


their common problems. Instead, local boundaries restrict the scope of participation and tend to limit residents' concerns to their immediate city or town, making it more difficult for them to recognize and act on areas of shared regional interest and interdependence.

Although localism is used by its proponents to push for decentralization, in the metropolitan areas where most Americans live, the very values that drive localism—efficiency, community, democracy—require new regional processes, structures, and organizations that can promote popular participation and decision-making on behalf of the interests of the region as a whole. In other words, regionalism ought to be the localism for our metropolitan areas.

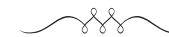
To be sure, this need not and should not require massive, consolidated metropolitan area governments. Small local governments must continue to play a key role in addressing the immediate problems, providing the services, and making the decisions that affect people closest to home. Indeed, there is much to be said for the argument that larger cities should create smaller units empowered to address neighborhood-level problems. Moreover, the entrenched power of localism makes it extremely unlikely that existing cities and towns will be supplanted or displaced. What we need is a mixed strategy that supplements existing local governments with new state laws and regional institutions that check the regional effects of local actions, promote greater fiscal equity within regions, provide a setting for public participation in regional decision-making, and create politically accountable structures for implementing regional programs.

Indeed, with this approach to regional governance as a model, our thinking about the state–local dichotomy at the heart of local government law ought to change. Rather than viewing the state–local relationship as a conflict between state power and local autonomy, we need to combine elements of both. We must strive to develop legal doctrines and governmental structures that promote local initiative, participation, and voice, with state programs that promote interlocal equity, ameliorate local parochialism, and monitor and control the external effects of local actions. Such a pragmatic integration of state and local concerns would be more appropriate than a general normative commitment either to localism or state control. 

That Guy Thinks He's Roscoe Pound

CHRISTINA DUFFY BURNETT

Associate Professor of Law



"ESE TIPO SE CRÉE QUE ES ROSCOE POUND," MY GRANDMOTHER DECLARED INDIGNANTLY. "That guy thinks he's Roscoe Pound." After a pause, she grinned mischievously and looked at me. "*Pero dime,*" she went on, stirring a pot of beef stew on the stove: "*¿Quién es Roscoe Pound?*" And she started to laugh. "But tell me: Who is Roscoe Pound?" Really, there was no reason an elderly lady from Utuado should know.

"You tell me," I replied. "Who do *you* think Roscoe Pound is?"

"*Alguien importante,*" she called out as she disappeared into the dining room carrying a platter of rice and beans. "*Eso sí lo sé.*" "Someone important. That much I know."

My grandmother, Gloria Paula Flores Amy (ah-MEE), was born in Puerto Rico in 1919 and lived there her entire life. She attended the University of Puerto Rico and obtained a degree in home economics, which she then taught until she started having children. She gave birth to two, a son and a daughter (my mother), and she stayed home to raise them.

It stands to reason that Doña Gloria (*Abuelita* to me) had heard about Roscoe Pound from her husband, Francisco Ponsa Feliú, a practicing lawyer and law professor at the University of Puerto Rico. My grandfather taught evidence, civil procedure, and federal jurisdiction, in addition to maintaining

a private practice. He was a demanding man, who scheduled his lectures at 7:00 a.m. and graded with notorious severity. At his funeral, more than one lawyer approached me to say, proudly, that he had taken a course with Professor Ponsa and earned a C.

I myself never had a chance to hear him talk about Pound: although we were very close (so close that “close” isn’t really the right word), and although he lived until I was several years out of college, it took me several years more to decide that I was interested in the law. And my grandfather was not one to talk about his work at home (opera recordings, not legal tomes, lined the shelves of his leather and mahogany library), so the father of sociological jurisprudence never came up.

The study of law has been, in this sense, an education in everything I could have shared with my grandfather but never did. In an effort to get to know this side of him posthumously, I decided some years ago to search for his writings (which no one in the family seemed to have). Several Puerto Rican law journals were not available online, but I found a list of my grandfather’s publications in the grandiosely titled *Bibliotheca Legum Portoricensis*.¹ (Why not *Biblioteca Puertorriqueña de Derecho*, I wondered? But it’s obvious, even if it’s silly.)

It turned out that my grandfather had published a number of articles before his law practice and government service overtook his scholarly career. Several of them addressed the status of Puerto Rico in relation to the United States—a topic that has commanded the attention of many a Puerto Rican lawyer, myself included. Another discussed *Minersville v. Gobitis*, the 1940 Supreme Court case holding that Jehovah’s Witnesses (in this case, two schoolchildren) could be forced to salute the United States flag against their will—a decision overruled three years later by *West Virginia State Board of Education v. Barnette*.²

My grandfather took sides with the *Gobitis* dissent. I found his argument convincing, but what caught my eye was something else.

The article, in Spanish (like the others), began with a straightforward account of the facts. It quoted the Pledge of Allegiance in English, unsurprisingly. The description of the case continued, and then my grandfather quoted the three biblical commandments at issue in the litigation. In English.

In English?

I put the article down and rubbed my eyes. Why “Thou shalt have no other gods before me”? I wondered. Why not “*No tendrás dioses ajenos delante de mi*”? But it’s obvious, even if it’s silly.

I could explain it away by arguing (to myself) that it made sense for all of the quotations in the article to appear in English because the case had been litigated in English. But several pages later, he cited the court’s holding in Spanish, offering his own translation. Maybe, I thought, he quoted the Bible in English because the schoolchildren in the case would have read it in English.

Maybe. But I couldn’t shake the feeling that the explanation lay in something more troubling: that somehow, here, English had become the language of authority (of God?), and Spanish had been relegated to a subsidiary role.

For as long as I could remember, I had thought of Puerto Rico as a colony of the United States. In my family, as in many Puerto Rican families, that was the central fact of political existence. But I had never really thought of us as colonial subjects. I had certainly never thought of my grandfather as a colonial subject. In my family, we spoke of Puerto Rico’s condition with defiant pride: We were U.S. citizens denied the right to vote, and we would always demand and deserve equality. Colonial subjecthood was not what we talked about, or should I say, not how we talked about it.

But suddenly, turning the pages of the *Revista de Derecho, Legislación y Jurisprudencia*, I found myself thinking in these terms. A sad specter rose from the page. I stared at the passage from Exodus in English, set off in a block quote from the surrounding text, a stream of words in Spanish.

My grandfather had been dead for some years when my grandmother suddenly blurted out that Roscoe Pound line. Hearing her say it, I remembered his article, and I found myself taking great, perverse pleasure in the thought that she didn’t know who Roscoe Pound was. Just some guy, I wanted to tell her, with a fancy job at a fancy university far away from here, San Juan, the center of everything. ❧

ENDNOTES

1. José Nilo Dávila Lanausse, *Bibliotheca Legum Portoricensis* (1962).
2. Francisco Ponsa Feliú, Aspectos Jurídicos del Problema del Status Político, 8 *Revista de Derecho, Legislación y Jurisprudencia* 173 (1945); Francisco Ponsa Feliú, El Saludo Obligatorio a la Bandera Americana, 5 *Revista de Derecho, Legislación y Jurisprudencia* 184 (1940) (discussing *Minersville v. Gobitis*, 310 U.S. 586 (1940), overruled by *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943)); Francisco Ponsa Feliú, Status Constitucional de los Territorios de Estados Unidos, 8 *Rev. Jur. U.P.R.* 275 (1939); Francisco Ponsa Feliú, Territorio Bajo Jurisdicción Federal, 7 *Revista de Derecho, Legislación y Jurisprudencia* 165 (1944).

© Christina Duffy Burnett