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THE NEW DEMOCRACY IN BRAZIL

I. THE DEMOCRATIC IDEA

SOME very skeptical thoughts were written over twenty years ago by Miss M. P. Follett in her stimulating work on *The New State*.¹ Let us quote at random a few phrases of her Introduction:

““Representative government,”” she said, “party organization, majority rule, with all their excrescences, are dead-wood. In their stead must appear the organization of non-partisan groups for the begetting, the bringing into being, of common ideas, a common purpose and a collective will.”

What she points out as the political error of our age is that “no government will be successful, no government will endure, which does not rest on the individual.” But she adds that “up to the present moment we have never seen the individual.”

She points out it is not by sending more men to the ballot-box, nor sending them more often, that direct government will find the individual. “Democracy,” she says, “is not a sum in addition. Democracy is not brute numbers; it is a genuine union of true individuals.”

The question that seems to be the base of the whole problem is sociological, for Miss Follett finds “the true man only through group organization. The potentialities of the indi-

¹M. P. Follett, *The New State: Group Organization the Solution of Popular Government* (New York: Longmans, Green, 1918).

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vidual remain potentialities until they are released by group life. Man discovers his true nature, gains his true freedom only through the group. Group organization must be the new method of politics because the modes by which the individual can be brought forth and made effective are the modes of practical politics."

What has often been overlooked is that the man, when he votes, does not represent a particular, theoretical, or abstract self, but a whole complex of his life relations, activities, and interactions. He votes as the representative of a whole, of a complex social entity, of a group life. Let us therefore get at the group if we need the individual.

In a couple or more sentences of the same author we detect her sociological argument: "Thus group organization releases us from the domination of mere numbers." "The technique of democracy is group organization." "The group organization movement means the substitution of intention for accident, of organized purpose for scattered desire."

Her criticism is that "To-day the individual is submerged, smothered, choked by the crowd fallacy, the herd theory" and her advice is that "The first reform needed in our political practice is to find some method by which the government shall continuously represent the people."

Since I am no politician, I shall merely try to interpret the most recent features of our constitutional evolution in Brazil. If I have insisted on quoting Mary Follett's Introduction, it is because the expressions she used seem to fit so well as explanations of our present situation. We have been struggling for a new democracy in Brazil, and the result has been a new state. What are the connections of this state with democracy—that is the point I wish to discuss succinctly.

A century ago, Sir George Cornewall Lewis, discussing the "Use and abuse of some political terms," defined democracy

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as a "government in which either a majority or a large portion of the people have, by means of the right of election, an influence on the appointment of members of the supreme power." The fact that, for instance, the Athenian commonwealth had a strong percentage of slave population and that not one-tenth of its inhabitants partook of the supreme power, has never prevented political historians from considering Athens as a "splendid achievement" in democracy.

Nowadays, democracy is a multifarious form of society that does not admit of universal application. Every nation, under some aspects at least, is democratic; even kings are described as democratic.

There is, however, a tendency to make distinctions between political democracy, social democracy, and economic democracy—forms which do not always coincide in the same state. It seems that, in the past, political democracy was unduly emphasized, the governing body being the only one taken into consideration. The conquest of political rights by the people has blurred the sharpness of its interest, whereas new forms of democracy are being aimed at in social evolution. Besides, pure democracy is no longer practicable, unless the community is of small size and relatively undeveloped; the only kind of democracy possible is an indirect or representative one, where people are present only by proxy, whether there are one or more degrees of election. But even a representative government might not be democratic; suffrage is too much restricted.

In any event, one thing must be noted: the political-economic-social life of a big modern nation has developed in such a way that today the burdens of democracy are excessive and, as Professor James W. Garner puts it, "their tendency is to go to extremes and to devolve upon the electorate tasks which by reason of their character and multiplicity the peo-

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ple are not competent to discharge satisfactorily through direct action." The democratic control of foreign policy, for instance, might lead to disastrous consequences.

The real characteristic of contemporary democracy, resulting from the wideness of its aims, political, economic, social, is the new spirit, the socialized aspect it has assumed in the twentieth century.

"In two aspects," says Walter E. Weyl,¹ "the democracy towards which we are striving differs from that of today. Firstly, the democracy of tomorrow, being a real and not a merely formal democracy, does not content itself with the mere right to vote, with political immunities, and generalizations about the rights of man. Secondly, it is a plenary, socialized democracy, emphasizing social rather than merely individual aims and carrying over its ideals from the political into the industrial and social fields."

