

The birth of Brazilian presidentialism (1889-1902): origins, governism, and first coalitions

RAONI BIELSCHOWSKY

1. Introduction

Brazilian presidentialism has two distinct features. The first is not a national characteristic, but rather a regional one: «a Latin American model of presidential power that includes a powerful role in legislation as well as extensive emergency rule. This distinguishes the Latin American presidency from those in other regions of the world»¹. The second is more closely related to the Brazilian system, which combines a presidential model with a coalition government structure known as *coalition presidentialism* (*presidencialismo de coalizão*), combining presidentialism, federalism, a proportional electoral system, and multiparty coalition governance², with tendencies toward governism (*governismo*, in Portuguese)³.

Often referred to as *imperial presidentialism*, a strong executive branch can be identified as a trait of Brazilian constitutional identity⁴, although these characteristics were not officially present in the first formal

version of Brazilian form of government outlined in the Constitution of 1891; nor were they clearly present in the early years of presidential history. For example, even though there were cases of federal intervention⁵ and establishment of *state of siege*⁶, the power to decree this was primarily up to the legislature, and the executive branch had no formal role in legislative process.

However, the fact remains that although coalition presidentialism only truly began in 1946, just after the Vargas period (1930-1945), there is a history of coalition in the Brazilian political dynamic, and particularly one specific form of coalition, arising from a peculiar historical and political context, with a specific federal and party arrangement, linked to another constant feature: the *governism*.

Although a strict model of *coalition government* is usually related to a multiparty model combined with a proportional electoral system⁷, two features not present in the first Brazilian republic, the *politics of governors* is an arrangement which aims

to make the legislative branch docile and homogeneously in favor of the executive branch. This is the main argument that leads some political scientists to identify this model as a kind of *coalition presidentialism*⁸, and more precisely as an «oligarchic 'coalition presidentialism'» («'presidencialismo de coalisão' oligárquico»)⁹.

With this in mind, this paper aims to explore the first model of presidentialism drawn up in the Brazilian Constitution of 1891. The paper will then present some of the transformations in the power dynamic that took place during the Campos Sales presidency (4th Brazilian President, 1898-1902), when a dynamic known as *the politics of the governors* (*política dos governadores*), or *the politics of the States* (*política dos Estados*) as Campos Sales himself preferred, began¹⁰. This was characterized by an arrangement between the executive branch of the Union (the president of the republic) and the local (states) oligarchies aiming to provide docile and unconditional support of federal parliament.

In summary, according to the Constitution of 1891, the president of the republic formally had no role in the legislative process, but the *extra-constitutional arrangement* of the *politics of governors* represented an initial outline of two striking features of Brazilian presidentialism.

2. Imperial dynamics which impacted on Brazilian presidentialism: The moderating power

Of the former Iberian colonies in the Americas, the only country to adopt a non-presidential constitution after independence

was Brazil¹¹, and to understand the initial arrangements of Brazilian presidentialism, it is necessary to first look at some features of the monarchical system.

The Imperial Constitution of 1824, which was the longest-standing constitution in Brazilian history, was particularly influenced by the French Constitution of 1814, which prescribed a hereditary monarchy. The Empire of Brazil was a very centralized unitary State, administratively divided into provinces and counties, although these governmental units had virtually no independence. This monarchical regime was organized into four branches: legislative, moderating, executive, and judicial.

This structure was based on the ultra-liberal Bourbon Restoration formulation, and more specifically, on Benjamin Constant's *pouvoir royal*. In *Principles of Politics Applicable to All Governments* (1814), Constant designed a system of separation of powers which, in addition to the three classical branches described by Montesquieu – executive, legislative and judicial – included a fourth branch. With this fourth branch, Constant intended to institutionalize the achievements of the French Revolution, ruling out what he called the “absolutist” tendencies of the Jacobins and the Reign of Terror. Thus, in the same way that the powers of the state should be limited in order to protect individual freedoms, the people's sovereignty should also be constrained. To do so, there should be a fourth “apolitical and neutral” power that would exist only to harmonize the others, acting particularly at times when institutions were threatened, with powers that included: dissolving the legislature, dismissing the government, and adjusting very severe penalties applied by the judiciary, in order to maintain the

branches and their respective protected areas.

However, the reality in the Brazilian Empire was very different. The impacts and consequences varied over the ninety-five years of its duration, which featured at least three diverse political and institutional moments: the First Reign (1822-1831), the Regency Period (1831-1840), and the Second Reign (1840-1889). However, these periods were not marked by homogeneous internal experiences, and as such, we will now focus on the configuration of the last years of empire arrangements, aiming to understand the challenges posed to the beginning of the republican experience and its presidentialism.

The moderating branch was delegated to the Emperor, but rather than being apolitical, it was identified literally as the «key of all Political organization» (art. 98)¹². As «Supreme Head of the Nation, and his First Representative», the Emperor figure was considered «inviolable, and Holy: He is not subject to any responsibility» (art. 99), and also had the function of Chief Executive (art. 102).

As Chief Executive, typical functions related to: command of international relationships, including the duty to defend internal and external sovereignty and the power to declare war and peace (art. 102, VII, VIII, IX, XV); concede naturalization (art. 102, X); bestow honors and distinctions (art. 102, X); issue decrees, institutions, and regulations for the execution of statutes (art. 102, XII); order the distribution of income to the various branches of Public Administration (art. 102, XIII); provide civil and political employment (art. 102, IV); and appoint military authorities (art. 102, V), magistrates (art. 102, III), am-

bassadors (art. 102, VI), and bishops (art. 102, I).

As the moderating branch (art. 101), the Emperor had the power to: appoint senators (a lifetime position); extraordinarily convene the General Assembly (the Parliament made up of the Deputy, elected officials¹³, and the Senate); sanction decrees and resolutions of the General Assembly to have the force of law (sanction and veto power in the legislative process); approve and temporarily suspend decisions of provincial powers; extend or postpone the General Assembly; dismiss the Chamber of Deputies «in cases where the salvation of the state requires it; immediately calling another to replace it»; freely appoint and dismiss Ministers; suspend magistrates; give pardon and moderate penalties of defendants convicted in sentences; and grant amnesty¹⁴.

Thus, the structure of the Brazilian Constitution did not create a fourth merely “neutral” regulating branch that was functional, organic, and institutionally separate from the other branch, but formalized the concentration of huge authority in the Brazilian monarch, effectively creating a «politically militant moderating power»¹⁵. For instance, between 1868 and 1889, using the moderating power, Emperor Dom Pedro II dismissed all the legislatures except one. Even after Decree n. 523, 20 June 1847, which created the post of President of the Council of Ministers (similar to the Prime Ministers or the Cabinet Chiefs of European monarchies) and in theory meant the consolidation of a parliamentary government¹⁶, there existed a dynamic that reversed classical parliamentarism, in which the government in one form or another is the expression of parliamentary majorities.

In the Brazilian regime at the time, the Emperor determined the Council of Ministers by himself, so that rather than representing electoral and representative majorities, the Cabinet composition influenced the election. These ministers were chosen by the Emperor before the elections, which therefore influenced the elections, and the majority in Parliament. If the election results diverged from the Emperor's personal choice for the cabinet, the "Supreme Chief" simply dismissed the Chamber of Deputies, calling for new elections. Therefore, the political dispute between the two parties at the time – Conservative ("saquaremas") and Liberal ("luzias") – was not based on electoral result, but on imperial choice.

As such, the Moderating Power did not reverse just the parliamentary system – establishing what became known as *reverse parliamentarism* (*parlamentarismo às avessas*)¹⁷ – but also the representative system itself, creating a strong tendency of *verticalization of political order*. This institutional arrangement was marked by two macro-characteristics, a «*symbolic doctrine of representation*» and «*a path towards generating and constituting legitimate political actors*», characterized by the «programmatic and social indistinction of the parties, the lack of rooting of the political system in society, fraudulent elections and the non-existence of the representative system in descriptive terms over a symbolic representative model»¹⁸.

The Emperor acted as "a unique elector", and parties were therefore not formed through elections, social conflict, principles, or the evolution of clan groups. Rather, the parties, Liberal and Conservative, constructed their identities with a *governist* impulse¹⁹ from their relationship to «the

key of political organization»: the Moderating Power.

Apart from the provinces of São Paulo and Rio Grande do Sul, the demand for federalism did not manifest as organized political movements at a national scale. According to Renato Lessa, this perhaps occurred because, under the monarchy, most of the country had lived under a *de facto federalism*. More than that, during the empire, most of the country had experienced a lack of political regime, and of any system similar to a public sphere. That reality was combined with extreme centralism in the rise of *private local orders*²⁰.

