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When Statehood Was Autonomy

Christina Duffy Ponsa*

Over the past fifteen years, the Insular Cases of 1901 have been on a transformative journey. Once marginal judicial decisions that virtually no US constitutional scholar had ever heard of, they have come to be recognized as a watershed event in the constitutional history of American empire and as central doctrinal precedents in the US Supreme Court's jurisprudence on extraterritoriality and the war on terror. Nearly invisible for a century after they were handed down, the Insular Cases found their way into mainstream US constitutional scholarship as a result of the resurgence in interest in US empire that occurred in 1998—one hundred years after the United States annexed Puerto Rico, the Philippines, and Guam in the wake of the Spanish-American War. At the time, the annexation of these islands gave rise to a national debate over whether the United States could annex and govern the new “colonies” with a freer hand than it had used with previously acquired territories, and without eventually admitting them into statehood.

The Insular Cases answered both questions in the affirmative: holding that the newly annexed islands “belonged” to the United States but were not “a part of” it, the Supreme Court explained that fewer constitutional protections applied in the new territories and that a decision on their ultimate political fate could be indefinitely postponed. The islands came to be known as “unincorporated” because—as the court explained in the process of constitutionalizing their new status—they had not been fully “incorporated”

* I am grateful to Judge José A. Cabranes, Josep M. Fradera Barceló, Jody S. Kraus, Efrén Rivera Ramos, and the editors of this volume for their comments on earlier drafts of this chapter. A substantially longer, still-in-progress version of this piece has benefited from the feedback of many others recognized therein. All translations are my own.

into the United States. They were, in the court's memorable formulation, "foreign to the United States in a domestic sense."¹ The court thus relegated the unincorporated territories to an unprecedented status: confusing and ambiguous; constitutionally inferior to that of the United States' nineteenth-century territories; and denied even the implicit promise of statehood that earlier territories had always apparently enjoyed.

The Insular Cases left unanswered foundational questions of constitutional and national identity: Would Puerto Rico be independent? Would it be a state? Were its people US citizens as a result of the island's annexation by the United States? If not, would they ever be? If so, why weren't they on a path to statehood? Where, instead, were they headed? The Supreme Court's failure to answer these questions left Washington with unprecedented power to decide the fate of the United States' annexed territories. The court thus gave its imprimatur to policies devised by the US government with a view toward facilitating the United States' assertion of sovereignty and control over places and people it was not ready or willing to admit on a footing of equality into the Union.

The Insular Cases did their work, however, not merely by giving constitutional content and legitimacy to a novel category of second-class, "unincorporated" US territories. Equally importantly, they rendered these territories essentially invisible. The territories became, that is, doubly marginal: neither fully "domestic" nor fully "foreign," and devoid of both voting representation in the federal government and independent status on the international stage, they were at the top of nobody's agenda, and stripped of the power to set their own. Even more than formal legal subordination, it was their relative invisibility that trapped these places and their people in a second-class status with an uncertain future.

The Philippines briefly enjoyed a resurgence of attention when it came time in 1946 for its independence. But for Puerto Rico, a small island for which neither independence nor statehood had been taken seriously in Washington, invisibility remained a central feature of its daily political reality. Whereas the debate about what to do with Spain's former colonies had occupied the attention of officials at the highest levels of government during the brief period immediately surrounding the events of 1898, once it had been settled that Puerto Ricans remained subject to US sovereignty but without any promise of statehood, they quickly receded from the national view and, soon thereafter, from national memory.

It comes as little surprise, then, that the Insular Cases themselves were soon forgotten. As Sanford Levinson put it in an essay about their place in

1 Downes v. Bidwell, 182 U.S. 244, 341-42 (1901).

the canon of constitutional law, until the centenary of 1898, it was not at all embarrassing for a US constitutional scholar to admit that she had never even heard of the Insular Cases, much less read or taught or written about them.² One of the main aims of those who study the Insular Cases has therefore been, simply, to recover what was lost: to introduce constitutional lawyers and scholars to these decisions and to explain their significance for major issues of constitutional law and scholarship. As this volume attests, it is a project that has been notably successful.

Puerto Ricans, however, have never forgotten the events of 1898, so the renewed attention on the Insular Cases over the past two decades has not really been aimed at them. In Puerto Rico, the Insular Cases have always been part of the canon of constitutional law, and people have been reminded daily that their political fate remains unresolved. Yet even in Puerto Rico, there remains work to be done to achieve a better understanding of this critical turning point in our history.

The aim of this chapter is to contribute to that understanding by reexamining a brief but significant moment in the entwined histories of Puerto Rico and the United States. The moment in question is the nearly two-year period following Puerto Rico's annexation, during which there existed virtually unanimous support among the island's political leaders for Puerto Rico's admission into the United States as a state of the Union. This immediate and enthusiastic embrace of statehood has long struck Puerto Rican historians as puzzling, to say the least.³ Mere months before the island's annexation,

2 Sanford Levinson, "Installing the *Insular Cases* into the Canon of Constitutional Law," in *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*, ed. Christina Duffy Burnett and Burke Marshall (Durham, NC: Duke University Press, 2001), 123.

3 See, e.g., Fernando Picó, *1898: La guerra después de la guerra*, 2nd ed. (Río Piedras: Ediciones Huracán, 1998). After describing the switch in allegiance by the political elite of the town of Utuado from loyalty toward Spain to loyalty toward the United States, Picó wonders, "What is the historian to make of [this change of heart]? What could the Utuado elite be thinking, spilling patriotic prose in defense of Spanish territory in June and with the same fervor proclaiming adherence to the stars and stripes in August?" *Ibid.*, 75. Rejecting the "simple reading" (which Picó describes as follows: "1) They were honest in June and hypocrites in August; 2) They were hypocrites in June and honest in August; 3) They were not honest in June or August; 4) They were honest in June and in August"), Picó offers the more subtle explanation that a range of interests brought together various segments of society—"young professionals educated in the United States and Europe, creole merchants and landowners most impatient with the [existing] political regime, and those popular classes in labor and social conflicts with managerial classes, [all of whom] had their own reasons for desiring political change"—in support of US

Puerto Ricans had been Spaniards, both in the legal sense (as subjects of the Spanish monarchy) and in terms of national identity. Unlike Cuba, which had been fighting for its independence for years, Puerto Rico had never produced an independence movement with realistic prospects of success.⁴ Instead, for many decades Puerto Ricans had been struggling to obtain “autonomy” within Spain’s constitutional framework. Puerto Rico’s “autonomists” (*autonomistas*) wished for greater local self-government for the island, but as an integral part of the Spanish empire. Their motto was “the maximum decentralization compatible with national unity”—and the “nation” in question was Spain.

How, then, did Puerto Ricans switch allegiances so quickly? How could they transform themselves essentially overnight from loyal Spanish subjects into aspiring American citizens? Not only did Spain’s withdrawal from the island fail to unleash an independence movement—it did the opposite, giving rise to a movement for US statehood. If Puerto Ricans were so ready to abandon their Spanish loyalties, why did they not embrace Puerto Rican nationality and independence? Why instead did they welcome the island’s annexation into a foreign empire?

To understand what motivates these questions, imagine a spectrum on which one could align and match up ethnic identities and political statuses. On one end of the spectrum, Puerto Ricans would be a formal part of the Spanish empire, and authentically Spanish. On the other, they would be a formal part of the US empire, and authentically American. In between, we would find an independent Puerto Rico peopled by authentic Puerto Ricans. Reflecting this understanding, Puerto Rican intellectuals have long distinguished between “autonomy” and “statehood” as if the two were distinct

sovereignty. *Ibid.*, 78. But that Picó finds the switch in allegiance puzzling cannot be denied—and he is not alone. Some historians have treated it as an embarrassing detour in what should have been a trajectory from Spanish colonialism to Puerto Rican national self-determination and independence. See, e.g., Eda Milagros Burgos-Malavé, *Génesis y praxis de la Carta Autonómica de 1897 en Puerto Rico* (San Juan: Centro de Estudios Avanzados de Puerto Rico y el Caribe, 1997), 305; Arturo Morales Carrión, *Puerto Rico: A Political and Cultural History* (New York: W. W. Norton, 1983), 140; Carmelo Rosario Natal, *Puerto Rico y la crisis de la guerra hispanoamericana (1895-1898)* (San Juan: Editorial Edil, 1989), 247-57. Others have offered less critical readings. See, e.g., Efrén Rivera Ramos, *The Legal Construction of Identity: The Judicial and Social Legacy of American Colonialism in Puerto Rico* (Washington, DC: American Psychological Association, 2001), 54; Ángel G. Quintero Rivera, *Patricios y plebeyos: Burgueses, hacendados, artesanos, y obreros; Las relaciones de clase en el Puerto Rico de cambio de siglo* (Río Piedras: Ediciones Huracán, 1988), 81-82 n.136.

