

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

William Howard Taft

The Travails of a Progressive Conservative

In this new biographical study of the only American ever to have been both president and chief justice of the United States, Jonathan Lurie reassesses William Howard Taft's multiple careers, which culminated in Taft's election to the presidency in 1908 as the chosen successor to Theodore Roosevelt. By 1912, however, the relationship between Taft and Roosevelt had ruptured. Lurie reexamines the Taft–Roosevelt friendship and concludes that it rested on flimsy ground. He also places Taft in a progressive context, taking Taft's own self-description as “a believer in progressive conservatism” as the starting point. At the end of his biography, Lurie concludes that this label is accurate when applied to Taft.

A professor of history emeritus and now Academic Integrity Facilitator at Rutgers University, Newark, Jonathan Lurie has been a member of the Rutgers history department since 1969. His books include *The Chicago Board of Trade, Law and the Nation*, *Arming Military Justice*, *Pursuing Military Justice*, *The Slaughterhouse Cases* (co-authored with Ronald Labbe), *Military Justice in America*, and *The Chase Court*. Lurie's fields of interest include legal history, military justice, constitutional law and history, and the eras of the Civil War and Reconstruction. The book on the Slaughterhouse cases received the Scribes award in 2003 as the best book written on law for that year. Lurie served as a Fulbright Lecturer at Uppsala University Law School in Sweden in 2005, was the Visiting Professor of Law at West Point in 1994–1995, and has lectured on several occasions at the United States Supreme Court.

Cambridge University Press
978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative
Jonathan Lurie
Frontmatter
[More information](#)

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

William Howard Taft

The Travails of a Progressive Conservative

JONATHAN LURIE

Rutgers University, Newark



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town,
Singapore, São Paulo, Delhi, Tokyo, Mexico City

Cambridge University Press

32 Avenue of the Americas, New York, NY 10013-2473, USA

www.cambridge.org

Information on this title: www.cambridge.org/9780521514217

© Jonathan Lurie 2012

This publication is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without the written
permission of Cambridge University Press.

First published 2012

Printed in the United States of America

A catalog record for this publication is available from the British Library.

Library of Congress Cataloging in Publication data

Lurie, Jonathan, 1939–

William Howard Taft: the travails of a progressive conservative / Jonathan Lurie.

p. cm.

Includes bibliographical references and index.

ISBN 978-0-521-51421-7 (hardback)

1. Taft, William H. (William Howard), 1857–1930. 2. Taft, William H. (William Howard), 1857–1930 – Political and social views.
3. United States – Politics and government – 1909–1913. 4. United States – Politics and government – 1865–1933. 5. Roosevelt, Theodore, 1858–1919.
6. Presidents – United States – Biography. I. Title.

E762.L87 2011

973.91'2092–dc22 2011007926

ISBN 978-0-521-51421-7 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs
for external or third-party Internet Web sites referred to in this publication and does not
guarantee that any content on such Web sites is, or will remain, accurate or appropriate.

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

As always, for Mac and our Family:

David and Hikari, Debbie and Jason

Dan and Katherine and our five grandchildren

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

“The defeat is by no means altogether disappointing, and I hope for a different verdict when history is written.”

W. H. Taft, November 9, 1912

“The longer I live, the more certain I am that history is greatly helped by correspondence.”

W. H. Taft, November 29, 1924

“...when one looks back upon the record and weighs it as a whole, one is brought to the conclusion that [Taft] was a President both with constructive ideas and with some real liberality of outlook...”

Rochester Times-Union, March 10, 1930

“The law was his mistress, and he adored her.”

John Welsh, March 11, 1930

Contents

<i>List of Illustrations</i>	page viii
<i>Preface</i>	ix
PART ONE THE ROAD TO THE PRESIDENCY	
1 The Early Years, 1857–1887	3
2 Judges and Justice, 1887–1900	20
3 Roosevelt and Taft in the Philippines, 1900–1904	39
4 The Unwilling Heir, 1904–1908	64
PART TWO THE PRESIDENCY	
5 President Taft: Tensions and Travail, 1909–1910	91
6 Jockeying on the Court, 1910–1911	118
7 At the Brink, 1911	138
8 The Split, 1912	153
9 Relief and Renewal, 1913–1921	174
<i>Epilogue</i>	195
<i>Bibliographical Note</i>	201
<i>Index</i>	203

