristic types of mankind arranged in a progressive order of development from primitive or prehistoric man to the highest example of modern civilization. The two central figures are symbolical, representing Intelligence, with the torch of Enlightenment and book of Wisdom, invading the darksome cave in which Ignorance skulks in companionship with bird of evil omen and superstition. It is aspiration lighting the dungeon of savagery and directing the race to better conditions, moral, intellectual, and social.

The department of Anthropology occupies one volume of *LOUISIANA AND THE FAIR*, an elaborate and comprehensive introduction to which has been prepared by Professor WJ McGee, of the Smithsonian Institute and Chief of Anthropology of the Louisiana Purchase Exposition. Professor McGee is perhaps the greatest living authority on the subject, to whose active efforts were most largely due the gathering at the World's Fair of what may justly be called a congress of the uncivilized peoples of the world. These are fully and accurately described and pictorially shown in a volume of *LOUISIANA AND THE FAIR*.

J.W. Buel, Ph.D., *Louisiana and the Fair*, v.5, (St. Louis: World's Progress Publishing CO., 1904), pp. i, ii.