While it generated some stability in the central administration/government, this centralized model progressively increased the distance between the configurations of local powers and the participation of local forces, particularly new local forces, in the political dynamic. It displayed the incompatibility of "official Brazil" and the «natural distribution of power», in the words of Raymundo Faoro. Despite the high rates of electoral and rotativity²¹, this configuration prevented local, regional, and private powers (based on land property and patrimonial bonds), from becoming real *inside actors* in national politics²².

In this sense, although there were reforms proposed to transform the imperial regime into a federal monarchy, republican propaganda was closely related to the federal structure from the beginning. This is evident in the Republican Manifesto of 1870 (Manifesto Republicano de 1870), as well as the groups that promoted the 1889 coup.

As such, on 16 November, 1889, Brazil found itself without this «stabilizing element», the Moderating Power²³. Despite

its strengths, one of the variables that presented a major challenge to stabilization was the local forces and oligarchies, which directly impacted the stability of Congress, and exacerbated tensions between the executive and legislative branches. This is the issue that the politics of governors was intended to answer and solve through a special kind of coalition in 1899. However, before we directly address this topic, it is necessary to look at the first years of the republic, and particularly the Constitution of 1891, to understand the problems more accurately.

3. *First constitutional outlines of Brazilian presidentialism: 1891*

The motivations for the republican coup of 15 November, 1889 were as varied as the interpretations about it. In this way, Carone indicates that the event was just the final moment in a long and complex process, in which the tension would explode during the Cabinet Ouro Preto, the last one of the Empire:

Federalist tendencies, republican movements, religious crisis, military issues, slavery problems, imperial succession, political domain by a decadent aristocracy, ascension of new oligarchies, urbanization, slow renovation of Empire institutions, all of these constitute the environment in which continuous imperial crisis and the heterogeneous alliances between different groups that fight against the dominant system ferment²⁴.

Surprisingly, this final movement was supported by an unexpected and precarious union between the military and republican civilians (made up mostly of rich farm-

ers from West São Paulo, and urban middle-class representatives). The historical disputes and tensions between the military and republican civilians had been evident since the earliest stages of the Provisional Government (1889-1891)²⁵; but also in the terms of Deodoro da Fonseca (1891), Floriano Peixoto (1891-1894), and Prudente de Moraes (1894-1898)²⁶.

Two features of the November 1889 movement are striking: the small number of participants and the absence of any reaction. Despite this, the idea to adopt the presidential regime «was soon victorious with the proclamation of the Republic, once the majority had understood that the parliamentary regime does not reconcile with the federation», although there were dissonant voices in the 1890/91 Constituent Assembly, which raised the flag of parliamentarism and its possible conciliation with federalism²⁷.

Decree no. 1, of 15 November, 1889, in addition to proclaiming the Republic and the federative form, and establishing the Provisional Government of the "United States of Brazil", had already mentioned in art. 4 the intention to convene a Constituent Congress, but was silent about the form of government. The Constituent Assembly was convened by Decree no. 78 B of 21 December, 1889, although not without tension between legalistic forces personified by Rui Barbosa and Campos Sales, and parts of the army that desired an extension of the Deodoro dictatorship.

The process of constitutionalization of the Brazilian republican regime began on 3 December, 1889 with Decree no. 29, which formed a committee of five jurists to prepare a draft constitution. These were Saldanha Marinho, its president; Rangel Pestana

(both signatories of the 1870 Manifesto); Américo Brasiliense; Santos Werneck; and Magalhães Castro. Originally, three preliminary projects were formulated, one by Brasiliense, one by Magalhães Castro, and one by Santos Werneck and Rangel Pestana (Werneck-Pestana). Though all three drafts proposed a presidential regime, that of Américo Brasiliense prescribed the parliamentary practice of presence of ministers²⁸ before parliament²⁹.

The three preliminary projects were merged into one, delivered to the Provisional Government on 30 May, 1890, and forwarded by Campos Sales (then Minister of Finance) to the Minister of Economy, Rui Barbosa, who was responsible for the final drafting of the Provisional Government project presented to the Constitution Congress on 4 November, 1890. This is why he often declared himself the father of the 1891 Constitution.

During this period, on 22 June, 1890, Decree 510 was issued, which functioned as a "Provisional Constitution", and in which a presidential organization of powers was already structured. Also, in art. 1, the Decree reiterated the date for the elections for the National Congress as 15 September, and its meeting with constituent powers for 15 November, the first anniversary of the Republic.

The President of the Congress was the Republican from São Paulo, Prudente de Moraes, who would also become the first civilian president of the Republic³⁰. On 22 November, an internal commission of the Constituent was formed – the Commission of 21 – composed of one representative from each Brazilian state, including the Federal District. It developed its own pro-

ject from the preliminary draft delivered by the Provisional Government.

The constituent debates were conducted over three months, passing the project through two rounds of discussion, and receiving various amendments, so that the Constitution was finally promulgated on February 24, 1891. With the Constituent works complete, the following day the Constituent Assembly became a bicameral National Congress³¹, and elected the first president: Deodoro da Fonseca, former head of the Provisional Government.

The influence of the US Constitution (1787) and Argentinian Constitution (1853) is very clear, both in the final text and in the debates of the assembly. Analyzing the Annals of the Constituent Assembly, the use of comparative law arguments and of international examples is evident, particularly when referring to other federal constitutions, especially the Swiss Constitution (1848), and less frequently the Constitution of the German Empire (1871). Among non-federal constitutions, the most common reference was to the French experience³².

In terms of the political system, there was a large majority in the Constituent Assembly debates in favor of a presidential regime, linked to the widespread view that there would necessarily be a connection between federalism and presidentialism, a position which was already present among republican propagandists such as Campos Sales³³. However, this does not mean that there were no dissonant voices, such as the Deputies Rosa Silva (Pernambuco)³⁴, César Zama (Bahia)³⁵, Frederico Borges (Ceará)³⁶, and Almeida Nogueira (São Paulo)³⁷. Even Nilo Peçanha (Rio de Janeiro, a *pure republican*, and President of the Re-

public from 1909-1910) expressed some defense of the parliamentary regime³⁸; while Deputy Luiz Murat, representative of the state of Rio de Janeiro, was the only representative who refused to sign the final text of the 1891 Constitution, stating that, as a defendant of parliamentarism, he would not sign a document that provided for a presidential regime³⁹.

However, even with firm consolidation of the choice for a presidential regime, Agenor Roure points out that the organization of executive power was the topic that changed most between the original drafts and the final text⁴⁰, although the main changes were about the term of office and form of election of the president of the Republic, and not about issues directly linked to the political system.

With a four-year term, and directly elected by majority suffrage, the powers and attributions of the President of Republic were crystallized in art. 48, although the first election was carried out indirectly by Congress a day after the final constitution was approved. The president had the presidential power to freely appoint and dismiss the ministers of State (2nd); promote civil and military positions at the federal level (5th); and pardon and commute penalties in crimes of federal jurisdiction, except for ministers of State in ordinary crimes and *crimes of responsibility* (*crimes de responsabilidade*)⁴¹, and in *crimes of responsibility* for federal civil servants (6th).

In his relationship with the judiciary, it was up to the president to appoint federal magistrates based on the proposals of the Supreme Court (11th); as well as name the members of the Supreme Court (12th).

In terms of international relations, the president had the power to appoint dip-

lomatic ministers to be confirmed by the federal senate (12th); to appoint other diplomatic members and consular officers (13th); to maintain relations with foreign States (14th); to act on international negotiations, and celebrate conventions and treaties, always *ad referendum* to Congress; and to approve international treaties between federal states in accordance with the Constitution, always submitting them to the authority of Congress when necessary (16th).

In terms of the typical functions of defense, the president was the Commander in Chief of the Army and Navy, and could call them for internal and external defense of the Union, and administer and distribute them under statute law (*lei*) terms (3rd and 4th). Likewise, it was up to the president to declare war and peace upon authorization of the National Congress (7th) or immediately in cases of foreign invasion or aggression (8th).

In his relation with Congress, the president was expected to send an annual message to the legislative session opening (9th); and could extraordinarily convene Congress (10th); and sanction (or veto), promulgate, and publish statute laws and Congress resolutions⁴², with the power to «issue decrees, instructions and regulations for their faithful execution» (1st).