A Brazilian jurist, Dr. Francisco Campos, Minister of Justice and one of the authors of the present Constitution, has emphasized the contrast described in the above quotation from Walter Weyl's book of 1912. To him, democracy has chiefly four meanings nowadays: it is first the suppression of privilege; it is also equal opportunity for every citizen; it is further the utilization of capacities; and lastly, it is the largest diffusion of material and moral goods. The essence of democracy is the organization of the state according to the will of the people and the functioning of it with the cooperation, action, and frequent interference of that same people.

It is a widespread opinion in Brazil that democracy is by no means a monopoly of the liberal state theory. In many cases, liberalism has distorted the democratic practice by allowing class struggle, party strife, personal ambitions and interests, excesses of individualism and even demagoguery. It

¹Walter E. Weyl, *The New Democracy* (New York: Macmillan, 1912).

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might not be irrelevant to explain the traditional restlessness of Latin American Republics by the use and abuse of liberalism in the interpretation of democracy in political life.

We believe that very often democracy is not defined by its values and its aims, but rather, as Francisco Campos puts it, "by its ways, by the processes, by the machine, by the technique or by the different contrivances through which politicians forge public opinion or devise legal substitutes for the will of the people or the nation." There is, of course, no relation between the democratic machine and the democratic ideal. The more elaborate the mechanism, the more difficult it is for the people at large to understand its working, and the greater are the opportunities for the professional political middleman to interfere between the government and the people, to draw profits, advantages, and privileges that thwart the free play of real democracy.

The equality of opportunity is reduced to an equality of suffrage. When the vote has been cast as a formal manifestation of democracy, the substantive rights—to work, to health, to security, to well-being—are baffled, for they are all supposed to be included in the ballot-box. "When the vote is cast," says Campos, "relations between the citizen and the state are over."

There is no doubt that democracy has been the aim of many political devices and that many political mechanisms have been imagined and included in constitutional laws, such as universal suffrage, parliamentary systems, referendum, rotation in office, suffrage for women, recall, secret suffrage, and so on. Yet there is only one control for the whole machinery: it is "pressure from without"; it is public opinion and all the extra-constitutional devices of a truly political vitality.

Brazil has been independent for over a century. We had

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the Imperial Constitution and the Republican one. The first lasted sixty-five years, the second forty years. A new Republican Constitution was passed in 1934, and was succeeded by the present Constitution of 1937. Let us examine briefly to what extent these several constitutions were adequate to our needs, adapted to our customs and habits, in conformity with our spirit and our tradition, and the result of our experience and practice in political life. Constitutions cannot be adapted from foreign patterns as ready-made clothes; they have to be made to order to suit the customer and allow him to keep a free and easy control of his usual movements. This seems evident, and theoretically it is; in practice, however, we do not realize it so clearly, because of a very understandable tendency to generalization. Wearing collar and tie, buying the morning papers, and having afternoon tea, does not result in conformity of feelings and thoughts, in similarity of tastes and needs. Euro-American culture is multiform, according to ethnic types, latitudes, and opportunities.

II. CAUSES OF THE 1937 MOVEMENT

In her very interesting work on *Dom Pedro, the Magnanimous*,¹ Dr. Mary W. Williams of Goucher College has written some expressive words on our political life during the Empire. She entitles one of her chapters, "Dom Pedro's Struggles with a Premature Political System." The whole problem is thus stated in a nutshell. I could quote, of course, any number of Brazilian contributions on the subject, but this recent book by a prominent American historian of South America seems most suitable to my present purpose, provided I am allowed to quote freely, in order to give the true interpretation of her conception.

¹Mary W. Williams, *Dom Pedro the Magnanimous, Second Emperor of Brazil* (Chapel Hill, N.C.: University of North Carolina Press, 1937).

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"The Emperor was, from the first, handicapped," she says, "by a clash between the political facts of the country and its political ideas. Though the Brazilians who were interested in government wanted a democratic system, they lacked the experience and self-discipline needed to make such a system work." In fact Brazil was, at the time, a very sparsely inhabited country, in which the population lived still in a semi-patriarchal way, in large tropical-agricultural estates, with slavery, general illiteracy, few social contacts, and many more shortcomings.