Illustrations

1. The United States Supreme Court in 1890	<i>page</i> 27
2. Secretary of War William Howard Taft upon His Arrival in Manila, August 5, 1905	69
3. Secretary of War Taft in the Philippines, 1905, Shaking Hands with a Moro Datu	70
4. Cartoon from <i>Harper's Weekly</i> , October 10, 1908	81
5. Cartoon from <i>Harper's Weekly</i> , October 24, 1908	84
6. President-Elect Taft and His Daughter Helen, ca. 1908	93
7. President Taft (center), Secretary Charles Hilles (Taft's right), and Aide Archie Butt (Taft's left) Out for a Stroll, 1910	151
8. Cartoon from <i>Harper's Weekly</i> , March 9, 1912	155

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

Preface

The idea for this book came as I studied a letter from William Howard Taft decrying Woodrow Wilson's nomination of Louis Brandeis to the High Court in 1916. In the letter, Taft described himself as "a believer in progressive conservatism."¹

The term intrigued me because I had never seen Taft categorized in such a manner, least of all by himself. What did he mean? Was not "progressive conservatism" a contradiction in terms? During the several years in which I researched and wrote these chapters, it became clear to me that Taft's career confirmed the accuracy of his description, and if there is one theme that ties my chapters together, it is the way in which this contention can be demonstrated.

In this book, then, I reexamine the commonly accepted view of William Howard Taft as a hide-bound traditionalist. It might be noted that in 1916, *after* his internecine battle with his former best friend, Theodore Roosevelt, and *after* he had left the presidency – greatly relieved even as he was grievously repudiated – he described himself as noted in the opening paragraph of this Preface. The following chapters examine the relevance of such a description for a number of experiences in Taft's life and career. It is obvious that Taft did not see himself as we do today. Why is this the case?

The usual assessment of Taft is that he was a one-term loser; a conservative of narrow viewpoint; a chief executive lacking initiative, leadership, and popular appeal. It would seem that such a description invariably results when we compare Taft with both his immediate predecessor, Theodore Roosevelt, and his immediate successor, Woodrow Wilson. His era seems frozen in time on one side by the dynamism of TR, hunting, fighting, expounding, and exploring, and on the other side by the eloquence and moral imperatives (sometimes accompanied by effective leadership) of Wilson. In between them is William Howard Taft.

¹ William Howard Taft to Gustave Karger, January 31, 1916, Taft-Karger Correspondence, Mss qT1241k, Box 1, Folder 30, Cincinnati Museum Center.

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

But when one explores and evaluates Taft's career on its own, eschewing comparisons at least to some extent, a different picture emerges. His record as president is complex and varied to be sure, yet one that should discourage the use of negative adjectives that merely oversimplify. Indeed, it may be quite reasonable to view Taft as he saw himself. I propose to do just that here, and in so doing, we may be able to restore some historical relevance toward understanding our past, and in particular the Progressive Era. If ever a historical portrait needed a variety of colors, shadings, and conclusions to give it relevance, it would be one of William Howard Taft.

In the first two decades of the twentieth century, three Americans occupied the White House: Theodore Roosevelt, William Howard Taft, and Woodrow Wilson. Each of them had been brought up in an environment of material comfort, if not wealth, and paternal affection. Each had attended Ivy League schools: Harvard, Yale, and Princeton, respectively. All three went on to law school, but Roosevelt never finished, and Wilson abandoned the law early in his career, opting instead to attend graduate school. Indeed, both Roosevelt and Wilson willingly embraced politics over careers in law and academe. In contrast, as either an administrator or a jurist, Taft lived happily within the law, loved its constraints and sense of order, and relinquished it with deep regret to enter what he regarded a maelstrom of politics. To him, this represented an alien world. Finding total fulfillment as a judge, content as an administrator, and willing to serve as a competent and devoted subordinate to one he respected and admired, Taft had no interest or aptitude for politics, and characteristically, as will be seen, conceded that fact.

These three contemporaries were born in consecutive years – 1856, 1857, and 1858 – and their careers intersected at various times throughout their lives with a fascinating mixture of hubris, envy, affection, respect, regret, and even bitter hatred. Each left lasting imprints on his country – Roosevelt as a dynamic president; Taft as both an innovator in executive administration, and possibly more as chief justice of the United States than as president (he remains the *only* American in history to have been both president and chief justice); Wilson, the college president (he remains the *only* president with an earned Ph.D.) as a reform governor, progressive president, and ultimate architect of the dual tragedies concerning education reform at Princeton and American participation in the League of Nations. Interest in Roosevelt and Wilson, long regarded by historians as two of our more distinguished presidents, has eclipsed that in Taft. Indeed, these two remain the subjects of a vast and ongoing body of scholarship.