4 It came closest in the Grito de Lares, an armed insurrection in 1868 that was quickly suppressed by Spain. See, e.g., Laird W. Bergad, “Toward Puerto Rico’s Grito de Lares: Coffee, Social Stratification, and Class Conflicts, 1828-1868,” *Hispanic American Historical Review* 60 (1980): 617-42.

and opposed constitutional alternatives suitable only for distinct and opposed ethnic identities—Spanish on the one hand, American on the other.⁵ To make a transition from being Spanish to being Puerto Rican would be to make a natural transition, in terms of both formal political status and ethnic identity—self-respecting Spaniards born and raised in Puerto Rico may naturally come to see themselves as politically distinct descendants of Spain with a shared Spanish heritage. But to make a transition from being Spanish to being American—the transition Puerto Rico’s autonomists seem to have tried to make in the wake of annexation—would be to make an unnatural transition, bypassing the possibility of achieving political independence and, with it, the culmination of Puerto Rican ethnic identity.

Whatever else one might say about this teleological way of thinking about the relationship between ethnic identities and formal political statuses, one can say this much: Puerto Rico’s late nineteenth-century autonomists did not share it. The warm reception given by Puerto Rican autonomists to the United States in the period immediately following annexation cannot be explained away by dismissing it, as some have done, as an episode of temporary insanity among Spaniards who, under the circumstances, should have sought independence, or by tarring them as wannabe-Americans who sold out their own ethnic identity to a new and foreign empire, exposing a shocking lack of self-respect and pride in their distinct Spanish heritage. To do so is to indulge in a Puerto Rican version of the fallacy of the “great aberration,” the historical interpretation according to which the United States’ imperial adventures in the period surrounding 1898 were an unnatural departure from the past and a betrayal of true American constitutional principles. US historians have long ceased to think of 1898 this way, challenging the exceptionalist narratives that portray the events of the turn of the twentieth century as a deviation. Instead, they have revealed the continuities between the United States’ imperial venture in 1898 and the century of continental expansion that preceded it, concluding that the turn of the century, while certainly a watershed constitutional moment in the history of US empire, was no deviation. An analogous account, however, has found adherents among those Puerto Rican intellectuals who see support for Puerto Rican statehood in the wake of annexation (and ever since) as its own “great aberration.” According to this understanding, statehood represents an unnatural departure from the past and a betrayal of true Puerto Ricanness; to embrace it is to stray from the natural course of things.

In this chapter, I offer an alternative explanation for the autonomists’ ready embrace of statehood following the island’s annexation. Drawing on Puerto Rico’s nineteenth-century constitutional history, I argue that the

5 But see, e.g., Gervasio Luis García, *Armar la historia: La tesis en la región transparente y otros ensayos* (Río Piedras: Ediciones Huracán, 1989), 98-99.

autonomists became supporters of Puerto Rico's admission into the Union immediately following the island's annexation because statehood was, quite simply, a highly desirable version of the political status they had been seeking from Spain for decades. Far from an unnatural departure from their Spanish heritage or a betrayal of their authentic ethnic identity as Puerto Ricans, to Puerto Rico's nineteenth-century autonomists, statehood *was* autonomy.

Today, statehood is seen by its opponents as anathema to Puerto Rican identity: if Puerto Rico were to become a state, they argue, Puerto Ricans would lose their culture, their language, their traditions. But the autonomists of the nineteenth century embraced a more fluid understanding of the relationship between sovereignty, territory, boundaries, and national identity than the one that subsequently prevailed and remains dominant to this day. They did not see their ethnic identity as an obstacle to statehood, or statehood as a threat to their ethnic identity, because they did not rigidly insist on a correspondence between ethnic identity, political status, and geographical boundaries. Instead, they believed they could become Americans without forfeiting or subordinating their distinct ethnic identity as Puerto Ricans—a belief arising out of a thoughtful engagement with the question of what relationship political status and ethnic identity should have. As stated in an autonomist newspaper on the eve of the US invasion, “because being Spanish is inherent in us, any kind of autonomy that is conceded to us cannot alter that condition.”⁶ “Postnational” long before that idea came into vogue, the autonomists saw the abandonment of their Puerto Ricanness as neither a prerequisite for nor a consequence of Puerto Rico's admission into statehood.

To be sure, their vision turned out to be overly optimistic. A more rigid understanding of the relationship between ethnic identity, political status, and geographical boundaries prevailed in the United States, where the idea of a Puerto Rican state of the Union turned out to be unthinkable, in large measure because of precisely the ethnic identity that the autonomists had wrongly believed would not stand in the way of statehood. They had underestimated the popularity of ideas of white Anglo-Saxon supremacy in the United States and the degree to which these ideas would shape US policies toward the new territories.

These developments proved bitterly disappointing in Puerto Rico. The autonomist consensus in favor of statehood fell apart; in its place emerged several coalitions embodying different reactions to the disappointment. One group would continue to pursue the goal of statehood but with an enthusiastically pro-American rhetoric that it hoped would lead the United

6 *El País*, Nov. 3, 1897.

States to offer statehood to Puerto Rico. Members of this group ceased to be viewed as autonomists, instead becoming known as “statehooders,” or *estadistas*. Another group reacted by adopting a view that, in a sense, mirrored the view that had prevailed in the United States: in order for Puerto Rico to become a state of the Union, Puerto Ricans would have to cease being Puerto Rican. Among this group, some withdrew their support for statehood entirely, casting their lot with independence. Others, however, eventually embraced a third way: the idea that Puerto Rico should be neither a state nor independent, but should instead have a political status suited to its unique history, circumstances, and ethnic identity. Claiming the mantle of “autonomy,” these latter-day *autonomistas* took up the pursuit of a relationship to the United States that would be equal to, but different from, that of the states of the Union: today, it is known as “commonwealth” status.

Today’s *autonomistas* defend commonwealth status as the only way to achieve a sufficient degree of self-government for Puerto Rico and maintain a formal association with the United States while preserving Puerto Rican ethnic identity. Statehood, they argue, would not accomplish the same goal, because Puerto Ricans would lose their distinctive ethnic identity. Yet as I show below, the original autonomists saw no inconsistency between statehood and the preservation of their distinctive ethnic identity: in this sense, it is the statehooders who have remained true to the ideals of the late nineteenth-century autonomists.

That said, my goal is not to argue that statehooders are the “real” autonomists while commonwealth supporters are not. Rather, it is to challenge the opposite view: that commonwealth supporters are the “real” autonomists while statehooders are not. Neither group can monopolize the label and be accurate or faithful to the historical record. The view that treats commonwealth status as the sole legitimate heir to the autonomists’ vision rests on precisely the rigid association between political status and ethnic identity that the nineteenth-century autonomists rejected; it rests on an unexamined and unsustainable account of the autonomists’ views on ethnic identity. Properly understood, those views explain the autonomists’ ready embrace of statehood following annexation and reveal a conception of Puerto Rican ethnic identity as inherently secure across a wide array of political arrangements.

When the late nineteenth-century autonomists greeted their new US sovereign, they brought with them the imaginative and unorthodox vision of imperial constitutionalism they had forged in the crucible of (Spanish) empire. The Insular Cases of 1901 dealt a fatal blow to this vision, which was soon forgotten. In this chapter, I attempt to recover it.

The Elusive “Special Laws”

Puerto Rico’s quest for autonomy dates to Spain’s first experiment with a written constitution in the early nineteenth century.⁷ From 1808 to 1814, all but a corner of the Iberian Peninsula was occupied by Napoleon, who deposed and imprisoned the Spanish king, Ferdinand VII, and then installed his brother Joseph Bonaparte on the Spanish throne.⁸ For his new conquest, Napoleon provided a constitution, the Constitution of Bayonne, which was formally adopted by a constitutional assembly convened under his control and which included delegates from the Spanish-American colonies and the Philippines.⁹ The presence of delegates from Spain’s colonies at the Bayonne assembly was a sea change: the Spanish Cortes, a legislative body that by tradition met when convened by the king, had never included representatives from the colonies. Responding to Napoleon’s actions, the Spaniards who had formed a resistance government in the southern city