Therefore Dr. Williams does in no way calumniate us when she writes: "But no one knew better than he (the Emperor) that the Brazilian nation, largely illiterate and only recently permitted to experiment with self-government at all, was quite unready for the democratic political system of Great Britain, where representative government existed for more than five centuries. But, in the interest of harmony, he tried to make the best of the existing situation." Further, we read the following statement, backed by numerous Brazilian writers on political subjects: "During much of his reign, the Liberals and Conservatives had but a small membership and failed to stand consistently for clear-cut principles of government. They did not to any marked degree represent public opinion or currents of national thought." "Thus the Emperor let unpreventable frauds bring about party changes. But for the sake of harmony he kept up the fiction that the deputies represented the will of the nation."

As to what has been called in our history "dictatorship of morality," she adds that Dom Pedro exercised it benevolently and permitted, as well, the pretense of a cabinet system.

So the safety of the Empire was entrusted to the "Podér Moderadór," the moderating power of the Emperor.

Although things did not stay perpetually in the same con-

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ditions, but changed and evolved, that was nevertheless our political experience of nearly seventy years of imperial regime. I admit what Herman G. James says,¹ "Democratization of the government would probably have spelled anarchy in Brazil as it did in all the Spanish American states after independence. The half century of Dom Pedro's reign afforded two generations of practice in politics and allowed a gradual and orderly transition from the monarchy to the republic."

Now what was the experience of the other half century of republican regime? Influences of bookish culture had led our statesmen of the imperial era to ignore the people and the country in preparing a constitution modelled on European ideas and practices. Those of the Republican period were not more original nor keener observers of the realities of our situation; they copied the United States instead of Europe, and so was framed our first Republican Constitution of 1891. "It was said," wrote Madeiros e Albuquerque twenty-five years ago, "that the presidential regime that had given to the United States their magnificent prosperity would certainly do the same for Brazil."

The suddenness of the revolution, in 1889, had found the country unprepared for the new institution. Deprived of the imperial political elite, the republican statesmanship was unaware of the conditions and necessities of the people. There was no matured plan; there was plenty of utopian ideology but no organic idealism based on Brazilian realities. Besides, it was a decidedly critical moment in the nation's economy, provoked by the agricultural crisis following the abolition of slavery.

Soon did the founders of the new regime complain that "it was not the Republic of their dreams."

¹Herman G. James, *Brazil After a Century of Independence* (New York: The Macmillan Co., 1925), p. 143.

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The deepest reason, however, of the unfitness of that constitution was the lack of an organized public opinion. There was no "pressure from without," no training in self-government, no class solidarity, no party interests of significance, no feeling of collective well-being to be conquered and maintained. "Conditions of vitality for such a regime," said Oliveira Vianna, "could only be compared to those of a guinea pig under a vacuumized glass-bell."

It would be a natural question for us to ask: how did such a political system work for exactly half a century? It lasted because it was distorted, from the very beginning. Every one of our thirteen presidents had his own way of managing the situation; and the bomb exploded in the hands of the thirteenth president, just a couple of weeks before he was to leave office, at the end of his legal term.

The empire had been the period of pre-eminence of the "moderating power" of the monarch; the republic had shifted, theoretically at least, pre-eminence to the "legislative power." All the democratic formulae were expressed: "sovereignty of the people," "liberty," "federation," "universal suffrage," "division of powers," and others.

Such institutions, however, were precarious, for they had no strong public opinion to back them. The formation of an effective public opinion in Brazil has been delayed by the geographical factors of distance and isolation, by the social factors of traditional paternalism of a patriarchal civilization, by psychological factors of indifference and apathy, by economic factors of helplessness and destitution in the hostile environment of a luxuriant nature. Invaluable racial qualities, both individual and social, have developed in Brazil; peaceful orderliness, kindheartedness, and discipline are perhaps Brazilian virtues, but aggressive vitality and spirit of cooperation have not yet reached their full develop-

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ment. Culture, now spreading rapidly, was slow and unassisted in the past.

Under such circumstances, it is not difficult to realize what political parties could be.

President Getulio Vargas said in his speech of November 10, 1937: "Our old parties, as well as our new ones in which the old had merged under new labels, had no ideological expression; they stood under the shade of personal ambitions or local influences for the sake of groups merely interested in sharing spoils and in propitious combinations, with inferior objectives. The capacity of resistance of the regime disappears and the pacific contest of the ballot-box is transferred to the wild field of armed conflict. In some states, electoral preparations have been replaced by military preparations. The regional 'caudilhismo,' under the cover of party organizations, was arming in order to force upon the nation its decisions, thus positively threatening national unity."