Meanwhile, Congress had no political-subjective control over the president, vice-president, or ministers. There was only a legal-technical control over Acts, in the most classical liberal presidentialist fashion, with no political accountability to Parliament. These authorities could also be impeached after a trial for an ordinary crime or a crime of responsibility. The president could be tried by the Senate for crimes of responsibility, and by the Su-

preme Court for ordinary crimes, after the Chamber had declared the charge (arts. 53 and 54).

Moreover, the separation between the executive and legislature was so serious that deputies who accepted a post in the cabinet would have to resign from their parliamentary term (art. 50). Similarly, ministers could not attend Congress sessions, and their communication with the legislature could be made only «in written document or in person in conference with the Committees of both Chambers. The annual reports of the Ministers [were] addressed to the President of the Republic and distributed to all members of Congress» (art. 51).

The President also had no power to dismiss Congress or convene extraordinary elections, and terms of service in the legislature and executive were not coincidental. The presidential term was four years, while legislature terms lasted three years, the deputy term was three years, and a senator's term was nine, so that in each election, one third of the Senate was renewed.

In terms of the two unique features of Latin American Presidentialism, «a powerful role in legislation as well as extensive emergency rule»⁴³, only the second feature was formally present in the Constitution of 1891.

Concerning emergency powers, the Brazilian constitution was mainly influenced by the Argentinian Constitution of 1853⁴⁴. The 1891 document prescribed two hypotheses: *state of siege (estado de sitio)*⁴⁵, and federal intervention in states, which were the subject of significant doctrinal, political, and legal disputes⁴⁶.

Formally, the main body responsible for declaring a state of siege was Congress (art. 34), who could «declare in state of siege

one or more points of the national territory, in the emergency of aggression by foreign forces or internal unrest, and approve or suspend the siege that has been declared by the Executive Power, or its responsible agents, in the absence of Congress». Therefore, the Executive Chief could only do so extraordinarily (art. 48, 15th; art. 80, § 1st), and as soon as Congress was assembled, the president should report and indicate the exceptional measures taken, and the parliamentary body would approve or suspend the siege⁴⁷.

While the effects of the declaration were not clear in the text of Constitution, João Barbalho Uchôa Cavalcanti (a politician and a very influential jurist at the time) stated that, considering the seriousness of the situation, any constitutional guarantee could be suspended, depending on each declaration⁴⁸. Also, the limitations provided by art. 80, § 2nd⁴⁹ would only restrict the executive as the executor of siege measures, not in the extension of any suspension exceptionally declared by the President or his agents⁵⁰.

Regarding federal intervention in states, the Constitution provided relatively laconic guidelines on the subject⁵¹. Even more curious is the fact that the debates about it were virtually nonexistent during the Constituent Congress⁵². Even though Campos Sales himself treated it as the "heart" of republican-federal life⁵³, art. 6th only prescribed the following:

The Federal Government may not intervene in the business of the states, except:

- 1) to repel foreign invasion, or from one State to another;
- 2) to maintain the federative republican form;
- 3) to restore peace and order in the States, at the request of their respective Governments;
- 4) to ensure the enforcement of federal statutes and judgments.

Besides this, the provisions of art. 48, n 15th, did not clearly distinguish between the powers over federal intervention (art. 6) and the state of siege⁵⁴, indicating that it was the exclusive authority of the President: «declare by itself, or via its responsible agents, the state of siege anywhere in the national territory in cases of foreign aggression or serious internal unrest (art. 6, no. 3; art. 34, no. 21 and art. 80)».

Practically, the aspects outlined by the Constitution were the focus of enormous debate throughout the 1891 regime with many federal intervention episodes. The laconic text made the debate about its regulation very intense, but no regulatory law or constitutional change was approved between 1891 and 1926⁵⁵. The main issues of the debates were the followings: which was the role and the powers of each branch to determine the intervention and to control its decree; the use of the writ of *habeas corpus* to control of legality and constitutional review of an intervention⁵⁶; the reasons which justifies an intervention, particularly about the precisely meaning of the expression "maintenance of the federative republican form"; and, the powers of the *interventor*, the authority named by the central power to act during the federal intervention in a state, an extraconstitutional development⁵⁷.

Especially concerning the balance of the three powers, João Barbalho pointed out that, depending on the issue, all three federal branches had the power to determine the intervention. In the case of art. 6: 1) both the legislative and executive branches were competent to decide the intervention; 2) Congress was competent to determine the intervention, although the Executive just could do it in its absence (art. 48, 15);

3) all states branches could request the intervention; and 4) the main authority belonged to the executive branch⁵⁸.

As stated, the first Republican Constitution was strongly influenced by the U.S. Constitution, and this is clearly observed in the non-participation of the president of the Republic in the legislative process, resembling art. 1, section 7.2 of the U.S. Constitution.

In contrast to the later Brazilian Republican Constitutions⁵⁹, the power to initiate a statute proposition belonged exclusively to the National Congress (art. 34), and there was no initiative power for the executive branch. Art. 29 stipulated that the Chamber of Deputies had the «initiative [...] of discussion of projects offered by Executive Power». However, these proposals were considered to have the same weight as any citizen petition in the exercise of an *indirect initiative statute*. So, the "Executive project" was regarded as mere suggestion or request. To become a statute project, it should be "adopted" by a Deputy or Chamber Committee.

As mentioned above, this structure was influenced by the U.S. Constitution, but it also represented some continuity with the model adopted by the Imperial Constitution, such as art. 53, in which even with Moderating Power, the initiative was restricted to the Congress Chambers (art. 54).

Although this model was not unique to Brazil, it was not regularly found in the Latin American Presidential Constitutions of the 19th century. For example, except for some subjects (arts. 40 and 51), the Argentinian Constitution prescribed the Executive initiative (art. 65)⁶⁰. Likewise, the Mexican Constitution of 1857 (art. 65) stated that: «The right to create legislation pertains: I.

To the President of the Republic; II. To the Representatives and Senators of the Congress; III. To the State Legislatures»⁶¹.

The final text of the 1891 Constitution was questioned during the constituent debates, and some alternative formats had been proposed, all of which were denied. In particular, the bench of Rio Grande do Sul and a Senator from Minas Gerais (Américo Lobo) tried to establish the Executive initiative. However, the Deputy Leovigildo Filgueiras intended to establish Executive initiative only for statutes for setting expenses⁶².

However, executive interference in the legislative process was seen as so undesirable that even veto power was restricted. Only total veto was allowed, meaning there was no partial veto, and the president could only fully sanction or veto a statute.

Therefore, in the first Brazilian Republican Constitution, the president did not have a large role in the legislature (already present in some Latin-American Constitutions at the time), or a multiparty and proportional election system, the two characteristic features of coalition presidentialism. Did this then mean that both elements just appeared after the Revolution of 1930; the large executive role in legislation in the Constitution of 1934, and a political system founded on coalition from 1946?

In the next section, I will try to demonstrate the opposite. I will show that both characteristics can be identified in the Brazilian presidential system since the fourth Brazilian president, Campos Sales.

4. *Beyond the institutional structure: from initial instability to the Campos Sales arrangement*

The first three Brazilian presidents were notable for the instability of their terms⁶³. From the coup of 1889 until at least 1897, the last year of Prudente de Moraes' term, the early years of the republic were marked by several moments of tension, especially between the executive and the legislative branches, and between the Union and the states.

For instance, Deodoro da Fonseca, head of the Provisional Government and elected as the first President of the Republic by the National Congress on 25 February, 1891 (the same congress that had approved the Constitution the day before), tried to dismiss parliament on 3 November. The strong reaction resulted in his resignation on 23 November.

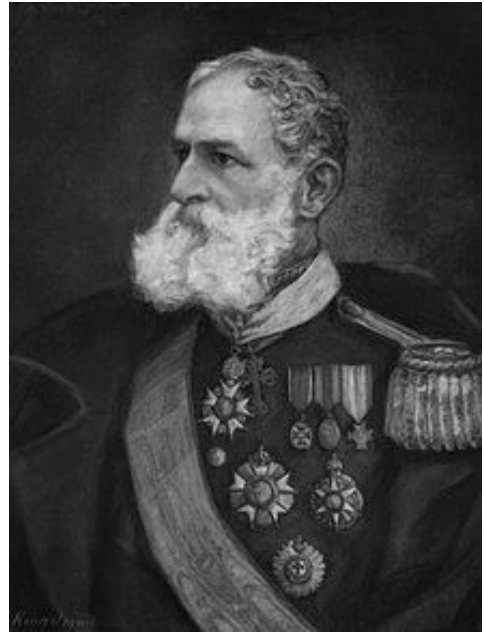
His vice president, Marshal Floriano Peixoto, who supported Prudente de Moraes⁶⁴ and not Deodoro da Fonseca in indirect elections in 1891, would become head of the executive branch. He ruled until the end of the presidential term, against the clear constitutional provision that required new elections (art. 42), which was supported by Congress. Curiously, until the end of the term, Floriano signed all documents as "Vice President", never as President. His term was noteworthy for many violent riots, especially by the "Revolta Federalista" in 1892 in the south of the country, and the "Revolta da Armada" (Navy Riot) in 1893 in the capital, both violently repressed, which earned him the nickname "Iron Marshal". With a taciturn and ambiguous personality, he was the symbol of popular movements and political tendencies called *florianalism* and *jacobinism*.