Objective analysis and evaluation of Taft's career, however, have not been as frequent. Serving only a single term, sandwiched between Roosevelt and Wilson, Taft has invariably been dismissed as the stale filling separating two fresh and energetic chief executives. An example is the comment of Mark Carnes, who wrote that "Taft will never be regarded as a great president or even a good one, but perhaps some day his obesity may cease to be his

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)*Preface*

xi

legacy.”² Such an assessment, while understandable, is both unwarranted and lacking in historical perception. Unfortunately, in the wake of a generation of progressive historiography, it has been the norm. Perhaps, however, a different view of Taft is emerging. See, for example, two recent books.³

Seen in the context of his adult life, which began at the height of the Gilded Age and ended on the eve of the New Deal, Taft’s years included the American triumphs and tensions of industrial expansion; imperialism; cycles of growth and recession; the conflicts out of which emerged the Progressive Era; American involvement in World War I; currents of legal reform; and expansion of the modern administrative state. Sometimes as a participant, sometimes as a critic, always as an observer, Taft lived through it all. The scope of his numerous “careers” remains remarkable: trial judge, solicitor general, circuit judge, president of the Philippine Commission, secretary of war, president of the United States, professor of law at Yale (he disclaimed interest in the presidency of the university), and chief justice of the United States. Many of the issues that interested Taft continue to trouble us today, and a study of how he conceived and confronted some of them can be of value as we continue to do the same.

There is another reason why Taft as president warrants attention. In large measure, he owed his presidency to TR. No other Chief Executive labored so much in the shadow of his predecessor as did Taft, and no president has ever been the subject of such strenuous efforts by his predecessor to reclaim his office. Indeed, Taft is unique in this regard, and American history can furnish no similar examples. It is true that some presidents have cast large shadows over their successors. Andrew Jackson and Martin Van Buren immediately come to mind. But Jackson retired to Tennessee, and unlike Taft, Van Buren was a masterful politician.

Harry Truman succeeded to the presidency barely three months into Franklin Roosevelt’s fourth term. Yet, in 1945, there was little left of FDR’s influence in Congress, and Truman was very much at home in domestic politics. For Taft, the image of TR – whether away hunting big game in Africa or welcoming Republican malcontents to his home in Oyster Bay, New York – was a constant, looming presence in his presidency from beginning to end. By 1911, the presence seemed to portend travail and conflict.⁴

² James McPherson, ed., *To the Best of My Ability* (New York: DK Publishing Co., 2004), 194.

³ Morton Keller’s analysis of political history, *America’s Three Regimes* (New York: Oxford University Press, 2007), 182. “Taft in his way was a Progressive president, surpassing TR in antitrust suits and subscribing to an administrative more than political model of the presidency.” I agree more with Keller than with Carnes. See also Lewis Gould, *The William Howard Taft Presidency* (Lawrence: University Press of Kansas, 2009), xiii. “...Taft was a competent chief executive who...had kept the nation out of war, presided over a prosperous economy, and observed the constitutional limits of his office.”

⁴ One interested observer of Taft’s administration was young Felix Frankfurter, working as an assistant to Henry Stimson, Taft’s secretary of war. Writing in 1911 that an acquaintance had called Taft “the Van Buren of his party,” Frankfurter found this “a most memorable comparison.” “Like Van Buren he was the choice and nominee of his predecessor and hardly any man can

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

Widely admired in his day for his integrity and strong sense of morality, Taft seems to have set a standard for personal conduct that later presidents have had, to put it mildly, some difficulty in attaining. It is all the more surprising therefore, that in our era, wherein conservative and conservatism are now considered common concepts widely used, Taft is a neglected figure. Somehow, the “progressive conservatism” of his day no longer resonates with conservatives in our time. Perhaps this is because what was called conservatism in 1910 might not be so labeled in 2012. In these chapters, I explain why this might be so. Yet I do not try to rejuvenate as much as to reconsider certain aspects of Taft’s career. Though not intended as a vindication, in several instances this is a revisionist study.

First, I reexamine the relationship between Taft and Theodore Roosevelt with some care, and I shed fresh light on the rupture between them, so significant after 1910. I look anew at this relationship, which started in the late 1880s, and argue that while it was an association built on real respect and friendship, it was always replete with viable and palpable family tensions. Further, contrary to more traditional accounts, it posits that this break was inevitable, with the seeds of conflict and misunderstanding sown during Roosevelt’s second term in office, well before Taft occupied the White House. Traditional accounts place the origins of the rupture somewhere in the first half of Taft’s term as Chief Executive. Understanding how Taft worked with TR between 1901 and 1909 makes it easier to comprehend the collapse of the relationship after 1910. Further, in this study I explain the subtle but still fundamental incompatibility between the two friends as politicians, observers, and in Taft’s case, a loyal subordinate.⁵ At bottom, the two were so different in outlook that each failed to see it in the other until it was too late. Similarities in viewpoint abounded between 1904 and 1911, but there is, as both men would discover, a big difference between loyal implementation and execution of policy as a cabinet member, and the articulation of proposals as a Chief Executive.