The so-called parties, instead of being national expressions of broad, general classes of professional interests to inform and guide the executive, were always clusters of petty individual profiteers at the expense of the nation's cause. They were clans, with bosses seeking advantages or protection. Only two or three times in our whole history did they happen to represent a truly collective interest—independence, abolition, and abdication. Otherwise they just worked for the "mediocritization," if we may say so, of the governing elite, for the crowding of official positions, and for useless political agitation. The deputies in the federal parliament did not seat themselves according to party lines; they sat in *bancadas*, that is to say, in groups by states under the leadership of the state deputy that represented the state political "situation," as it was termed. The grouping had to obey political instructions and vote accordingly. The opposition of the state some-

times represented a minority. So the federal government could only work with the support of the state coalitions, giving cabinet posts to influential states and not to the ablest men, with very rare exceptions, as in the case of Rio Branco.

Never was it possible to read a single party program, with principles, ideas, plans, or suggestions for political action, till in 1934, they cropped up by dozens, just because the second Republican Constitution recognized proportional representation, and the electoral code determined the minimal condition for parties to be officially recognized. It was a regular pulverization of public opinion. Of course, it was an artificial device to create parties where the natural conditions did not allow them to thrive on normal lines.

No public opinion, no parties, no collective interests adequately represented, no landowners, no working class, no bourgeoisie, no industrial groups voicing their wants and aspirations; a whole nation standing aloof and leaving political activity to groups of professional politicians: that was about the situation of the country half a century after the emperor had departed.

How could a presidential regime work in such an atmosphere of national indifference? The nation did not express wishes or needs, but just kept waiting—waiting every four years for a savior, a president-elect with a program of salvation. For three long years the poor man had to struggle, to compromise with the clans and the state oligarchies, in order to muddle through and reach the fourth year, in which political restlessness under the cover of electoral preparations was the activity of the readjusting group of petty interests. Happily, Brazil has been blessed with good presidents, honest men, patriotic and well-minded, who worked hard to save the country from the ills of an unsuitable constitution.

Thus, for half a century, every one of our thirteen presi-

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dents had to play the executive of a distorted constitution, according to his temperament, in order to manage for the better an indifferent people to whom government is the supreme disposer and the most unavoidable curse.

It would not be fair to say that the presidential regime adopted by our first Republican Constitution did not benefit the country in any way. The crisis of the revolution of 1889 was threatening the very unity of the nation. The full powers which the Constitution of 1891 granted to the president allowed Marechal Floriano Peixoto to consolidate the republic. Later, the same statute made it possible for our executive to develop an administrative activity of great efficiency and continuity. It allowed, for instance, President Prudente de Moraes to pacify the country; it helped Campos Salles to restore the finances; it enabled Rodrigues Alves to back the strong hand of Dr. Oswaldo Cruz in his sanitary campaign against yellow fever, to remodel and rebuild Rio de Janeiro under the Lord Mayor Pereira Passos, and to put into execution the large international plans of the Chancellor Rio Branco; it also permitted Affonso Penna to pursue a consistent policy of economic development. In fact, it is no exaggeration to say that the first twenty years of the Republic were prosperous, in spite of the regime that seemed to some extent responsible for such progress.

Unfortunately the system was suited only in appearance to real interests and national conditions. The maladjustment was due to different causes:

1. It bred the regional spirit in semi-independent units of the country, in very dissimilar conditions of wealth and education. There was a growing tendency to oppose the economic forces of more powerful states to the coordinating and unifying efforts of the Union.

2. It gave the right to the states to constitute, under the

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name of police force, real little armies with machine guns and field artillery, thus weakening considerably the budget for federal forces.

3. It duplicated the services of justice, weakening in the same way the federal organization.

4. It yielded to the individual states practically all sources of revenue, leaving to the Union only customs duties and very few taxes. The constitutional impoverishment of the federal government hampered its action, when more and more responsibilities were accumulating in its own departments.

5. It permitted any number of restrictions on the internal market, determined by the economic privileges of local units. Interstate commerce was heavily handicapped; export taxes, import duties (these were unconstitutional, but charged all the same), and many more hindrances were commonly devised, sometimes with reactions on the international market.