Prudente de Moraes also had an unstable term. Although he had been elected by the Partido Republicano Federal (PRF), the only national party at the time, he had many major tensions with the association, and particularly with the party president, Francisco Glicério, a *florianist*. Much of the discord was on the issue of who should dictate the direction of the association, and to whom its deputies owed loyalty: the party leader or the elected president⁶⁵.

This highlights the tense relationship between the president of the Republic and Congress, and the tug of war was only won by Prudente de Moraes in 1897, after he had gained control during a military uprising in the Cadet Academy in the capital in May; and after an assassination attempt on the president – unique in Republican history – in November. His government also had to manage the exhausting “Guerra de Canudos” (1896/97), in Bahia *sertão* (hinterland), a military shame for the Brazilian Army at the time, which had three expeditions devastated before beating the starving paramilitary force.

During the Prudente de Moraes government, the real problems for republican institutionalization emerged. From an analysis of that governmental period, it appears that the stability of the new regime depended on the existence of a pact, capable of regulating the relations between the executive and legislative branches, the constitution of political actors, and the interaction between central power and regional powers.

In overcoming the crisis of 1897, Prudente de Moraes sought to repair his relations with the legislature, by recognizing that the sources of power of the legislature should necessarily be located in the states⁶⁶.



Marshal Deodoro da Fonseca, First President of the Republic, 1891

The successor of Prudente was Campos Sales, who managed to establish a *routinization of the Brazilian politics of the First Republic*. The former president (governor) of São Paulo – “Brazil’s Locomotive”, the richest state in the country and center of the most powerful civilian republican strength – presented himself as a neutral candidate.

Considering the conflicts that marked the early years of the Brazilian Republic, Campos Sales – a historic Republican and representative of the interests of the Paulista Republican Party – had a government that began with a certain optimism and a cooling of civil strife and more serious tensions. In his opening message to the nation, he reiterated some points he had expressed many times in his career: «his desire for harmony between the executive

and the legislative branches and an independent policy towards the parties; it shows the existence of economic ills and the need to combat them, always putting financial problems in the foreground»⁶⁷.

In this sense, Campos Sales' term was marked by two issues: the control of public finances, especially regarding meeting international commitments and the *funding loans*⁶⁸; and the building of a "political model" that became known as *the politics of governors*, or as he himself preferred, *the politics of states*, and with it the foundations of the First Republic dynamic.

In Campos Sales' point of view, the role of the executive should be to "only manage", with a unitarian power concentrated in the president of Republic. Because of this, he saw the ministers not as advisers or co-responsible in the administration, but only as a depository of the trust of the head of state. For example, the "Paulista" did not hold ministerial reunions, and only met with ministers individually⁶⁹.

As a consequence, he also understood that the president of the Republic and the Union administration should not "contaminate" themselves with the political dynamic. Thus, the politics of governors was a matter of sectioning off politics (local) to the administration (national). Therefore, the link between the "People", as political body, and the political dynamic closely linked to the local oligarchies control was also sectioned off. In general, this model atomized and handed the power of electoral disputes to the local oligarchies, granting a formal and official backing to it, in exchange for unconditional support for the executive by the National Congress.

This was done outside the original legal framework, in a way that can be understood

as *para-constitutional*⁷⁰ or *extra-constitutional*⁷¹, which contributes to the current understanding of the Constitution of 1891 as characterized by ineffectiveness⁷².

The first months of Campos Sales' term were quiet. The Congress was not divided into parties, but rather two factions of the same original PRF, the *Concentrados* (with *florianists* influences) and the *Republicanos*. Although there were intense disputes, both had initially supported the president, especially with regard to his financial propositions⁷³. Between May and July 1899, the government easily succeeded in approving the federal budget and financial measures aimed at meeting agreements with international lenders. In addition, the Congress "gave" a financial reform largely in favor of the Union⁷⁴.

However, with the legislative elections of 1889 approaching, which would renew the entire Chamber of Deputies as well as one third of the Senate, Campos Sales moved forward with his project of verticalization of politics, which would mark the politics of governors.

Since 1892⁷⁵, elections of federal deputies were by district. States were divided into several districts, formed by a set of municipalities, and the Federal District was partitioned into three districts. Altogether, there were 63 electoral districts in the country, which elected three to five deputies each. In each election, each voter selected two names in districts with two representatives, and three names in districts with four or five deputies. The vote count was conducted by the polling station immediately after the end of the election. Afterwards, the minutes were sent to the City Council, which had to begin the final count within 30 days of the end of the election, completing

the process within 20 days. The candidates with the most votes in each district were elected⁷⁶.

Nevertheless, in art. 18, the Constitution of 1891 indicated that the Chamber and the Senate had the authority to *verify the powers of their members* after the elections, confirming or denying the results⁷⁷. This meant that after the counting of the results in the states, both Houses had control of their verification and conformation.

Until 1899, the Chamber's regiment had indicated that this verification must be done by a commission selected by the provisional acting president of the House, or in this case the oldest representative among all the "certified" (*diplomados*) deputies in that current election process, who would select the other four members of the commission. In 1899, the internal regiment of Chamber had undergone an important change, envisioned by Campos Sales, proposed and carried out by the deputy Augusto Montenegro (Pará), and supported by Lauro Müller (Santa Catarina), Nilo Peçanha (Rio de Janeiro) and Pinheiro Machado (Rio Grande do Sul)⁷⁸. Campos Sales skillfully managed to dissolve the polarization between *Concentrados* and *Republicanos*, and the proposal was approved on 24 October.

In terms of the verification commission, the new regiment stated: «the deputy that has been elected and has served as president in the last legislative session will occupy the presidency if he had been certified to serve in the new legislature»⁷⁹. This implied a continuation of power, as the president of the verification commission would no longer be the oldest certified deputy, but rather the president of Chamber in the last legislature.

In addition, a more precise definition of the *diplomas* (deputies' certificate) was given: according to the new text, the *diploma* was the general minute of election counting, signed by the majority of the electoral district City Council, charged by law to coordinate the counting of votes⁸⁰. This meant that in the elections, only the candidates certified by the polling station would be recognized, and polling stations were selected by the state governors⁸¹. Thus, the elections were in effect decided prior to appreciation by the verification commission of Chamber.

In this way, if the recognition of representatives of state minorities was possible before the regiment change, provided they had the necessary national articulation⁸², with the new text a second level of guarantee was instated to prevent access to political rivals of the already-established elites (and central government rivals as well) in the Congress. If the opposition's "presumptive deputy" reached the verification commission, its powers were not recognized, due to a procedure known as *degola* (beheading)⁸³. Local elections, widely marked by electoral fraud, vote buying, *mandonismo*, and the use of force and violence⁸⁴, were carried out, inspected and (doubly) guaranteed by the interested factions themselves: the dominant local oligarchs. Not even the secret ballot rule prevented coercion by local political leaders of the voter population⁸⁵.

Thus, this arrangement was intended to freeze political competition in the states, entrenching the dominant oligarch groups at that time, which was quite successful.

The main intention of the central executive branch was to secure the support of the largest states with the most representatives, particularly Minas Gerais (37 deputies),

and São Paulo and Bahia (22 deputies each). This aim was made very clear in the correspondence sent directly by Campos Sales to the Presidents of Minas Gerais and Bahia, and to the Senator of São Paulo, Rodrigues Alves, on February 8, 1900⁸⁶.

The accession of Minas Gerais was immediate, since the first amendment of the regiment – the continuity of the presidency of the previous legislature – favored deputy Vaz de Mello from Minas, and with him, the local dominant oligarch. Other states with greater representation, such as São Paulo, Bahia, Pernambuco, and Rio Grande do Sul, also followed through broad political adherence. The involvement of these states implied their association with Campos Sales' national project, and the possibility of participation in government leadership. For the smaller states, unconditional support implied the absence of federal intervention, complacency regarding local misconduct, and relief from the National Treasury when it was necessary⁸⁷.