Second, I view Taft both in his presidential years and thereafter as separate from Roosevelt, whom he followed, and Wilson, who defeated Taft for reelection four years later. Invariably, in any comparison between the dynamic, ebullient, politically astute TR and the phlegmatic, deliberative, methodical, judicious Taft, the latter suffers because of the nature of the comparison. Especially when compared with earlier presidents such as McKinley or Cleveland, Roosevelt is regarded as our first “progressive” president. And, in fact, he made effective use of a “bully pulpit” as had no other president before him. But progressivism remains a difficult topic to understand, a movement

satisfy such a role – on the one hand either avoid slavish devotion and thus loss of self-respect[,] or condemnation through departure from his predecessor’s policy.” Joseph P. Lash, *From the Diaries of Felix Frankfurter* (New York: W. W. Norton & Co., 1975), 104–105.

⁵ It might be noted that one reason why the TR–Taft friendship ruptured was that it had never been as deep as both men liked to claim. When, in 1912, the break between Taft and TR became open and bitter, Taft stated almost in tears that “Roosevelt was my closest friend.” In reality, such had never been the case. Nostalgia colored Taft’s recollection.

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)*Preface*

xiii

replete with contradictions and inconsistencies. While no single definition of it has emerged, certain key progressive values in vogue by Taft's election in 1908 can be identified:

1. Belief in the continuing relevance of the public interest, as well as the necessity for and the legitimacy of increased governmental activity beyond traditional laissez-faire limitations.
2. Rethinking and reducing the protective tariff.
3. Expanding the size and strength of federal antitrust litigation.
4. Emphasis on efficiency and modernization concerning the growth of the federal establishment.
5. Concern with issues of conservation.

By every standard measure of progressive regulation, Taft appears to have exceeded the record set by his predecessors. Indeed, in terms of the traditional measures of progressive reform just noted, Taft topped the accomplishments of Roosevelt. Thus the question arises as to why Taft, whose progressive record is clear, is dismissed as one whose participation in progressivism supposedly reflected failure rather than success. Why, in other words, when twentieth-century historiography has been dominated by muckraking and the progressive tradition, is one of the seemingly progressive presidents ignored as irrelevant? The answer may lie in our historical disinclination to consider the relevance of Taft's "progressive conservatism" for his career.

Finally, although intended neither as a new biography nor as a detailed study of Taft's presidency, this book reexamines certain events in his tenure that can explain his self-description, emphasized earlier. I will argue that Taft brought administrative expertise to the position, sorely lacking in his predecessors. Like other progressives, he respected expertise, especially when it came from the university, and more than any other Chief Executive before him, Taft modernized the presidency. But at a time when the Republican Party was split in an internecine struggle that, as it turned out, neither Roosevelt nor Taft was capable of solving, his efforts were unappreciated and, depending on one's viewpoint, unwelcome. In politics, timing is essential, and it may well be that Taft was at the wrong place in the wrong time. Certainly he never sought the office he won, nor did he find fulfillment in it, as had Roosevelt. The reasons for these facts may explain how not only the public but also Taft himself perceived his presidency.

The leading biography of Taft is that by Henry Pringle, published in 1939, and authorized by Taft's heirs. Pringle's book was the first based on virtually unrestricted access to Taft's papers. His two volumes reveal a subtle bias against Taft, which did not go unnoticed by his children. An unabashed supporter of Franklin Roosevelt's, Pringle wrote and researched his study between 1933 and 1939, and thus he observed the remnants of Taft's Supreme Court in action against the New Deal. He had no difficulty in labeling Taft as a militant conservative, one who died before the New Deal came to life.

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)

In many essentials, Pringle's volumes remain the starting point for assessing and understanding Taft. It is in this sense that they have been used here. In addition to Pringle's copied excerpts from the Taft Papers, a number of manuscript sources – some not available to him – have been very significant for this book. Most important is the Morison and Blum edition of the Roosevelt Letters, which contains a great many excerpts from TR to Taft. Further, they include many significant references to Taft, especially after 1910. The letters to Taft reveal Roosevelt as a young, nervous office-seeker; Roosevelt as a frustrated governor and vice president, convinced that there is little in the future for him; Roosevelt suddenly catapulted into the presidency as the youngest chief executive thus far in our history; and Roosevelt's offering Taft appointments, encouragement, fulsome praise, and advice (sometimes critical), as well as numerous instructions. After 1910, TR's letters about Taft reflect regret, disdain, and increasing contempt.