The real inadequacies of the regime appeared in 1910 when for the first time there was a contested election for the presidency. The military candidate, Marechál Hermes da Fonseca, was opposed by the civilian party headed by Ruy Barbosa. Had the constitution fitted Brazilian social conditions, it would have been a normal and peaceful contest. In fact it showed a certain political vitality; currents were felt in public opinion; ideas and programs did not mean much, but there were some contrasts in attitude. Happily no revolution resulted from the victory of the military candidate, but as a consequence of it, a new policy was inaugurated to reduce or subdue the state oligarchies that were thriving unconstitutionally in different states, especially in the northern ones.

Up to 1910, one of its distortions that made the constitution workable was the compromise of the Union with the

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state family and relation groups or oligarchies that held all offices and monopolized all privileges. It had been started by President Campos Salles under the name, "Policy of the Governors," as the only way to secure for the federal executive the indispensable support of the states for his financial reconstruction scheme. These oligarchies, as extra-constitutional excrescences, were violently opposed and many of them had to give way. Unfortunately most oligarchies, dispossessed in 1911-12, were changed for new ones no better qualified, sometimes worse, and with much less political training for the situation.

The ruin of local oligarchies, under President Hermes da Fonseca, deprived many states of the one form of guidance and direction that expressed an organic reaction of unprepared social elements.

Another extra-constitutional element was the extraordinary political force represented by the vice-president of the Senate, Pinheiro Machado, who headed a party of his own, called the P.R.C. (Conservative Republican Party), and acted as the grand elector of presidents and their adviser in political combinations. For nearly twenty years the mysterious prestige of that "lord protector" lasted, unexplained and autocratic, vitiating the fair play of the constitution through the hold he had on parliamentary and legislative activities.

After 1912, hypertrophy attacked the executive, and a decidedly rapid decline became noticeable in Congress. As technical problems appeared more frequently, the Legislature avoided discussion of them and began to give wholesale powers and authorizations, approving indiscriminately drafts and bills from the government. Congress showed thus a docility comparable only to its revealed incapacity. National interests were yielded to clannish disputes and struggles for personal advantage.

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After the Great War, a much stronger executive was found to be rooted in our presidential system. The election of the president became therefore a far more important event in the political life of the country; every three years a serious crisis was impending. The permanent opposition of those who had no chance of controlling the governmental machine was transformed into a revolutionary attitude as there was no workable constitutional solution as an alternative.

The first rebellious movements started in 1922, when the so-called "Republican Reaction" headed by ex-president Nilo Peçanha opposed the election of Arthur Bernardes. The episode had different revolutionary outbursts, yet it would be difficult to find an idea, a principle, or a program, for the most dissimilar elements joined in a rather confusing way to antagonize the official course of action. It seems that instinctively, without plan or preparation, the civic spirit of the people was seeking a form of expression in unconnected and unconscious convulsions. At that time some Marxist ideologies made their way among the leaders of the defeated movement, as they lived in the River Plate capitals, where they gathered as refugees. Later on, the fascist creed also converted some other discontented elements. The Bernardes presidency had to be suspicious, autocratic, and repressive: it was a period of suspense; his successor was hailed as a savior.

Unfortunately financial difficulties, the severe coffee crisis, the consequences of depression, questions related to our industrial progress, and the adoption of foreign ideologies made the term of office of Dr. Washington Luis the very test of a liberal-democratic possibility among us. Opposition grew stronger, it had learned the lesson in revolution: it took on the character of an organic movement. As it was said, the revolution was "articulated": instead of splitting public

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opinion or the mass of the people, as in 1910 or 1922, the cleavage was between states: Minas Geraes and Rio Grande do Sul, aided by small Parahyba, which had grievances against the executive, headed the movement, and revolution broke out in October, 1930.

If better organized than the previous ones, this revolution was not much richer in ideas and principles; but with the good will of some of the military leaders who interfered as conciliators, the struggle did not last more than three weeks and, for the first time in Brazil, a president was deposed.

The ease with which the revolution was accomplished was a surprise to everybody, even to the revolutionists; it proved once more the inadequacy of the institution destroyed and the public indifference to its overthrow. Nominally the victory belonged to a party called the Liberal Alliance. The leaders were heading a very heterogeneous crowd. A social historian, Azevedo Amaral, called it a "mosaic of discontentments." Of course, victory was to bring more confusion than clearness to political action: liberal-democrats, communists, Catholics, reactionaries, and militarists showed the most diverse and opposed tendencies and ideas, which they hoped to see followed by what was expected to be the "New Republic." They had joined to fight personalism and individual power, but in order to reorganize government they had to concentrate power in the hands of a civilian dictator.