Moreover, Backes points out that the voting unit of state benches itself could only be set up after the 1899 arrangement. From 1897 to 1899, except for Bahia and Rio Grande do Sul, all state benches and factions in the National Chamber were significantly split between Republicanos and Concentrados⁸⁸.

Thus, the politics of governors implied a unique kind of coalition, different from those typically established in multiparty systems with proportional representation. Brazil had a very unusual party configuration, with no national parties⁸⁹. «In the First Republic, as state and party were confused, state issues were partisan, not the national ones»⁹⁰. Thus, it was a coalition formed by states, which were the real po-

litical unit of interest and action, and more precisely, the political unit of interest of respective local oligarchs. In exchange for perpetuation of local control and power, they proceeded to create a congress without an actual opposition.

According to Carone: «the single party is not formed, but Campos Sales manages to drown out all the rest of the existing party structure. The overwhelming majority of situationism is in their favor, and the opposition, which in Brazil is 'either subversive or defamatory' is becoming ever smaller»⁹¹.

This arrangement of political verticalization arose as a link between the characteristic verticalization of the Moderating Power – with all its peculiarities and divergences – and the more typical coalition presidentialism begun in 1946 and re-edited in 1988 (especially from 1994), characterized by multiparty and proportional representation which naturally presented very different political contexts and designs. However:

The arrangement introduced by Campos Sales allows the Brazilian presidentialism adopted in the 1891 Charter, to take the shape of a functional equivalent of the Moderating Power, in force in the imperial order. By recognizing local situations, the President obtains the possibility of docile behavior by the Legislature. In the composition of the government itself we see a coalition presidentialism, whose inclusion criteria is determined by the strength of the different states. In other words, the basic criteria of the President's support coalitions is the size of state benches. It is not for any other reason that the stability of the Republic will be, during this period, as great as the alliance is strong between the political elites of Minas Gerais and São Paulo. At the end of the period and with the crisis of the 1930s, these elites will find themselves in opposite fields⁹².

Thus, Campos Sales' politics of governors was how the key issue of the form of government was solved: the relation between the executive and legislative branches. In terms of the model designed in the 1891 Constitution, the spheres of authority of both branches were strictly demarcated and split, recalling the classical Montesquieu quote: «So that one cannot abuse power, power must check power by the arrangement of things»⁹³. However, the Republic faced another obstacle: what is to be done when there is serious disagreement between the executive and legislative branches?

The answer during the Imperial regime was Moderating Power. However, in the early years of Republic, the alternatives provided had never proposed conciliations, instead being geared towards the increase of tension between the executive and legislative branches, which often resulted in tensions between the Union and the states. Yet the Campos Sales response was successful and became the winning model until 1930. The politics of conciliation between the central government and state oligarchs, reproduced in the relations between governors and the local leaders (the *coronel*), marked the structures known as *coronelismo*⁹⁴.

The basis of the coronelista system is the reciprocal compromise between central and local power: the coronel gives the President and the Governor support in votes; in return, he receives resources and appointment of authorities. Votes are needed to elect the Executive and the Legislature branches, since they take place in separate elections. The result favors the forces that control the government, providing them mechanisms with which they can elect their representatives and cement majorities in the legislature. This is the essential trait to explain it, giving meaning to the whole. The agreement regionalizes the creation of legitimate actors, but gives power to the Execu-

tive to conduct the national legislature. The core function of the system is to produce government, in particular support of the legislature⁹⁵.

The harmony between the legislative and executive branches should take place via subordination of Congress to presidential power, as pointed out by Erico Coelho⁹⁶ (an opposition deputy), Alcindo Guanabara (Campos Sales' most well-known biographer)⁹⁷, and Campos Sales himself, in his memoirs⁹⁸, and in his annual presidential messages to Congress of 3 May 1900⁹⁹, 3 May 1901¹⁰⁰, and very explicitly in the 1902 annual message, the last one of his term:

The Congress was divided in two separate sections, as the political achievements of the last period had pitted the two parties against each other and they fought at an equal level. Members of both sides embodied valuable traditions that served the Republic. Soon it seemed to me that those who saw the beginning of the formation of regular parties in the 1891 political split were wrong. [...] There was no contrast between the aspirations of the principle sphere to serve as a base of the party's struggles.

[...]

Considering this situation, which is characterized by the lack of regular parties, I conclude that the only viable solution would be a policy of agreement, looking to the conciliation of elements that in the essence of their aspirations had not been made incompatible among them so that they could all contribute to the indispensable patriotic work that the Government was embarking on. I confess that although I sought to foresee the effects of this policy, I never expected that it would satisfy the systematic intransigency of the exclusivism partisanship adepts, nor the strong combativeness of those who never used to see in the calm souls of other things then an unquiet symptom of torpor and lethargy in politics; but I was quite sure that it corresponded in its high aims of supreme gravity with the general state of the Country.

Moreover, I felt myself completely free to loosen myself from party intransigencies. Talking to the

Brazilian electorate, to whom I sought to clarify to the conscientious statement of the polls, I declared with candor and loyalty that I that would not bring to this post the commitment of being the «superintendent of party interests» since «whatever the preexisting ties were, according to Government criteria, dedication to the party never could replace dedication to the State». I added, emphasizing my opinion, that «even if the financial issue is deeply political in its nature, I could not be put in oppressive molds of partisanship».

Hence, it is clear that I received full freedom from the polls for my political action.

Therefore, the political process I adopted was not one of dissolution or disaggregation: but rather of union and coordination. Instead of splitting forces, or separate the political elements, or to weaken them by dispersion, trying to create an illegitimate supremacy in benefit of the Executive. On the contrary, I sought to promote the union of these elements in order to engender great support for the administration of the Republic during the very sensitive phase that it was going through.

That was how I understood my responsibilities and how I tried to fulfill them. The proof that I was not wrong in choosing this policy is in the results that it produced.

The serenity of the spirits was restored, and an era of salutary legislative activity was opened which has allowed the adoption of measures of transcendent usefulness. Together they form the vast administrative program of the current presidential period. On the other hand, the tranquility in the States, which is a result of this same policy of agreement and tolerance and contrasts to the incandescent policy of aggression and retaliation, produced a general calm. Moreover, the federal powers have managed to unfold its reparative action.

Concerning this regimen, it is my unswerving conviction, the true political strength, that in the tight unitarism of Empire resided in the central power, moved to the States. *The politics of the States*, that is, the policy that strengthens the bonds of harmony between the States of the Union, is, hence, in essence, the *national policy*. It is there, in the sum of these autonomous units, that the true sovereignty of opinion is found. What the States think, the Union thinks.

Once the political atmosphere changed, the Government was able to deploy its administrative action, giving it vigorous and energetic activity from the beginning. This is thanks to the measures that the Congress was able to grant, prevailing with patriotic solicitude of the calm that was dominant in the days of the meeting of 1898 after the inauguration of the presidential period. Persevering in these efforts in the following sessions we, the Government and Congress, succeeded to implement through legislation of the Republic the organic principles of financial administration and a stable base for the fiscal regime.

If a policy could only be judged by its fruits, here are the ones that I could reap.

I've already said how I found the Country on 15 November 1898 when I assumed leadership over the Republic Government. I will also be allowed to say the conditions in which it now finds itself, at the end of the current presidential period. The simple confrontation of these times will suffice, I believe, to clarify the reasons and intents of my policy, but also to confirm its effectiveness [...] ¹⁰¹.

In 1959, Osvaldo Trigueiro wrote:

Compare the President nowadays [1959] with the President of first Republic. In this one – especially between 1898 to 1930, i. e., from Campos Sales to Washington Luis – the President was the great leader of Legislature. But one case or another of recognition of powers, in that long period the Congress never voted against the President, never rejected a veto from him, never refused of retard law or providence in which the administration was truly interested ¹⁰².

Thus, the politics of governors did not aim to establish perfect harmony between the executive and legislative branches, but rather intended to annihilate any possibility of national opposition, which consequently meant control of the National Congress by the president of the Republic, though not through a dictatorship or by continuous decreeing of a state of exception. Although there were eleven declarations of *state of*

siege during the First Republic¹⁰³, and many instances of the use of federal intervention over dissident oligarch states¹⁰⁴, this control was sustained by the routinization of a coalition of states, based on the politics of governors in what Lynch called an «oligarchic "coalition presidentialism"»¹⁰⁵.