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- 7 This chapter focuses on Puerto Rico’s efforts at reform. For accounts focusing on analogous efforts in Cuba, see, e.g., Marta Bizcarrondo and Antonio Elorza, *Cuba/España: El dilema autonomista, 1878-1898* (Madrid: Editorial Colibrí, 2001); and Mildred de la Torre and Carmen Almodóvar Muñoz, *El autonomismo en Cuba, 1878-1898* (Havana: Editorial de Ciencias Sociales, 1997). Two helpful reviews of the literature focusing on Cuba are Antonio-Filiu Franco Pérez, “Cuba y el orden jurídico español del siglo XIX: La descentralización colonial como estrategia y táctica jurídico-política,” *Revista Electrónica de Historia Constitucional* 5 (2004): 313-24; and Antonio-Filiu Franco Pérez, “*Vae Victis!* O, la biografía política del autonomismo cubano, 1878-1898,” *Revista Electrónica de Historia Constitucional* 3 (2002): 257-79. See also Josep M. Fradera, “Why Were Spain’s Special Overseas Laws Never Enacted?,” in *Spain, Europe and the Atlantic World: Essays in Honor of John H. Elliott*, ed. Richard L. Kagan and Geoffrey Parker (Cambridge: Cambridge University Press, 1995), 334-49.
- 8 See Manuel Chust, *La cuestión nacional americana en las Cortes de Cádiz (1810-1814)* (Valencia: Centro Francisco Tomás y Valiente, 1999); Marie Laure Rieu-Millán, *Los diputados americanos en las Cortes de Cádiz: Igualdad o independencia* (Madrid: Consejo Superior de Investigaciones Científicas, 1990); María Teresa Berrueto, *La participación americana en las Cortes de Cádiz, 1810-1814* (Madrid: Centro de Estudios Constitucionales, 1986); Joaquín Varela Suanzes-Carpegna, *La teoría del estado en los orígenes del constitucionalismo hispánico* (Madrid: Centro de Estudios Constitucionales, 1983); Christina Duffy Burnett, “The American Delegates at the Cortes de Cádiz: Citizenship, Sovereignty, Nationhood” (MPhil thesis, Cambridge University, 1995).
- 9 Carlos Sanz Cid, *La Constitución de Bayona: Labor de redacción y elementos que a ella fueron aportados, según los documentos que se guardan en los Archivos Nacionales de París y los Papeles Reservados de la Biblioteca Nacional del Real Palacio de Madrid* (Madrid: Editorial Reus, 1922).

of Cádiz, Spain's last remaining stronghold, convened a competing session of the Cortes on behalf of the absent king. Desperate for all the support they could muster—and not wanting to be outdone by Napoleon—they too invited delegates from the colonies.

The “American delegates,” as they came to be known, traveled to this Cádiz Cortes bearing instructions from their respective local jurisdictions to seek governmental reforms: the unrest that would soon lead to the wars of Latin American independence was already in its early stages, and the Cádiz convention offered Spain's American subjects an opportunity to present their demands for reform to a Spanish government under siege and in need of their support. Yet upon their arrival, the American delegates realized they faced a more basic challenge: although the colonies had finally been granted representation in the Cortes, it soon became clear that the peninsular delegates would resist making it *equal* representation. Despite the roughly equal populations of Spanish domains on the peninsula and in the colonies, the Cádiz convention assigned the colonies a mere twenty-six delegates, and the peninsula over two hundred. This imbalance prompted the American delegates to demand that the Cortes formally declare the equality of the colonies. They eventually got their declaration, but only after being forced to submit to a compromise that deprived the statement of any real effect: the Cortes issued a decree describing Spain as “one, single nation” consisting of Spanish domains in both hemispheres, and declaring that the inhabitants of both hemispheres enjoyed “equal rights.” The decree limited itself to declaring equality “in principle,” expressly postponing its implementation in practice, and as a result, the number of American delegates remained a fraction of the number of peninsular delegates throughout the proceedings at Cádiz. The practice of declaring principles without then putting them into effect would become a recurring theme in Spain's treatment of the colonies throughout the nineteenth century.

The final text of the Spanish Constitution of 1812 reiterated the declaration that “[t]he Spanish Nation consists of all Spaniards in *both* hemispheres,” thus giving formal constitutional sanction to the inclusion of Spain's colonies in the drafting and adoption of this constitutional text and in the legislative body of the Cortes.¹⁰ However, the full effect of this opening declaration was yet again undermined in practice: although the 1812 Cádiz Constitution arguably “surpassed all existing representative governments” of the period by enfranchising “all men, except those of African ancestry, members of regular orders, domestic servants, convicted criminals, and public debtors, without requiring either literacy or property qualifications,” it

10 CONSTITUCIÓN DE 1812 [CONSTITUTION OF 1812], art. 1 (Spain) (emphasis added).

simultaneously defined the term “Spaniard” restrictively enough so that when it came time to allot representatives in the Cortes, the American colonies would still trail the peninsular provinces.

Spain’s first constitutional experiment proved short-lived: although the 1812 text provided for a constitutional monarchy and the delegates proclaimed their loyalty to the Spanish king, Ferdinand was not impressed. Upon his return from exile in 1814, he set out to restore the pre-constitutional status quo “as if such things had never happened,” repealing the Constitution of 1812, reestablishing his absolutist regime, and unleashing a campaign of persecution against the “liberals” who had been the main force behind a written constitution.¹¹ But Ferdinand proved incapable of holding onto both his empire and his power. By the next decade, Spain’s colonies on the Spanish-American mainland had achieved their independence, reducing Spain’s overseas empire to the islands of Cuba and Puerto Rico in the Caribbean, and the Philippines and Guam in the Pacific.

The tumultuous decades that followed saw the adoption and repeal of successive Spanish constitutions. In 1822, proponents of a written constitution secured the reinstatement of the Constitution of 1812. Yet Ferdinand’s loss of empire proved more lasting than his loss of power: the second constitutional experiment was even shorter lived than the first, and within a year, the Constitution was again repealed.

The next constitutional period came in 1837, four years after Ferdinand’s death, following a series of revolts culminating in a mutiny of the royal guard that forced Queen Regent María Cristina to reinstate the Constitution of 1812.¹² The Constitution of 1837 contained a crucial modification with respect to Spain’s remaining Antillean colonies: whereas the 1812 text had declared equality between Spanish provinces on the peninsula and Spanish colonies in the Americas (albeit only in “principle,” as noted above), the Constitution of 1837 denied the colonies representation in the Cortes; instead, a provision known as “additional article 2” stated that the “overseas provinces” would be governed by “special laws.”¹³

There were at least two reasons for the change. One was a growing sense

11 Quoted in Isabel Burdiel, “Myths of Failure, Myths of Success: New Perspectives on Nineteenth-Century Spanish Liberalism,” *Journal of Modern History* 70 (1998): 892-912, 901. Burdiel notes that the term “liberal” was first used to describe the proponents of a written constitution during the Cortes de Cádiz. See *ibid.*, 900.

12 Burdiel, “Myths of Failure, Myths of Success,” 908.

13 CONSTITUCIÓN DE 1837 [CONSTITUTION OF 1837], additional articles, art. 2 (Spain). See Carlos D’Alzina Guillermet, *Evolución y desarrollo del autonomismo puertorriqueño, siglo XIX* (San Juan: Universidad Politécnica de Puerto Rico, 1995), 36-41.

that a legal regime specific to the colonies would be necessary to maintain order there in light of the large black population, which included slaves and free blacks. Another was that the colonies were geographically distant enough from peninsular Spain that legislation affecting them should be attentive to their distinctive local needs.¹⁴

Puerto Ricans did not object to the idea of special laws per se: recall that at the Cádiz convention, they had hoped to obtain not only equality with Spanish provinces and inclusion in Spain's constitutional framework but also governmental reforms specific to the island. However, they strenuously objected to the denial of representation. Before they had learned that the new Constitution had deprived them of voting rights, Puerto Ricans had elected delegates to the Cortes on the assumption that the Constitution of 1812 was back in force; when these delegates arrived in Madrid to take their seats, they were barred from the assembly. Their arguments in protest—that the Constitution of 1837 was supposed to reinstate the Constitution of 1812 and that the 1812 text had recognized the principle of equality for the colonies—proved unavailing: they would not regain representation in the Cortes until 1869.¹⁵ They would not see any special laws, either: neither the 1837 provision nor an analogous one in the Constitution of 1845 took effect.¹⁶

The Constitution of 1869 restored representation in the Cortes for the colonies and simultaneously promised them governmental reforms in a provision with a veiled allusion to the need for a special legal regime: it stated that the Cortes would “reform the current system of government of the overseas provinces, as soon as the delegates from Cuba or Puerto Rico have taken their seats, to extend to the same, *with the modifications deemed necessary*, the rights guaranteed in the Constitution.”¹⁷ Using the term that would come to be associated with colonial calls for greater self-government—“autonomy”—one of the delegates to the convention that produced this constitutional text had argued that Spain should implement in Cuba and Puerto Rico “*a particular Constitution, an autonomy of their own*, so that

14 D'Alzina Guillermet, *Evolución y desarrollo*, 38-39.

15 Javier Alvarado, *Constitucionalismo y codificación en las provincias de Ultramar: La supervivencia del Antiguo Régimen en la España de XIX* (Madrid: Centro de Estudios Políticos y Constitucionales, 2001), 46; Christopher Schmidt-Nowara, *Empire and Anti-Slavery: Spain, Cuba, and Puerto Rico, 1833-1974* (Pittsburgh: University of Pittsburgh Press, 1999), 15.