I have consulted the correspondence between Taft and his three children, as well as the large number of letters from and about Taft in the Mabel Boardman Papers. Boardman, an old Taft family friend, remained an important member of the Republican establishment in Washington throughout the Roosevelt and Taft eras. I have also examined a series of extremely candid letters between a newspaper correspondent, Gustave Karger, whom Taft had hoped would write his "authorized" biography, and the former president. Finally, I have looked anew at various papers of Taft's contemporaries.

These sources, as well as several recent analyses of Taft that have been published since Pringle's day, make it possible to reconsider Taft's career. My chapters freely draw on his own observations and insights, faulty though some turned out to be. But they do not form a biography of the man as much as they seek to explore the reasons for his successes as well as his failures. Taft was often candid, sometimes too candid – and this coming from a very prolific correspondent. Frequently I have let Taft speak for himself, and if these chapters tend in some measure to be critical of him, nevertheless I have acquired a lasting sense of sympathy for his failures – all the more so as they seem to have eclipsed his real accomplishments. In spite of them, a sense of hubris hangs over his single term. Because the presidency is a political institution, and our greatest presidents have understood this, sound political instincts are the sine qua non for success in the office. Taft totally lacked such instincts, having succeeded so well as an administrator or jurist precisely because in these fields – to a great extent – they were unnecessary. In reality, however, the cards were stacked against him well before he occupied the White House. One suspects that he may have sensed this truth, and these chapters seek to explain why this is so.

ACKNOWLEDGMENTS

I wish to acknowledge, first, the kindness of Melvin Urofsky, who from the early origins of this study provided counsel, criticism, and encouragement. He

Cambridge University Press

978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative

Jonathan Lurie

Frontmatter

[More information](#)*Preface*

xv

read every chapter, some more than once, and while he may still disagree with a few of my conclusions, I know the book is much improved because of his efforts. Professor Lewis Gould, the most distinguished expert on the Taft era, kindly permitted me to read two of his manuscripts prior to publication. Yale Law School Dean Robert Post, himself at work on what will be the definitive study of the Taft Court, visited with me in the early stages of my research. Jeff Flannery and Gerard Gawalt, both of the Library of Congress Manuscripts Division, went out of their way – as they do so often for so many researchers – to assist me, and Dr. Gawalt alerted me to the small trove of letters from Taft to his daughter Helen.

Cameron J. Wood, History Curator of the Ohio Historical Society, kindly sent me some important material on the Superior Court of Ohio. Lewis J. Paper permitted me to examine his papers, housed in the Special Collections Department at Harvard Law School. In its original form, my study was intended as a volume in the Library of American Biography Series, but when it had expanded in scope far beyond the appropriate length for such a book, General Editor Michael Boezi generously released me from my contractual obligations so that I could work with Lew Bateman, Senior Political Science and History Editor at Cambridge University Press.

In addition to Lew Bateman, who gave me consistent encouragement throughout the project, others at Cambridge have been more than helpful. I am very grateful to Anne Lovering Rounds and Marc Anderson for their guidance concerning illustrations and permissions. A special word of acknowledgment goes to Ronald Cohen, a superb editor whose counsel and suggestions have helped me construct the book I hoped I could write.

I am especially indebted to Harvard University Press for its kindness concerning citations from the Roosevelt Letters. All excerpts cited and quoted therefrom are reprinted by permission of the Press from *The Letters of Theodore Roosevelt*; Volumes II–VIII, selected and edited by Elting E. Morison, Cambridge, MA: Harvard University Press, copyright 1951, 1952, 1954 by the President and Fellows of Harvard College, copyright renewed 1979, 1980, 1982 by Elting Elmore Morison. I am grateful to Christine Engels, Archives Manager of the Cincinnati Museum Center, for permitting me to examine, cite, and quote from the Taft–Karger Correspondence, as well as from multiple copies of Taft’s letters to his wife. I would also like to thank The H. F. Woods Camp Trustees and HarpWeek LLC for kindly granting me permission to use the following material: H. F. Woods Camp Trustees for Figures 2 and 3 and HarpWeek LLC for Figures 4, 5, and 8.

While my deep gratitude goes to all these individuals, all responsibility for any remaining errors is mine. Finally, a special word of affectionate gratitude must be said to Mac, who for forty-two years has read, critiqued, and improved every piece I have produced. Her constructive influence can be seen on every page of this book.

Cambridge University Press
978-0-521-51421-7 - William Howard Taft: The Travails of a Progressive Conservative
Jonathan Lurie
Frontmatter
[More information](#)