It was no easy task for Dr. Getulio Vargas to manage the political situation, avoiding clashes, holding enthusiasm within bounds, moderating reformers and, chiefly, forbidding reprisals and retaliation. We needed at that moment a man with great psychological capacity for objective analysis, unwilling to display dramatic effects, cool-headed, and without animosity or vindictiveness. By chance it happened that such

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a man was the appointed dictator for three and a half years.

Between 1931 and 1934 Dr. Vargas had very few assistants; with tactful firmness he had to put aside many of his supporters and gradually eliminate the conspicuous revolutionary reputations of some who, without right to them, held positions of political responsibility. For over three years Dr. Vargas worked honestly to restore constitutional order in a new liberal-democratic regime.

The most important episode of that period was the São Paulo revolution of 1932 against the federal government. The São Paulo leaders considered themselves victims of the 1930 upheaval that had deprived the Brazilian empire state of its political pre-eminence, as the economic leader of the country. It is difficult to say what were the plans of São Paulo in 1932 to hasten the "constitutionalization" of the republic; in any event, they were defeated. Happily, São Paulo was in no way deprived of economic and social leadership.

The Constituent Assembly was summoned in 1933, as expected, and for the first time in Brazil, it may be said positively, we had by universal suffrage and direct secret vote a free, absolutely free election of representatives without the slightest external pressure. The Brazilian people had spoken at last! No end of hopeful speculation and expectation filled the hearts of the patriots, the well-minded citizens. Never had Brazil known such a true representation of the popular will, and discussion of the new constitution started under the most favorable circumstances of peace, security, and harmony.

In July, 1934, the constitution was given to the nation. It was of the liberal-democratic type. Every shade of political ideology had had a chance to influence the new law of the country; the tragedy was that none of these ideologies

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failed its opportunity. The Constitution of 1934 was a regular gerrymander; it "started," says Azevedo Amaral, "concerning itself with theology and ended its long-winded chain of articles by prescribing orthographic and spelling rules." The dictator was elected constitutional president, and for three more years he tried earnestly to work under that newly adopted system of liberal-democracy.

III. THE CONSTITUTION OF 1937

When the Constituent Assembly had framed the organic law of the country, and turned out to be its first Legislative Congress, the most genuine of all political bodies we ever had, the antagonism of opposite creeds appeared even more distinctly. "It surpassed," said Azevedo Amaral, "all the preceding assemblies as a demonstration of lamentable incapacity in performing its legislative function."

During solid years of almost uninterrupted session, the Congress of 1934 did not pass a single complementary law scheduled in the constitution. The deputies, nevertheless, did not hesitate to approve matters of personal interest, many of which had to be vetoed by the executive. The budget was never voted within the legal term and in such conditions the executive could not balance the revenue with the appropriations.

Grave dangers to national life did not find in parliament the needed reaction, nor in the constitution the means to cope with them. In fact, Communism, on one side, and Fascism, on the other, threatened Brazil, practically at the same time, with new revolutionary agitation. In haste some drastic emergency measures had to be taken that altered substantially the constitutional law, in order to grant to the executive the indispensable powers to restore peace and security.

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I do not know to what extent the extremist plans of 1935 endangered the regime, but it is a fact that the emergency powers voted by Congress marked the bankruptcy of our second republic, which, by the way, was very similar to the first.

The decisive reason for the *coup d'état* of November 10, 1937, and the constitution of the new state is given by the President himself in the following words: "The destitution and disorganization of our political life, as it has been going on up to the present, is now proved by the way the problem of presidential succession is being handled among us: a ridiculous competition of groups, acting by graft and demagogic pledges in presence of the most absolute lack of interest and indifference shown by the vital forces of the nation. Heads of state governments, bossing agitators, rascals, and opportunists, against popular will, have transformed themselves, from one day to another, into political leaders war-ranting presidential candidates for election, just as if the life of the country, in its collective meaning, were mere convention in order to legitimize ambitions of provincial caudilhismo." In consequence, the elected president of 1934 sprang the *coup d'état*, which was carried out peaceably on November 10, 1937.

The legislative power in the Constitution of 1937 is exercised by the National Parliament with the collaboration of the Council of National Economy and the President of the Republic (Art. 38). The Parliament is formed of two houses: the Chamber of Deputies and the Federal Council, which has been substituted for the senate of previous constitutions.