16 CONSTITUCIÓN DE 1845 [CONSTITUTION OF 1845], art. 80 (Spain).

17 CONSTITUCIÓN DE 1869 [CONSTITUTION OF 1869], art. 108 (Spain) (emphasis added). The Philippines was treated separately: “The regime under which the Spanish colonies located in the Philippine archipelago shall be governed shall be reformed by law.” *Ibid.*, art. 109.

they may govern themselves, and not share with the rest of the country more than the national bond.”¹⁸ Nevertheless, as on previous occasions, no reforms were implemented, nor were constitutional rights actually extended to the colonies. And so it was with the Constitution of 1876: it too promised that “[t]he overseas provinces will be governed by special laws.”¹⁹ But the special laws were not forthcoming, and the wait continued.

“The Maximum Decentralization Compatible with National Unity”

Although Puerto Rico’s struggle for greater self-government spanned the decades from the Napoleonic invasion through the end of the nineteenth century, historians have designated as the “autonomist period” only the final phase of the struggle, beginning with the founding of the Partido Autonomista Puertorriqueño, or Puerto Rican Autonomist Party, in 1887.²⁰ The party’s creation (a rechristening of the Partido Liberal Reformista) took place at a gathering in Ponce on March 7-9, 1887, which came to be seen as an iconic event—the founding moment of the “autonomist period” in Puerto Rican politics. This event, known as the Ponce Assembly, was convened by the leading Puerto Rican liberal of the time, Román Baldorioty de Castro, who for years had been advocating for the party’s reorganization into an autonomist party from the pages of the newspaper *La Crónica*, and who himself came to be seen as the founding father of the Puerto Rican autonomist movement.²¹

Baldorioty, who died two years after the Ponce Assembly, had established himself as a preeminent advocate of Puerto Rico’s autonomy as early as 1870, when as a delegate to the Cortes he gave a speech calling for the enactment of the special laws promised by the Constitution of 1869.²² Despite Baldorioty’s reputation, however, the Ponce Assembly featured a contest between his vision of autonomy and an alternative vision associated with another leading advocate of autonomy for the colonies, Rafael María de Labra. A native of Cuba, Labra had moved to Spain as a child, eventually becoming a delegate in the Cortes representing Infiesto, Asturias. Both Labra and Baldorioty were

18 Quoted in Alvarado, *Constitucionalismo y codificación*, 58 (“una Constitución particular, una autonomía propia, para que se gobiernen por si mismas, y no tengan con el resto del país más lazo que el nacional”) (emphasis added).

19 CONSTITUCIÓN DE 1876 [CONSTITUTION OF 1876], art. 89 (Spain).

20 See generally, e.g., D’Alzina Guillermety, *Evolución y desarrollo*; Burgos Malavé, *Génesis y praxis*.

21 On advocacy of autonomy in *La Crónica*, see Burgos Malavé, *Génesis y praxis*, 41; and Lidio Cruz Monclova, *Baldorioty de Castro: Su vida, sus ideas* (San Juan: Instituto de Cultura Puertorriqueña, 1966), 98; but see D’Alzina Guillermety, *Evolución y desarrollo*, 121.

22 Burgos Malavé, *Génesis y praxis*, 37; Cruz Monclova, *Baldorioty*, 28.

republicans: Baldorioty made clear his view that sovereignty resided in the people, not the monarch; Labra, in turn, was active in republican circles in Spain, though he avoided joining any party, including the republican ones. But they had differences of opinion as well, and among the delegates at the Ponce Assembly, it was Labra's version of autonomy, not Baldorioty's, that prevailed.

The principal distinction between Baldorioty's and Labra's proposals concerned legislative power and representation. An admirer of the autonomy then enjoyed by Canada, Australia, and New Zealand under Great Britain, Baldorioty argued that it was "impossible to ignore the superiority of the autonomist system" in these places, and his articles in *La Crónica* repeatedly cited them as models that should guide Spain's colonial reforms.²³ Under Baldorioty's preferred Canadian-style system, the colonies would each have a *cámara insular*, or local legislature, that would exercise legislative power over local matters (although always with the caveat that such control would extend only as far as "the maximum degree compatible with Spanish unity").²⁴ Autonomy along these lines, wrote Baldorioty, "contains the maximum liberty for the colonies, and is superior to all other systems. Australia and Canada owe their progress to it."²⁵

But in Spanish politics, the line between autonomy and separatism was considered a fine one, and the suggestion that the colonies should adopt a foreign model of autonomy came too close to crossing that line. For this reason, Labra distanced himself from the Canadian model. Under Labra's preferred system, legislative power would reside in the national legislature (the Cortes), while each colony would have a *diputación provincial* exercising only administrative power over local matters. Under this form of autonomy, there would be "political identity": that is, both peninsular and overseas provinces would have equal representation in the Cortes.²⁶

Labra did allude to the example of Canadian autonomy; however, he did so merely in order to defend the ideal of autonomy against accusations of separatism. As he explained, the Canadian model was useful insofar as it offered evidence that an imperial power might quell separatist agitation by granting its colonies autonomy.²⁷ However, he took pains to distance himself

23 Burgos Malavé, *Génesis y praxis*, 37. See also Cruz Monclova, *Baldorioty*, 98, 104-5.

24 Cruz Monclova, *Baldorioty*, 105 ("control local . . . hasta el mayor grado compatible con la unidad española").

25 Quoted in Cruz Monclova, *Baldorioty*, 105. See also J. C. M. Oglesby, "The Cuban Autonomist Movement's Perception of Canada, 1865-1898: Its Implication," *The Americas* 48 (1992): 445-61.

26 Both rejected pure assimilation—that is, each advocated a measure of administrative and economic autonomy for the colonies. See Cruz Monclova, *Baldorioty*, 122-25.

27 Rafael María de Labra, *La autonomía colonial en España* (1892), xxxv, cited in Oglesby, "The Cuban Autonomist Movement's Perception of Canada," 456.

from the idea that Spain should grant her colonies a system identical to the Canadian one, and contrasted the version he preferred by describing it as an autonomy that was more faithful to his Spanish heritage. As Labra explained in a speech in 1885:

[W]e do not think that the autonomic regime in Canada is the autonomic regime for our overseas provinces. We have a solution of Spanish vintage, reflecting national tradition, having a proper and clear form, a form outlined in the proposals of the Cuban Autonomist Party [and] sanctioned by the courts of justice . . . ; which means that the arguments in favor of or against [autonomy], based on what happens in Canada, cannot be accepted as a reason to oppose the reforms we propose for Puerto Rico.²⁸

In Labra's calls for a solution "of Spanish vintage, reflecting national tradition," we see the precursor of the view that there should be correspondence between political status and ethnic identity: in other words, that there was something that could accurately be described as a specifically "Puerto Rican" form of autonomy and that it was this form of autonomy that Puerto Rico should have.

Before the Ponce Assembly, Baldorioty had made clear that, to him, it mattered more that the party achieve consensus on an autonomist platform than that it adopt all of the elements of his preferred version. The gathered delegates acted accordingly and produced a platform—the Program and Declarations of the Autonomist Party of Puerto Rico, or Ponce platform—that explicitly embraced Labra's version of autonomy, though it contained certain features of Baldorioty's version. The Ponce platform identified as the party's "fundamental principle" the autonomist slogan quoted above: "the maximum decentralization compatible with national unity."²⁹ Following Labra, it sought "identity" in the "political" sphere, accompanied by "purely internal or local administration."³⁰

Despite Baldorioty's willingness to accept the party's consensus, the Ponce meeting produced a splinter group led by Luis Muñoz Rivera. A journalist, writer, poet, and founder of the leading autonomist newspaper, *La Democracia*, who would soon become the island's most popular politician, Muñoz, too, was a supporter of autonomy, but his emphasis was somewhat different: he believed that the overriding goal of autonomists should be to

28 D'Alzina Guillermety, *Evolución y desarrollo*, 130 (emphasis added).

29 See *Plan de Ponce para la Reorganización del Partido Liberal de la Provincia y Acta de la Asamblea Constituyente del Partido Autonomista Puertorriqueño* (San Juan: Instituto de Cultura Puertorriqueña, 1991), 74.