It is therefore correct to affirm the formal powerful role of the Brazilian president over the legislature was only raised with the administrative state in the 1930s, which then saw a rise of executive lawmaking¹⁰⁶. It is also correct that the actual 1988 coalition presidentialism, marked by a multi-party model combined with a proportional electoral system, contributed to a tendency of governmentism¹⁰⁷ marked by dominance of the executive branch over the legislature¹⁰⁸. However, we can identify some of these traits in the First Republican arrangement as well, particularly since the age of the politics of governors.

5. Conclusion

A strong executive branch may be considered a trait of Brazilian constitutional identity. Constitutional identities, however, are not made by formal arrangements alone, nor do they have only official or legal consequences. Extra-constitutional pacts and forces also push the composition of a constitutional identity, for better or for worse.

The Constitution of 1891 prevented a strictly presidentialist system in classical terms, with clear and atomistic divisions between executive power and legislative power. In theory, it was marked by no political responsibility of Executive branch be-

fore the Legislative branch; the reality was somewhat different.

For almost the entire duration of the First Republic, the *politics of governors* had handed the legislature to the president of the Republic. Thus, the lack of initiative or other mechanisms of formal intervention for the executive branch in the legislative process did not mean a rigid absence of the president. In fact, between 1900 and 1930, except for a few exceptional moments, the Executive Head had control over the agenda and over the entire legislature.

One can also point out that the use of emergency powers (*state of siege* and *federal intervention*) was sometimes also part of an extra-constitutional dynamic of the *politics of governors* involving Executive-Legislative/Union-States, but detailing this aspect demands a paper with this specific focus¹⁰⁹.

Naturally, this conclusion does not mean that the relations between the executive and legislative branches from 1891-1930 obeyed the same dynamics throughout. No doubt the multiparty system and proportional representation of the other two non-dictatorship moments of Brazilian Republic history (1945-1964 and 1988-), in addition to ruptures and continuities, contexts, transformations, and institutional accumulations, represent major differences between these times. However, a comparative historical study is beyond the scope of this paper as well.

Nevertheless, the trait of a powerful executive branch in Brazilian constitutional identity based on coalition arrangements with *governist* tendencies and with great influence on the legislative branch can be seen since the very first republican experience, even against the formal provisions of the Constitution of 1891.

- ¹ J.A. Cheibub, Z. Elkins, T. Guinsburg, *Latin American Presidentialism in Comparative and Historical Perspective*, in «Texas Law Review», LXXXIX, 2011, n. 7, pp. 1707-1739, p. 1730.
- ² F. Limongi, A. Figueiredo, *Bases institucionais do presidencialismo de coalizão*, in «Lua Nova», n. 44, 1998, pp. 81-106; F. Limongi, A democracia no Brasil. *Presidencialismo, coalizão partidária e processo decisório*, in «Novos Estudos», n. 76, 2006, pp. 17-41; S. Abranches, *Presidencialismo de Coalizão: o dilema institucional brasileiro*, in «Dados - Revista de Ciências Sociais», XXXI, n. 1, 1988, pp. 5-34; S. Abranches, *Presidencialismo de coalizão: raízes e evolução do modelo político brasileiro*, São Paulo, Companhia das Letras, 2018.
- ³ P. Peres, *O Governismo na Política Brasileira*, In H. Dantas; J.R. Toledo; M.A. C. Teixeira (ed.), *Análise Política e Jornalismo de Dados*, Rio de Janeiro, Editora FGV, 2014, pp. 37-56.
- ⁴ G.J. Jacobsohn, *Constitutional Identity*, Cambridge, Harvard University Press, 2010; R.M. Bielschowsky, *Cultura Constitucional*, PhD Thesis, Belo Horizonte, UFMG, 2016, pp. 376 ff.
- ⁵ L.M. Galvão, *História constitucional brasileira na Primeira República: um estudo da intervenção federal no Estado do Rio de Janeiro em 1923*, Masters Dissertation, Florianópolis, UFSC, 2013, pp. 222 ff.; B.R. Lima, *História constitucional de um estado de sítio na Primeira República: usos da constituição na Bahia de Lama & Sangue (1920-1926)*, Masters Dissertation, Brasília, UnB, 2017, pp. 184 ff.
- ⁶ P.M. Pivatto, *Discursos sobre o Estado de Sítio na Primeira República Brasileira: Uma abordagem a partir das teorias de linguagem de Mikhail Bakhtin e Pierre Bourdieu*, Masters Dissertation, Rio de Janeiro, PUC -Rio, 2006, pp. 172 ff.; Lima, *História constitucional de um estado de sítio na Primeira República* cit.
- ⁷ About the history of Brazilian electoral system: J. Nicolau, *Eleições no Brasil: do Império aos dias atuais*, Rio de Janeiro, Jorge Zahar Editora, 2012.
- ⁸ R. Lessa, *Aventuras do Barão de Munchausen: notas sobre a tradição presidencialista brasileira*, In J. Lanzaro (ed.), *Tipos de Presidencialismo y Coaliciones Políticas en América Latina*, Buenos Aires, CLACSO, 2001, v. I, pp. 137-162.
- ⁹ C.E.C. Lynch, *Da monarquia à oligarquia: história institucional e pensamento político brasileiro (1822-1930)*, São Paulo, Alameda, 2014, p. 91 (Unless otherwise indicated translations are my own).
- ¹⁰ M.F. Campos Sales, *Da propaganda à república*, Brasília, Editora da Unb, 1983.
- ¹¹ Cheibub, Elkins, Guinsburg, *Latin American Presidentialism in Comparative and Historical Perspective* cit.; J. Ribeiro Júnior, *O Brasil monárquico em face das repúblicas americanas*, In C.G. Motta (ed.), *Brasileirperspectiva*, São Paulo, Difel, 1974, pp. 146-161. Indeed, besides Brazil, despite the first Mexican Constitution of 1857 was presidential, México had two short moments of monarchy between 21 July, 1822 and 19 March, 1823, and between 1863 and 1867, the second in very peculiar circumstances during the second French intervention in México. Haiti, not an Iberian, but a former French colony, also had monarchies experiences during the XIX century.
- ¹² There is an interesting discussion about the correct translation of the original expression "la clef de toute organisation politique", as the "the key of all political organization" or "the keystone of all political organization", and the legal and political consequences to the responsibility of Moderate Power: W. Guandalini Jr., *Chave ou fecho? O debate jurídico erudito sobre a responsabilidade do poder moderador*, «Quaestio Iuris», IX, 2006, 2, pp. 1031-1059.
- ¹³ The electoral system during the Empire was neither simple nor consistent. There were at least four different models: 1824-1855, 1855-1860, 1860-1875, 1881-1889. Despite these changes, all of them were created by census suffrage and majority system, differing from each other regarding the constituency – province, district, numbers of representants by district – the kind of majority – simple or absolute – and number of votes by voter. Nicolau, *Eleições no Brasil: do Império aos dias atuais* cit.
- ¹⁴ In a sense, the power of moderating branch of the Emperor was "divided" with the Council of State (Conselho de Estado), a monarchical institution existing during the First Reign, suspended during the Regency Period, and reestablished in 1841. This council was created following the model of ancient aulic European councils, with permanent members, and since 1841 it was seen as a conciliatory way to the acceptance of the monarch's personal power. The Emperor was not obligated to follow the advises of the Council, but he was expected to do so, which was usually the case. The Council was very important to the uniformization of administrative matters and routines independent of the ups and downs of politics, and played an important role in strengthening, consolidating and maintaining central power. Although the Council below existing and acting to the end of the monarchy in 1889, but its prominence began to decline steadily from the late 1860s until 1889. M.F.V. Martis, *A velha arte de governar: o Conselho de Estado no Brasil Imperial*, in «TO-POI», VII, 12, 2006, pp. 178-221. The Council of State also played an important legal role, especially through its Section of Justice. To a detailed study about the legal work of Council of State: J.R.L. Lopes, *O oráculo de Delfos: o Conselho de Estado no Brasil-Império*, São Paulo, Saraiva, 2010.
- ¹⁵ P. Bonavides, *O Poder Moderador na Constituição do Império (exemplo*

