Chapter Abstract: This book chapter describes how empire was set on a trajectory to become constitutional. The key agents of the unfolding constitutional change were neither judges nor elected officials. Administrators within the War Department led the doctrinal charge. The occasion for the revolution in constitutional meaning was U.S. annexations of Hawai‘i, Puerto Rico, Guam, the Philippines, and American Samoa (1898-1900). This deliberate turn toward empire ended an unprecedented thirty-year halt to U.S. annexations of foreign lands. As the prior chapter argues, the pause was the result of what I term the Reconstruction Constitution, the constitutional settlement that emerged from the Civil War and its aftermath. The Reconstruction Constitution constrained empire by requiring that annexed lands eventually become states and that their residents become citizens with full constitutional rights. As the war between Spain and the United States wound down in mid-1898, U.S. troops invaded Puerto Rico with an eye toward annexation. Leading Puerto Ricans and relevant U.S. officials anticipated that the Reconstruction Constitution would soon bring citizenship and rights to islanders and eventual statehood to the island. But then Republican President William McKinley determined to annex the Philippines, whose people U.S. lawmakers broadly agreed were too racially degraded for citizenship and statehood. By late 1900, War Department administrators and other key nonjudicial officials had instead set a course toward imperial governance of Puerto Rico and the Philippines. They rapidly posited and promoted a doctrinal alternative to the Reconstruction Constitution in matters of imperial governance. That alternative has come to be known as the territorial nonincorporation doctrine. The approach appeared to require national validation of the dismantling of Reconstruction, as Democrats demanded and Republicans seemed ready to concede. The chapter
also traces the efforts of several remarkable Puerto Rican leaders to chart alternate routes toward more liberal formulations. Their efforts would gain causal traction in subsequent years. For now, prevailing conditions favored imperialism.

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