30 *Ibid.*, arts. 2, 3, 5.

put an end to the preferences that gave peninsular-born Spaniards a virtual monopoly on governmental power on the island, and to secure power for native-born islanders (creoles, or *criollos*). To this end, universal suffrage was critical; beyond that, however, Muñoz was less interested in questions of substance, such as whether autonomy should involve political decentralization or political identity. The issue, he believed, was quite simply, power: once native islanders were finally in power—in whatever form of government existed—they could then turn their attention to fine questions of precisely what form of autonomy the island should have.

This view had implications for the party's strategy: specifically, Muñoz believed that it was a mistake for Puerto Ricans to form an autonomist political party at all. The reason, he argued, was that the only way for Puerto Rican autonomists actually to achieve anything was for them to have power in the island's government, and the only way for them to achieve power was to form an alliance with a political party in power in Spain. There were only two Spanish parties—the two leading monarchical parties—with any realistic prospect of holding power in the national government. Rather than form an autonomist political party, he argued, Puerto Rican autonomists should join one of Spain's monarchical parties.

The political reality underlying Muñoz's strategy was the *turno de partidos*, or *turno pacífico*, a system that had been in place in Spain since 1874, after the short-lived First Spanish Republic had been displaced and the monarchy restored under Alfonso XII. Designed by the leaders of Spain's two leading monarchical parties, Antonio Cánovas del Castillo of the Partido Liberal Conservador (Liberal Conservative Party) and Práxedes Mateo Sagasta of the Partido Liberal Fusionista (Liberal-Fusionist Party), the goal of the *turno* system was to put an end to the violent coups that had plagued Spain for decades, while keeping the anti-monarchical republican opposition out of power.

According to the *turno* system, one monarchical party would hold power until both parties agreed that it was time to dissolve the government and allow the other party a turn (an event that would be formally precipitated by a vote of no-confidence in the Cortes). At that point, the monarchy would select a new *jefe de gobierno*, or head of government, from the other party and issue a decree dissolving the Cortes, and elections would be held. Although universal suffrage had been formally established in Spain by this time, the elections were fixed and would reliably yield a victory for the party whose turn it was to govern.³¹ “Under these circumstances,” observes one Spanish

31 Luis Sánchez Agesta, *Historia del constitucionalismo español*, 2nd ed. (Madrid: Instituto de Estudios Políticos, 1964), 325-30.

constitutional historian, “the parliamentary system [was] clearly a fiction. But a fiction that worked passably for a quarter century, while Cánovas and Sagasta maintained the nearly unchallenged hegemony of two parties, which accepted the rules of the game as a [matter of] honor.”³²

Given the *turno*, Muñoz argued that the only way forward was for Puerto Rican autonomists to join one of Spain’s monarchical parties. Thus, even as the autonomists organized themselves formally into a political party, Muñoz advocated the dissolution of the party and its absorption into one of the two monarchical parties. Of the two options, Muñoz favored Sagasta’s Liberal-Fusionist Party, so called due to its practice of doing with other political groupings precisely what Muñoz advocated for the Autonomist Party: “fusing” with them and thereby absorbing them into his own party (for which reason Muñoz’s proposed pact also came to be known as “fusion” and his followers as *fusionistas*).

From the perspective of his fellow Puerto Rican autonomists, the problem with Muñoz’s strategy was that autonomists had a core, even constitutive, commitment to a republican form of government: to them, the relationship between autonomy and republicanism was substantive, not accidental, and to fuse with a monarchical party would be to abandon the core principles of autonomy. To be sure, they also wanted, as Muñoz did, to see an end to the exclusion of native-born Puerto Ricans from the island’s government; but the form of government in which native-born Puerto Ricans would participate once their exclusion ended mattered more to them. Muñoz, in turn, was motivated by what he saw as the fatal flaw in his contemporaries’ strategy. To him, Puerto Rican autonomists did not enjoy the luxury of a choice between one form of autonomy or another; they had a choice either to attain power by compromising republican principles or to never attain power at all. A pragmatist, he dismissed the niceties of autonomist theorizing about alternative forms of constitutional republicanism as a naïve failure to reckon with political realities.³³

A Fleeting Autonomy

As the rift that had emerged at the Ponce Assembly between Muñoz’s faction and the rest of the Autonomist Party grew worse, Spain’s sovereignty over its remaining colonies grew increasingly tenuous. Cuba’s struggle for independence from Spain regained momentum and, finally, in 1895, turned violent one last time. Meanwhile, Puerto Rican autonomists held fast to the

32 Sánchez Agesta, *Historia del constitucionalismo*, 328.

33 Lidio Cruz Monclova, *Luis Muñoz Rivera: Diez años de su vida política* (San Juan: Instituto de Cultura Puertorriqueña, 1959); D’Alzina Guillermet, *Evolución y desarrollo*, 123-26.

hope that reform remained possible. But while peace prevailed in Puerto Rico, the autonomists themselves continued to find consensus elusive. Muñoz remained critical of what seemed to him the counterproductively uncompromising republicanism of the Autonomist Party leaders. Although he still could not convince the party's leadership to embrace his "pragmatic" strategy, his idea had begun to gain traction.³⁴ Concerned by the possibility that Muñoz might be tempted to form a competing political party, in June 1896 the party's leadership decided to form a five-member commission, the *Comisión Autonomista* (Autonomist Commission), to make the case for autonomy to politicians in Madrid. They appointed members representing both sides of the disagreement: on the anti-fusionist side, Federico Degetau y González, a lawyer and writer who while living in Madrid had founded the newspaper *La Isla de Puerto Rico* to promote reformist ideas for the island, and José Gómez Brioso, a medical doctor who was then serving as president and political director of the Autonomist Party; and on the pro-fusionist side, Rosendo Matienzo Cintrón, a lawyer who had served as secretary of the Autonomist Party, and Muñoz.³⁵ The fifth member of the commission was Labra, their strongest ally in Spain, and like Degetau and Gómez Brioso, an opponent of Muñoz's fusionist strategy.

The members of the commission (except for Labra, who was already in Madrid) left Puerto Rico on September 16, 1896, bearing instructions to meet with the leaders of the "democratic peninsular parties" and to "create an alliance with the party that promises . . . to develop our platform *in its entirety*," a reference to the platform the party had adopted at the Ponce Assembly.³⁶ Disagreement over how to interpret these instructions, particularly in light of the divide that already existed over Muñoz's strategy, would soon lead to a schism in the commission. What did the instructions mean by an "alliance"? Did that term include Muñoz's "pact" or "fusion"? It must not, since fusion would mean abandoning at least some aspects of the Ponce platform, not promoting it "in its entirety." And yet, how clear must the promise to promote the entire Ponce platform actually be? Would it be enough for a mainland political party to offer general assurances of a forthcoming autonomy? Or must it be more specific? Without more concrete guarantees, how would an assurance of autonomy amount to anything more than yet another unfulfilled promise of "special laws"? And if the political party willing to form an alliance

34 D'Alzina Guillermet, *Evolución y desarrollo*, 176.

35 René Torres Delgado, *Dos filántropos puertorriqueños: Santiago Veve Calzada y Federico Degetau y González* (San Juan: Obra de José Celso Barbosa y Alcalá, 1983); Carmen Muñiz de Barbosa and René Torres Delgado, *José Gómez Brioso: Nada menos que todo un hombre* (San Juan: Obra de José Celso Barbosa, 1982), 11-13.

36 Quoted in Pilar Barbosa de Rosario, *De Baldorioty a Barbosa: Historia del autonomismo puertorriqueño*, 2nd ed. (San Juan: Model Offset Printing, 1974), 324. I have translated *íntegro* as "in its entirety."

were not one of the two monarchical parties in the *turno*—either that of Cánovas, who was serving as prime minister at that time, or Sagasta, whose turn would come again—then how credibly could it promise to “develop” the Ponce platform, as opposed to merely supporting it?

Even before they arrived in Spain, the commissioners harbored suspicions about one another’s intentions. The commissioners opposed to Muñoz’s strategy—Degetau, Labra, and, at first, Gómez Brioso—worried about what Muñoz would do to pursue his strategy. Muñoz, in turn, worried about what the others would *not* do because of their reluctance to abandon their republican principles. “The river is in turmoil,” wrote Gómez Brioso when Muñoz insisted on separating from the group for several days to pay a private visit to Sagasta.³⁷ For his part, Muñoz complained to Degetau of “[o]ur inaction,” which, “until now, has been absolute.”³⁸ Degetau meanwhile worried that Muñoz suffered from an “obsession” with the pact, and that Matienzo was “blind” under Muñoz’s influence.³⁹ Yet Muñoz and Matienzo did not see the pursuit of a pact with one of the monarchist parties in the *turno* as inconsistent with the party’s instructions at all. Even if it were, to them it was far better than accomplishing nothing.