- e um desencontro do Direito com os fatos*), in «Revista de Informação Legislativa», XI, 41, 1974, pp. 27-34.
- ¹⁶ A. Paim, *A discussão do Poder Moderador no Segundo Império*, in *Curso de introdução ao pensamento político brasileiro*, Brasília, Editora da UnB, 1982, v. 2 e 3, pp. 11-65.
 - ¹⁷ About Brazilian monarchical parliamentarism: C.B. Horbach, *O parlamentarismo no Império do Brasil (I): Origens e funcionamento*, in «Revista de Informação Legislativa», XLIII, 2006, 172, pp. 7-22; C.B. Horbach, *O parlamentarismo no Império do Brasil (II): Representação e democracia*, in «Revista de Informação Legislativa», XLIV, 2007, 174, pp. 213-231.
 - ¹⁸ R. Lessa, *A invenção republicana*: Campos Sales, as bases e a decadência da Primeira República Brasileira, 3 ed, Rio de Janeiro, Topbooks, 2015, p. 93.
 - ¹⁹ Peres, *O Governismo na Política Brasileira* cit., p. 41.
 - ²⁰ Lessa, *A invenção republicana* cit., pp. 102-103.
 - ²¹ W.G. dos Santos, *O Sistema Oligárquico Representativo da Primeira República*, in «DADOS – Revista de Ciências Sociais», LVI, 2013, 1, pp. 9-37.
 - ²² About the role of the Council of State in this gap between central and local powers, and consequent weakening of the Council from the 1870s: Martis, *A velha arte de governar: o Conselho de Estado no Brasil Imperial*, cit., pp. 206 ff.
 - ²³ C.E.C. Lynch, *O caminho para Washington passa por Buenos Aires: a recepção do conceito argentino do estado de sítio e seu papel na construção da República brasileira (1890-1898)*, in «Revista Brasileira de Ciências Sociais», XXVII, 2012, 78, pp. 149-169.
 - ²⁴ E. Carone, *A República Velha (evolução política)*, São Paulo, Difel, 1974², p. 7.
 - ²⁵ Carone, *A República Velha (evolução política)* cit. In the same line, discussing the political resistance against Marshal Deodoro, the fear of a prolongation of dictatorship and the echo of opposition in the Constituent Congress: A. Baleeiro, *Constituições brasileiras II: 1891*, Brasília, Senado Federal, 2012³.
 - ²⁶ E. Viotti da Costa, *Da Monarquia à República*, São Paulo, Editora Unesp, 2010⁹, p. 491.
 - ²⁷ A. de Roure, *A constituinte republicana*, Brasília, Senado Federal/ Editora da UnB, 1979, p. 21 [original published in two volumes in 1918 and 1920].
 - ²⁸ The Ministers in the Brazilian system correspond to the Secretaries in US model. Because of this, during the Constituent debates there were proposals to adopt the expression Secretaries to the position.
 - ²⁹ Roure, *A constituinte republicana* cit., p. 229.
 - ³⁰ Among the constituents of 1890/91, Floriano Peixoto (1891-1894); Campos Sales (1898-1902); Rodrigues Alves (1902-1906); Nilo Peçanha (1909-1910); Epitacio Pessoa (1919-1922) would become Presidents of the Republic, in addition to Prudente de Moraes.
 - ³¹ Art. 1, § 2, of the transitional provisions of Decree no. 510. 22 June 1890, and art. 67 of Decree 511, 23 June 1890.
 - ³² Congresso Constituinte da República 1891, *Annaes do Congresso Constituinte da Republica – 1890*, Rio de Janeiro, Imprensa Nacional, 1924/1926², voll. I, II e III, <<http://bd.camara.gov.br/bd/handle/bdcamara/6>>, August 2019.
 - ³³ A. Guanabara, *A presidência de Campos Sales*, Brasília, Senado Federal, 2002, pp. 139 ff.
 - ³⁴ Congresso Constituinte da República 1891, *Annaes do Congresso Constituinte da Republica – 1890*, cit. v. I, pp. 682 ff.
 - ³⁵ Ivi, v. I, pp. 934 ff.
 - ³⁶ Ivi, v. I, pp. 1108 ff.
 - ³⁷ Ivi, v. II, p. 45 ff.
 - ³⁸ Ivi, v. I, pp. 1090 ff.
 - ³⁹ Roure, *A constituinte republicana* cit. p. 242.
 - ⁴⁰ Ivi, cit., 21.
 - ⁴¹ The “crimes de responsabilidade” are a peculiar institute. Because of that, here we use the last translation option adopted by Pérez-Liñán in: A. Pérez-Liñán, *Impeachment of backsliding? Threats to democracy in the twenty-first century*, in «Revista Brasileira de Ciências Sociais», XXXIII, 2018, n. 98, pp. 1-15.
 - ⁴² This wasn’t considered part of the legislative process by the Constituent.
 - ⁴³ Cheibub, Elkins, Guinsburg, *Latin American Presidentialism in Comparative and Historical Perspective* cit., p. 1730.
 - ⁴⁴ Lynch, *O caminho para Washington passa por Buenos Aires* cit.
 - ⁴⁵ Same nomenclature used by Argentinian Constitution of 1853, with French roots.
 - ⁴⁶ Roure, *A constituinte republicana* cit., p. 5.
 - ⁴⁷ This design has important similarities with the disposition of art. 179, XXXV, of Imperial Constitution (curiously its last despotise), included by Lei n. 16, 1834.
 - ⁴⁸ J.B.U. Cavalcanti, *Constituição Federal Brasileira (1891) [comentada]*, Brasília, Senado Federal, 2002 [1903], p. pp. 120-121.
 - ⁴⁹ «Art. 80. § 2º - This [Executive Federal Power], however, during the state of siege will be restricted to repression measures against persons to be imposed: 1) detention in a place not intended for defendants of ordinary crimes; 2) the banishment to other places of the national territory».
 - ⁵⁰ Cavalcanti, *Constituição Federal Brasileira (1891)* cit., p. 121. Cavalcanti mention a decision of Supreme Court to sustain that: Acc. do. Sup. Trib. Fed., n. 133, 27 November 1895. Lynch points out a different disposition, considering that the limitation of art. 80, § 2º would be to Executive Power as siege declarator: Lynch, *O caminho para Washington passa por Buenos Aires* cit., p. 157.
 - ⁵¹ A. Leal, *Thécnica Constitucional*