Such was the state of things when the commissioners began their series of meetings with the leaders of Spain’s political parties. But if any of them hoped that one or another strategy would emerge out of these meetings as the obvious path to autonomy, he was in for a disappointment. If anything, their meetings served as a reminder of the elusiveness of their goals. Even their initial meeting with Labra himself, whom they had designated their “leader,” disappointed them: Labra seemed far more interested in Cuba than in Puerto Rico, and when he finally got around to mentioning the latter, he offered little more than the observation that Puerto Rico’s problems could be resolved as soon as Cuba’s were.⁴⁰ “This thing is perfectly sunk,” wrote a dejected Gómez Brioso to his colleagues back home after that meeting. Another politician

37 Pilar Barbosa de Rosario, ed., *Historia del pacto sagastino a través de un epistolario inédito: (El pacto produce el desconcierto, 1897-1898)* (Río Piedras: Editorial de la Universidad de Puerto Rico, 1981), 26.

38 Luis Muñoz Rivera, letter to Federico Degetau y González, Oct. 12, 1896, Colección Ángel Mergal Llera, Papeles Federico Degetau y González [hereinafter Degetau Papers], Centro de Estudios Históricos, Universidad de Puerto Rico, 1/VIII/9, 1/VII/31.

39 Barbosa de Rosario, *Historia del pacto sagastino*, 114.

40 *Ibid.*, 13-14. On Labra’s being chosen the leader of the group, see D’Alzina Guillermet’s discussion of the commission in D’Alzina Guillermet, *Evolución y Desarrollo*, 178. For references to Labra as “el Leader,” see, e.g., Federico Degetau y González, draft letter to Manuel Fernández Juncos, Dec. 16, 1897, Degetau Papers, 2/I/53.

they met with offered similar fare: a solution to Puerto Rico's problems must wait until the pacification of Cuba.⁴¹ Still another, a member of one of the republican political parties, offered the useless advice that they should wait for the return of the republic; given that the First Spanish Republic had lasted only a single year nearly twenty-five years earlier, he must have known that Puerto Rico's autonomists were unlikely to pin their hopes on a second one.⁴² Finally, another politician offered the equally unhelpful observation that if peninsular and colonial republicans had formed a single political party in the first place, they would already be in power.⁴³

Francisco Pi y Margall made a more positive, and more lasting, impression. The leading Spanish federalist, head of the Partido Republicano Federal (Federal Republican Party), and an admirer of US federalism, Pi had long argued that Spain should adopt a system similar to that of the United States and that the Antillean colonies should be included in it as equal and autonomous Spanish provinces.⁴⁴ "A most excellent man," commented Gómez Brioso in a letter describing the meeting.⁴⁵ Recalling the meeting later, Muñoz agreed. Everything Pi said was "logic marching in a straight line toward absolute justice," he wrote; "it was the supreme disinterestedness of an apostle who aspired only to satisfy his conscience; it was the light of an extraordinary mind spilling over us and shining with the radiance of dawn."⁴⁶ Yet for all their admiration of Pi, the commissioners left that meeting empty-handed as well. The future belonged to America, Pi told them—and as far as Puerto Rico's future was concerned, he was not wrong. But his foresight, and his unimpeachable reasoning, did not translate into a plausible strategy for the autonomists. As Muñoz put it in the conclusion to his account of the meeting, "Puerto Rico needed not a doctrine, but a *fact*."⁴⁷

That left the monarchist parties led by Cánovas and Sagasta. The commissioners met with each of them as well, but not even these meetings

41 Barbosa de Rosario, *Historia del pacto sagastino*, 22.

42 *Ibid.*, 38. There would be a Second Republic, but not until 1931.

43 *Ibid.*, 40.

44 See Sylvia Hilton, "Los Estados Unidos como modelo: Los federalistas españoles y el mito americano durante la crisis colonial de 1895-1898," *Ibero-Americana Pragencia* 32 (1998): 11-29. See also Sylvia Hilton, "U.S. Intervention and Monroeism: Spanish Perspectives on the American Role in the Colonial Crisis of 1895-98," in *Whose America: The War of 1898 and the Battles to Define the Nation*, ed. Virginia Bouvier (Westport, CT: Praeger 2001).

45 Barbosa de Rosario, *Historia del pacto sagastino*, 39.

46 Luis Muñoz Rivera, "Apuntes para un libro (1896-1900)," in *Obras completas de Luis Muñoz Rivera*, vol. 3, ed. Luis Muñoz Marín (Madrid: Editorial Puerto Rico, 1925), 27.

47 *Ibid.*

offered anything concrete enough to command the commissioners' unanimous enthusiasm. Cánovas responded with an emphatic affirmative when the commissioners asked whether a recent law providing for a series of reforms would actually be implemented in Puerto Rico. But when a skeptical Gómez Brioso pushed for specifics by asking about a particular reform of the electoral laws, he could not get a concrete answer out of Cánovas. Instead, as Gómez Brioso recalled with bemusement, Cánovas "scratched his head, made various funny faces and looked at me cross-eyed."⁴⁸ Sagasta, on whom Muñoz had pinned his hopes, made promises as well, but they fell far short of a commitment to implement the Ponce platform "in its entirety," as the instructions required. A tussle in that meeting over the precise terms of the offer to form a "pact" ended with Sagasta prevailing over the commissioners by watering down their proposed language, including the very phrase declaring his party's commitment to implement the Ponce platform. Sagasta also insisted that in order to form an alliance with his Liberal-Fusionist Party, the Autonomist Party would have to give up its name. In other words, he confirmed what they already knew (and what those opposed to the pact had feared): fusion meant the dissolution of the Autonomist Party and its absorption into Sagasta's party.⁴⁹

Back in Puerto Rico, autonomists had been growing increasingly impatient. Manuel F. Rossy wrote to Degetau:

The country is willing to reach a settlement—without giving up its principles—with Sagasta, *if that is what the leadership [of the Autonomist Party], in whom the country has placed its hopes and trust, recommends.* Such a settlement is accepted without enthusiasm and only due to a desire to get out of the current situation, which inspires despair because it is unsustainable, and also because of two red currents flowing from the mountain to the valley: one, the Cuban solution in favor of insurrection, and the other, the possibility of annexation to the United States.⁵⁰

Yet in the same letter, Rossy wondered whether it would make sense instead for the party to split into monarchical and republican factions.⁵¹ Either way, the party leadership remained silent pending the commission's recommendation:

48 Barbosa de Rosario, *Historia del pacto sagastino*, 35.

49 For drafts with and without the reference to the 1887 Ponce program, see "Voto Final," Degetau Papers, [7]/V/2. (This document is in box 7, which would appear to be its appropriate placement, but it is misnumbered "Caja 2.") On Sagasta's requirement that the Autonomist Party give up its name, see "Conferencia con Sagasta," Degetau Papers, 7/V/4.

50 Manuel F. Rossy, letter to Federico Degetau y González, Jan. 14, 1897, Degetau Papers, 1/VIII/9. On the fear of imminent insurrection, see also Guillermo León, letter to Federico Degetau y González, Feb. 28, 1897, Degetau Papers, 1/VIII/30.

51 Rossy, letter to Federico Degetau y González, 7.

we must wait, explained Rossy, because “we lack the national facts, just as you [commissioners] lack the regional facts . . . since you left here.”⁵²

In the end, it was left to Gómez Brioso to break the impasse. Although he had been an opponent of Muñoz’s strategy, the commissioners’ failure to identify any party other than Sagasta’s that might form an alliance with them had left Gómez Brioso increasingly undecided. Despondent at the thought that the party’s fate was in his hands, Gómez Brioso expressed his own conundrum in emotional language (as Degetau recalled it):

It is necessary to resolve this pact thing once and for all. I can’t fight with Muñoz any longer. I just want to free the party from this burden. . . . I’m going crazy. My friends have abandoned me. The directors [of the Autonomist Party] don’t write. You too have abandoned me. I’ll vote for incorporation, I’ll vote for anything. . . . And afterwards I’ll go throw myself off a bridge.⁵³

In a sense, he followed through. When the Autonomist Commission finally decided to vote on Muñoz’s proposal that the Puerto Rico Autonomist Party form a pact with a monarchical party, Gómez Brioso switched sides, voting with Muñoz and Matienzo in favor, while Degetau and Labra were left in the minority, voting against the pact. When the commissioners returned to Puerto Rico, and the Autonomist Party held a meeting to vote on the commission’s recommendation, Gómez Brioso defended the pact. And when the party membership voted overwhelmingly in favor of it (by a vote of seventy-nine to fifteen)—in the process dissolving the Autonomist Party and fusing it into Sagasta’s Liberal-Fusionist Party—Gómez Brioso temporarily retired from active politics.⁵⁴

But he was not the only one to exit. Faced with defeat, a group led by José Celso Barbosa left the meeting as well, with Barbosa famously declaring, “Goodbye, brothers, I’m leaving, but I’m taking the flag of autonomy with me.”⁵⁵ Declaring themselves defenders of the Ponce platform, Barbosa’s group proceeded to form the Partido Autonomista Ortodoxo (Orthodox Autonomist Party) and to describe themselves as the *ortodoxos* or *puros*. *Puros* means “pure”: they saw themselves as the standard-bearers of the

52 Ibid., 5.

53 Barbosa de Rosario, *Historia del pacto sagastino*, 114 (Degetau quoting Gómez Brioso).

54 Ibid., 188. Barbosa states that Gómez Brioso retired, but he would soon return to an active political life. Bolívar Pagán gives the vote as 79-17, but other sources give it as 79-15. See Bolívar Pagán, *Historia de los partidos políticos puertorriqueños (1898-1956)*, vol. 1 (Barcelona: Bolívar Pagán, 1972), 14; Barbosa de Rosario, *Historia del pacto sagastino*; Rosendo Matienzo Cintrón, letter to Federico Degetau y González, Mar. 12, 1897, Degetau Papers, 1/IX/5.

55 Pagán, *Historia de los partidos*, 15.

“pure” (read republican) version of autonomy.⁵⁶ Those who remained with what was now a provincial arm of Sagasta’s Liberal-Fusionist Party came to be known as *fusionistas*. The *fusionistas* accused Barbosa and his supporters of being unwilling to accept the will of the majority and political reality. But the *puros* insisted that by entering into an alliance with a monarchist party, the *fusionistas* had betrayed core republican principles and therefore ceased to be autonomists.

The *puros* focused their criticisms on the rationale for fusion: securing power specifically for natives of the island. True republicanism, argued the *puros*, abhors *any* geographic preferences in the distribution of power—including those favoring native-born Puerto Ricans. Hadn’t Puerto Rico’s autonomists been fighting for decades against geographic preferences in favor of peninsular-born Spaniards and their conservative political party on the island, the Partido Incondicional Español (Unconditional Spanish Party)? As an article in the *puro* newspaper *El País* described, the goal of autonomy was supposed to be to ensure “that the colony govern itself by way of men of confidence, it matters little that they be *incondicionales*; if they accept responsibility for their actions, and the penal sanction of the laws reaches them, let them govern.”⁵⁷ In other words, autonomists should not be striving for a monopoly on power for native-born Puerto Ricans; they should be striving for a republican form of government, under which no one would be excluded from power based on place of birth and where those who did end up in power would be subject to the rule of law.

The *puros* were motivated not only by their understanding of autonomist principles but also by their concerns over Muñoz’s personal ambitions. Brokering a pact with Sagasta would certainly increase Muñoz’s own power. But if it involved dissolution of the party, what else would it accomplish? “Muñoz insists that the essential thing is *power*,” observed Degetau in his diary; “for these reasons, [other] laws and reforms are not important to him.”⁵⁸ Elsewhere, he wrote, “All [Muñoz] can see is the rise to power.”⁵⁹ Degetau worried that Muñoz’s vision for Puerto Rico did not extend beyond Muñoz’s own rise to political prominence. Privately, he wrote:

Muñoz says that he is willing to ask for and accept autonomy from whomever will give it to him. Muñoz uses the term autonomy in a special sense, for he then adds, in response to an observation of mine,

56 D’Alzina Guillermet, *Evolución y desarrollo*, 187; Pagán, *Historia de los partidos*, vol. 1, 15.

57 *El País*, Aug. 26, 1897. Another article argued that the rights of the citizen should not be affected “by the coincidence of the region in which one has been born.” *El País*, Aug. 28, 1897.

58 Degetau’s diary, Degetau Papers, 7/V/unnumbered, 56.

59 *Ibid.*, 61.

that what matters is power: in return for this he accepts anything, and elaborating on this view it turns out that he accepts Carlism here and a military dictatorship there, all in “exchange for” a general who will obey his orders. . . . In a word, an absolute lack of orientation and therefore of political sense. I do not think he himself knows what he wants, in terms of ideas and for the country. . . . Muñoz is buried in the idea of making a pact. He wastes his time combating my republicanism.⁶⁰

Acknowledging that Muñoz defended his strategy as the most effective way to promote the island’s welfare, Degetau wondered, “But in what does [the island’s] welfare consist? In Muñoz’s replacing [the leader of the Partido Incondicional] Don Pablo Ubarri?”⁶¹

The rift between *puros* and *fusionistas* did not heal, but what occurred soon after the creation of the pact reduced their disagreements to largely inconsequential bickering. After decades in which the tireless efforts of Puerto Rico’s autonomists had yielded little more than short-lived variations on the status quo and unfulfilled promises of “special laws” in successive Spanish constitutions, events suddenly unfolded at a dizzying pace. On August 8, 1897, an Italian anarchist’s bullet killed Prime Minister Cánovas. On October 2, Sagasta took power, consistent with the *turno*. Days later—and faced with the reality of Spain’s increasingly tenuous grip on Cuba as the fighting there wore on—Sagasta announced that he would finally grant autonomy to the Antillean colonies. Less than two months later, he fulfilled his promise with a “charter of autonomy” for each one of these colonies: one for Cuba and one for Puerto Rico.⁶²

During the brief interim between Sagasta’s announcement and the arrival of the charters in Puerto Rico, before anyone knew precisely what the autonomy that had been granted looked like in its particulars, the debate between *fusionistas* and *puros* raged on. But now that autonomy was about to become a reality, the *puros* reconsidered their support for the Ponce platform—the more moderate alternative that had won the day at the Ponce Assembly—deciding instead to embrace the more robust Canadian-style autonomy that Baldorioty had originally espoused. Defending their change in position, they explained that it was due to the change in circumstances: as an article in *El País* put it, with autonomy now actually poised to become government policy, the modest Ponce platform had been rendered “deficient.”⁶³ Now, “everything’s different,” and they should demand more.⁶⁴

Ironically, it was at this moment that Muñoz finally decided to throw his

60 Ibid., 47-49.

61 Ibid., 50.

62 Carta Autonómica de 1897 [Charter of Autonomy of 1897] (Spain).

63 *El País*, Oct. 19, 1897.

64 Ibid.

support behind one of the two versions of autonomy that had competed at the Ponce Assembly: he chose the Ponce platform embodying Labra's proposals, even as the *puros* were abandoning it in favor of Baldorioty's Canadian-style proposal. Muñoz now distinguished the *fusionistas* from the *puros* by associating the former with support for the Ponce platform, and he defended the Ponce platform itself with an argument reminiscent of Labra's advocacy of autonomy "of Spanish vintage, reflecting national tradition." As Muñoz explained, were they to be offered a choice between the "creed of Ponce or the regime of Canada," the *fusionistas* would choose the former, because it was *lo nuestro*—that is, "what is ours." He declared, "[W]e are Spaniards, not Englishmen."⁶⁵

The *puros* responded by yet again challenging the idea that any given form of autonomy, in substance, should be considered more or less authentically "Spanish": "Canada's autonomic regime is not British, nor will the regime established in the Antilles be Spanish, because autonomy is a system derived from science, without racial lineage," argued an article in *El País*.⁶⁶ Another article took issue with Muñoz for his view that "*we are not Canadian autonomists, but Puerto Rican autonomists.*" As the article observed:

[T]his makes no sense: we are Spanish Autonomists; and because being Spanish is inherent in us, any kind of autonomy that is conceded to us cannot alter that condition; if they grant us a regime identical to that of Canada's, . . . will we suffer some detriment of our essential natural quality, that of being Spaniards?⁶⁷

Neither side convinced the other.

When the charters of autonomy finally arrived in Spain's Antillean colonies, they exceeded everyone's expectations, granting both Puerto Rico and Cuba a robust form of autonomy, with a local legislature and representation in the Cortes. Upon realizing that the charter gave them more than they had asked for, Muñoz revised his earlier comments about Puerto Rico's need for "Spanish" autonomy, claiming in a speech on the new charter that he had made the argument against Canadian-style autonomy merely in order to deflect the *incondicionales'* accusations of disloyalty. The *puros*, in turn, claimed that the charter granted a form of autonomy along the lines of what they had advocated all along.⁶⁸

65 Quoted in *El País*, Oct. 20, 1897.

66 *El País*, Oct. 29, 1897.

67 *El País*, Nov. 3, 1897.