- Brazileira*, Rio de Janeiro, Typ. do Jornal do Commercio, 1914.
- ⁵² For example, the expression “intervenção nos estados” just appear three times at the index of the Constituent Annals. Likewise, the three preliminary projects of constitution (Werneck-Pestana, Américo Brasiliense and Magalhães Castro), the “Provisional Government” project, and the final constitutional text had similar disposals about the theme: J.C.G. Ribeiro, *A genese histórica da constituição federal: subsídio para sua interpretação e reforma: os ante-projectos, contribuições e programmas*, Rio de Janeiro, Off. Graph. da Liga Marítima Brasileira, 1917; R. Barbosa, *Obras completas de Rui Barbosa: o art. 6.º da Constituição e a intervenção de 1920 na Bahia*, Rio de Janeiro, Ministério da Educação e Cultura/Fundação Casa de Rui Barbosa, 1975, t. III and IV, vol. XLVII.
- ⁵³ Guanabara, *A presidência de Campos Sales* cit., p. 37.
- ⁵⁴ Barbosa, *Obras completas de Rui Barbosa: o art. 6.º da Constituição e a intervenção de 1920 na Bahia* cit.; Lima, *História constitucional de um estado de sítio na Primeira República* cit.
- ⁵⁵ The text of the art. 6 was significantly changed, expanded and detailed by the Constitutional reform of 1926.
- ⁵⁶ A. Koerner, *A Ordem Constitucional da República: uma análise política da jurisdição constitucional no Brasil (1889-1926)*, Livre-Docência Thesis, Campinas, Unicamp, 2015, pp. 513 ff.
- ⁵⁷ Barbosa, *Obras completas de Rui Barbosa: o art. 6.º da Constituição e a intervenção de 1920 na Bahia* cit.; H. Lima, *O art. 6.º da Constituição*, Bahia, Imprensa Oficial do Estado, 1925; J.A. Mendonça de Azevedo, *A Constituição Federal Interpretada pelo Supremo Tribunal Federal (1891-1924): acompanhada de uma longa nota sobre a revisão constitucional e de uma tradução para o português das constituições americana e argentina*, Rio de Janeiro, Typ. da Revista do Supremo Tribunal, 1925, this one presenting Supreme Court decisions.
- ⁵⁸ Cavalcanti, *Constituição Federal Brasileira (1891)* cit., pp. 20 ff. This work is quoted by several later works and discussions concerning federal intervention, for example: Lima, *O art. 6.º da Constituição* cit.; Barbosa, *Obras completas de Rui Barbosa: o art. 6.º da Constituição e a intervenção de 1920 na Bahia* cit. (including in the messages of the President Epitácio Pessoa); J.A. Mendonça de Azevedo, *A Constituição Federal Interpretada pelo Supremo Tribunal Federal (1891-1924)* cit.
- ⁵⁹ Constitution of 1934, art. 41; Constitution of 1937 (Estado Novo), art. 64; Constitution of 1946, art. 67; Constitution of 1967 (Regime Militar), art. 59; Constitution of 1969 (1st Constitutional Amendment n. 1 to 1967, Regime Militar), art. 56; Constitution of 1988, art. 61. Indeed, the dictatorial charter of 1937 had gone beyond providing the primacy of Executive to the legislative initiative and to prescribing the “Decreto-Lei”, as an Executive Decree with force of Statute.
- ⁶⁰ The article numeration had suffered many changes during the various constitution reforms of 1853 Constitution (1860, 1866, 1898, 1957 e 1994). Nevertheless, the disposition remains the same today, in present art. 70.
- ⁶¹ «Art. 66. Bills submitted by the President of the Republic, by State Legislatures or delegations thereof, shall be at once referred to committee. Those introduced by representatives or senators shall be subject to the rules of procedure». [both text as amended at 13 November 1874.]
- ⁶² Roure, *A constituinte republicana* cit., p. 565 ff.
- ⁶³ Carone, *A República Velha (evolução política)* cit.; Viotti da Costa, *Da monarquia à república*, cit.; R.M.G. Silveira, *Republicanism e Federalismo: 1889-1902: um estudo da implantação da República no Brasil*, Brasília, Senado Federal, 1978; Lessa, *A invenção republicana* cit.; F.H. Cardoso, *Dos governos militares a Prudente-Campos Sales*, In B. Fausto (editado por), *História geral da civilização brasileira: o Brasil Republicano – Estrutura de Poder e Economia (1889-1930)*, Rio de Janeiro, Bertrand Brasil, 1997⁸, t. III, vol. 8, pp. 17-57.
- ⁶⁴ During the First Republic, although concomitant, the elections for President and Vice President of Republic were autonomous. In 1891 the electoral companion of Deodoro was the Vice Admiral Eduardo Wandenkolk, while the opposition candidates were Prudente de Moares (President) and Floriano Peixoto (Vice President).
- ⁶⁵ Lessa, *A invenção republicana* cit.; A.L. Backes, *Fundamentos da ordem republicana: repensando o pacto de Campos Sales*, PhD Thesis, Porto Alegre, UFRGS, 2004, pp. 140 ff.
- ⁶⁶ Lessa, *A invenção republicana* cit., p. 151.
- ⁶⁷ Carone, *A República Velha (evolução política)* cit. p. 174. Also in: Guanabara, *A presidência de Campos Sales* cit; for the document: C. Sales, *A Nação: 1898, 15 de novembro*, In Brasil, Presidente, *Documentos parlamentares 9: Mensagens presidenciais, 1890-1910*, Brasília, Câmara dos Deputados, 1978, pp. 200-209.
- ⁶⁸ Guanabara, *A presidência de Campos Sales* cit.
- ⁶⁹ Carone, *A República Velha (evolução política)* cit.
- ⁷⁰ F.W. Riggs, *The Survival of Presidentialism in America: Para-constitutional Practices*, in «International Political Science Review», IX, 4, 1988, pp. 247-278.
- ⁷¹ J.A. Cheibub, *Presidentialism, Parliamentarism, and Democracy*, Cambridge, Cambridge University Press, 2007.
- ⁷² P. Bonavides, P. de Andrade, *História constitucional do Brasil*, Rio de Janeiro, Paz e Terra, 1991³; C.E.C. Lynch, C. P. de

- Souza Neto, *O Constitucionalismo da inefetividade: A Constituição de 1891 no cativeiro do estado de sítio*; *As Constituições Brasileiras: Notícia, História e Análise Crítica*, Brasília, Editora OAB, 2008, pp. 25-60.
- ⁷³ Backes, *Fundamentos da ordem republicana* cit.
- ⁷⁴ Silveira, *Republicanism and Federalism: 1889-1902* cit.
- ⁷⁵ Lei n. 35, de 26 de janeiro de 1892.
- ⁷⁶ Nicolau, *Eleições no Brasil* cit.
- ⁷⁷ There was often a lot of confusion about election winners, including duplicate diplomas.
- ⁷⁸ Carone, *A República Velha (evolução política)* cit., p. 177.
- ⁷⁹ Ivi, pp. 176-177.
- ⁸⁰ R. Lessa, *A invenção republicana* cit., p. 176.
- ⁸¹ Backes, *Fundamentos da ordem republicana* cit.
- ⁸² *Ibidem*.
- ⁸³ Ricci, Zulini, 'Beheading', *Rule Manipulation and Fraud* cit.
- ⁸⁴ V.N. Leal, *Coronelismo enxada e voto: o município e o regime representativo no Brasil*, São Paulo, Companhia das Letras, 2012⁷.
- ⁸⁵ Nicolau, *Eleições no Brasil* cit.
- ⁸⁶ Campos Sales, *Da propaganda à Presidência* cit., pp. 121 ff.
- ⁸⁷ Lessa, *A invenção republicana* cit.; C. Viscardi, *O teatro das oligarquias: uma revisão da "política do café com leite"*, Belo Horizonte, Fino Traço, 2019³.
- ⁸⁸ Backes, *Fundamentos da ordem republicana* cit.
- ⁸⁹ M.C.C. de Souza, *O processo político-partidário da Primeira República*, in C.G. Motta (ed.), *Brasil e perspectiva*, São Paulo, Difel, 1974, pp. 162-226.
- ⁹⁰ Abranches, *Presidencialismo de coalizão* cit. p. 27.
- ⁹¹ Carone, *A República Velha (evolução política)*, cit. p. 177. The within quotes refer to: Campos Sales, *Da propaganda à presidência* cit., pp. 165-166. In the same way: Cardoso, *Dos governos militares a Prudente*-Campos Sales cit.
- ⁹² R. Lessa, *Aventuras do Barão de Munchausen: notas sobre a tradição presidencialista brasileira*, in J. Lanzaro (ed.), *Tipos de Presidencialismo y Coaliciones Políticas en América Latina*, Buenos Aires, CLACSO, 2001, v. I, pp. 137-162.
- ⁹³ C.S. Montesquieu, *The spirit of the laws*, Cambridge, Cambridge University Press, 1989, p. 155.
- ⁹⁴ V.N. Leal, *Coronelismo, enxada e voto* cit.
- ⁹⁵ Backes, *Fundamentos da ordem republicana* cit. p. 134 (underlined in the original).
- ⁹⁶ Ivi, pp. 150-151.
- ⁹⁷ Guanabara, *A presidência de Campos Sales* cit., pp. 43-46 and 139-146.
- ⁹⁸ Campos Sales, *Da propaganda à presidência* cit. pp. 115-132.
- ⁹⁹ C. Sales, *A Nação: 1900, 3 de maio*, in Brasil, Presidente, *Documentos parlamentares 9: Mensagens presidenciais, 1890-1910*, Brasília, Câmara dos Deputados, 1978, pp. 227-243, p. 239.
- ¹⁰⁰ Ivi, pp. 245-262, especially pp. 245-246.
- ¹⁰¹ Ivi, pp. 264-299, especially pp. 272-274.
- ¹⁰² O. Trigueiro, *A crise legislativa e o regime presidencial*, in «Revista Brasileira de Estudos Políticos», 7, 1959, pp. 45-74.
- ¹⁰³ According to Lynch: 1891, 1892, 1893, 1897, 1904, 1910, 1914, 1917/1918, 1922/1923, 1924/1926, 1930, Lynch, *O caminho para Washington* passa por Buenos Aires cit. p. 158.
- ¹⁰⁴ Ricci, Zulini, 'Beheading', *Rule Manipulation and Fraud* cit.
- ¹⁰⁵ Lynch, *Da monarquia à oligarquia* cit., p. 91.
- ¹⁰⁶ Cheibub, Elkins, Guinsburg, *Latin American Presidentialism in Comparative and Historical*, cit.
- ¹⁰⁷ Peres, *O Governismo na Política Brasileira* cit.
- ¹⁰⁸ Limongi, Figueiredo, *Bases institucionais do presidencialismo de coalizão* cit.
- ¹⁰⁹ Baleeiro, *Constituições brasileiras*, v. II: 1891 cit., p. 47; P. Ricci, J.P. Zulini, 'Beheading', *Rule Manipulation and Fraud: The Approval of Election Results in Brazil, 1894-1930*, in «Journal of Latin American Studies», XLIV, 2012, 3, pp. 495-521. Ciscardi, *O teatro das oligarquias* cit.; Galvão, *História constitucional brasileira na Primeira República: um estudo da intervenção federal no Estado do Rio de Janeiro em 1923* cit.