68 See Astrid Cubano Iguina, "Los debates del autonomismo y la Carta Autonómica en Puerto Rico a fines del siglo XIX," in *Centenario de la Carta Autonómica de Puerto Rico (1897-1997)*, ed. Juan E. Hernández Cruz (San Germán: Universidad Interamericana, 1998); Luis Muñoz Rivera, "Discurso pronunciado en Ponce al

Yet even as the two autonomist factions scrambled to take credit for the charter, events were about to overtake them once more. On February 9, 1898, a provisional autonomist cabinet consisting of a fragile alliance of autonomist leaders from both the *fusionista* and the *puro* factions took office.⁶⁹ Elections for the *cámara insular* (the local legislature) were held, and its opening session was scheduled for April 25, 1898. And then, on April 25, the United States intervened in Cuba's fight for independence by declaring war on Spain. The opening session of the *cámara* was rescheduled for July 17, 1898, and took place on that date. One week later, US forces invaded Puerto Rico, and Puerto Rico's fledgling autonomist government ceased to be.

Imperial Constitutionalism and US Sovereignty

Thus it was that Puerto Rico's autonomists found themselves confronting the question whether Puerto Rico should become a state of the Union. And the answer came easily. Within a year, each faction had formed a new political party—Barbosa became the head of the Partido Republicano and Muñoz the head of the Partido Federal—and both parties had adopted platforms embracing the island's annexation by the United States. The Republican Party "accept[ed] Puerto Rico's territorial annexation into the States of the Federal Union with enthusiasm"; the Federal Party "accept[ed] and applaud[ed] the fact of annexation, consummated following the war, considering that Puerto Rico will be a prosperous and happy country in the shadow of the American flag and under the shelter of federal institutions."⁷⁰ Both platforms explicitly called for Puerto Rico's accession to the status of a territory of the United States, followed by its admission into statehood in the Union on an equal footing with the other states.⁷¹

All of this brings us back to the question posed at the opening of this chapter: what accounts for this immediate and unqualified switch in allegiance? At one moment, the autonomists were proclaiming their loyalty to the mother country; at the next, they were heartily greeting their foreign conqueror. Today, it gives us pause. But the challenge is to understand it rather than to dismiss it as the rash act of a colonial elite that lost its mind or its pride. What at first glance looks like a startling willingness to cast aside an entire heritage

decretar Sagasta la autonomía para Puerto Rico el 28 de noviembre de 1897," in *Obras completas de Luis Muñoz Rivera*, vol. 1, ed. Luis Muñoz Marín (Madrid: Editorial Puerto Rico, 1925), 231.

69 Burgos Malavé, *Génesis y praxis*, 172-74.

70 Pagán, *Historia de los partidos*, 35 (Republican Party platform, art. 2), 49 (Federal Party platform, art. 2).

71 *Ibid.*, 35-36 (Republican Party platform, art. 4), 50 (Federal Party platform, arts. 4, 5).

essentially overnight, replacing it with an alien form of government, looks very different when considered in light of the nineteenth-century history of Puerto Rican efforts to achieve autonomy—and, in particular, the state of the debate concerning the relationship between autonomy and ethnicity as it stood when the United States invaded.

As we have seen, in the period immediately preceding the island's annexation by the United States, the argument for a specifically "Spanish" or "Puerto Rican" autonomy had finally given way, as the reality sank in that Puerto Rico had been granted an autonomy more "radical" than even Baldorioty's Canadian-style proposals. Muñoz, who had argued that Puerto Ricans should have an autonomy for "Spaniards, not Englishmen"—embodying *lo nuestro*—had quickly distanced himself from that view once he learned what was actually in the charter and how much it resembled the autonomy that "Englishmen" enjoyed. On the eve of annexation, in short, it was the *puro* view of the relationship between autonomy and ethnicity that held sway: as they had argued, "because being Spanish is inherent in us, any kind of autonomy that is conceded to us cannot alter that condition." The idea that a "foreign" form of autonomy could not deprive Puerto Ricans of their ethnic identity not only was fresh in the minds of the autonomists but had been recently and vocally embraced by all of them when they found themselves subject to US sovereignty.

Annexation gave Puerto Rican autonomists cause for celebration not because they had inexplicably jettisoned their constitutional vision in order to substitute it with an imported novelty but because it meant that statehood in the Union was on the horizon (or so they expected) and, therefore, that Puerto Rico's prospects for the implementation of a regime of genuine, robust, and lasting autonomy were better than ever. Far from a departure from their ethnic heritage, statehood was perfectly consistent with it: the autonomists' embrace of statehood was firmly rooted in autonomist principles. In language reminiscent of the autonomists' longstanding call for "the maximum decentralization compatible with national unity," the Federal Party platform declared its goal as the "intelligent and honest administration of local interests" combined with an "absolute identity with the United States."⁷² Explicitly associating autonomy with US federalism, the Republican Party confirmed its adherence to "the principles of the [US] Federal Constitution *and the regime of local autonomy derived from it*."⁷³

American federalism, recall, had been the system that Spanish federalist Pi y Margall had defended as the best form of autonomy—for Spaniards, too. When the Autonomist Commission met with Pi on its trip to Madrid in 1896, the commissioners had found Pi's arguments compelling. Even Muñoz had

72 Ibid., 49-50 (Federal Party platform, art. 3).

73 Ibid., 36 (Republican Party platform, art. 5) (emphasis added).

described them, as we saw above, as “logic marching in a straight line toward absolute justice.” The fatal flaw in Pi’s arguments, according to Muñoz, had not been his ideas; the flaw had been that “Puerto Rico needed not a doctrine, but a *fact*.” Now that Puerto Rico had been annexed by the United States, it appeared the doctrine was about to become a fact.⁷⁴

Until it didn’t. In 1900, Congress enacted legislation creating a government for Puerto Rico,⁷⁵ which departed from the United States’ traditional practices with respect to newly annexed territory in a number of ways and subjected Puerto Rico to a status subordinate even to that of previous territories: most significantly, Congress had declined to extend the US Constitution by statute to Puerto Rico, as it had done in all prior territories, and instead of granting US citizenship to the island’s inhabitants, it declared native-born Puerto Ricans “citizens of Porto Rico,” a nebulous and undefined status that seemed to amount to little more than an embellished form of statelessness. On top of all that, the act dispensed with the free trade that had been the norm between US territories and states, imposing duties on certain goods traded between Puerto Rico and the rest of the United States. Challenged in court, these duties became the basis for the litigation that produced the *Insular Cases* of 1901. The Supreme Court upheld the duties, reasoning that Puerto Rico had not been “incorporated” into the United States and that it was “foreign to the United States in a domestic sense.” Signaling that only incorporated territories were on a path to statehood, whereas the fate of unincorporated territories remained uncertain, the court dealt a fatal blow to the autonomists’ consensus in support of Puerto Rico’s admission into statehood.

To the autonomists—who had patiently advocated autonomy for decades while Spain repeatedly enacted and repealed unfulfilled promises of reform, had tasted the fruit of victory in the form of the 1897 Charter of Autonomy just before the US invasion replaced it with a military occupation, and had seen the prospect of statehood in the Union dangled before them only to be abruptly snatched away—these developments were devastating. The rejection of Puerto Rican statehood by the United States led to the demise of Puerto Rico’s autonomist constitutionalism as it stood at the end of the nineteenth century. The autonomists had come to embrace the idea that whatever form of autonomy the island achieved need not threaten its people’s ethnic heritage. It was a hard-won consensus, and it informed the conviction with which

74 As noted in the introduction and discussed below, the autonomists were in for a serious disappointment. Pi beat them to it: upon witnessing the United States’ imperialistic approach to the war of 1898 and the annexation of Spain’s former colonies, Pi soured on the United States and became a critic of what he saw as its betrayal of its own principles. See Hilton, “U.S. Intervention and Monroeism.”

75 Organic Act of 1900 (Foraker Act), ch. 191, 31 Stat. 77 (1900) (codified as amended in scattered sections of 48 U.S.C. (2013)).

Puerto Rican autonomists met the United States: that American federalism could accommodate ethnic diversity to encompass a state of Puerto Rico—a diversity far broader than it turned out Americans were actually willing to accept.

The effect was to strip the autonomists not only of their hopes but also of their ideas. Faced with rejection, the autonomists abandoned their constitutional vision, as each faction retreated into its own version of a more narrowly nationalistic stance on autonomy. Barbosa and his followers would continue to pursue statehood, but in a more assimilationist vein: they became the party of Americanization. Muñoz retreated, returning yet again to the view that what Puerto Rico needed was not a foreign imposition but *lo nuestro*—an authentically Puerto Rican status. These hardened nationalistic views displaced the more robustly pluralist constitutionalism that had prevailed among Puerto Rico's autonomists at the end of the nineteenth century, when they had embraced the idea that Puerto Rico could become a state of the Union without ceasing to be Puerto Rican. The autonomists, who easily embraced the idea of Puerto Rican statehood, had been “postnational” before their time. But the United States wasn't ready. Apparently, it still isn't.