The Chamber of Deputies is formed by representatives of the people elected by indirect suffrage. Direct election is restricted to municipal assemblies, and the municipal aldermen of these assemblies, as well as ten more citizens elected

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in the same direct way at the same time, constitute a sort of electoral college that elects the deputies to the Federal Chamber.

The Federal Council is formed by state representatives, chosen by the state legislatures—one from each state. Ten more members of the Federal Council are to be appointed by the president. The term of office for a councillor is six years and a deputy four years.

The other organ is the Council of National Economy, one of the innovations of the new law. It is to be composed of representatives from the different lines of business, selected for their special qualifications from professional associations and syndicates. They represent equally employers and employees. The Council has five sections: industry, agriculture, commerce, transportation, and credit. Here also is the president entitled to appoint three representatives in each section. The Council is authorized to contract specialists and experts and has a rather large field of action. Its power is expected to be still further increased by law, as a function of the corporative state, yet it is exercised by “means of opinions and recommendations concerning subjects within its consultative province” (Art. 38).

In principle, the initiative in law-making belongs to the government, yet from the Chamber or from the Federal Council initiative is legal if the bill is supported by one-third of the house.

As to the budget, every department prepares its appropriations, but the final expenditure is planned by a special administrative department that works as adviser to the president, controlling and supervising the whole public service. Before the signature of the president, the budget is passed through the Houses of Parliament, with short delays to discuss, approve, amend, or reject.

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The President of the Republic coordinates the activity of the representative organs, controls the internal and external policy, promotes legislation and directs it, and superintends the administration of the country. He is in office for six years and is allowed to nominate one of the candidates to his succession. An electoral college of 125 voters (municipalities, Chamber, Federal Council, and National Council) is to choose the name of the next president; in case of disagreement with the president, the candidate is elected by universal suffrage: the people are to say which of two names must take office.

Decidedly, after the teachings of past experience and to avoid censure of political privileges, so common among us, many powers have been concentrated in the hands of the executive. "The intention of our forefathers thirty years ago," said Professor J. W. Jenks,¹ "was to give us a government of checks and balances, with executive, legislative, and judicial departments, distinct and separate; but, in order that our government may be efficient, the system of checks and balances which weaken it must be overcome by some coordinating force. In our country that force is our political parties." In Brazil, as we have tried for a whole century to create political parties and have been unsuccessful, the coordinating force has been entrusted to the president.

The Brazilian constitution is not yet in full execution, for we are still in the preparatory period of organization. Many new organs are already in function, chiefly the technical councils for public administration, for commerce, for immigration, for public education, as well as technical institutes for coffee, for sugar, for cocoa, and other national economic interests. The preparatory stage will end with a plebiscite

¹J. W. Jenks, *Principles of Politics from the Viewpoint of the American Citizen* (New York: Columbia University Press, 1909).

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for adoption or rejection of the constitution. But before election for the National Parliament, the National Economic Council must be organized.

Whether this constitution fits our purposes or not, it is early to say, but never has a Brazilian statute law been so elaborated in social and economic matters, never have political pitfalls of our past been so earnestly avoided; it claims to conform to Brazilian realities. The nomination of the president's successor by the president in office was, in the past, one of the Brazilian unconstitutional realities. Why not have it in the constitution and legalize it, leaving to the nation a decision if the National Assembly disagrees with the president?

The election to the senate, called today National Council, was a fraud, for the man "elected" was in fact chosen by the state assembly or the president of the state. Why not recognize him at once as the state representative and have that old practice transformed into a constitutional one?

The pressure of economic interests on legislative bodies was a curse in the past. Why not shift it to a professional body with only consultative power, as the Council of National Economy?

Those and many more peculiarities of Brazilian political practice have been studied, and instead of being vigorously opposed have been included in the constitution, making legal what was, in the past, a distortion. What is, after all, the law but a crystallization of habits and customs?

In fact it is, in the authoritative type of state, a really democratic move, for it introduces for the first time the vital popular forces into the structure of the state. Although it has nothing of Fascist or Nazi regime, it is an attempt to build a political entity along corporative lines. There is no more room left for professional politicians; the people are

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directly or indirectly represented in all councils. Since 1930 not less than 2,500 syndicates have been officially recognized.

On the other hand, the regime of 1937 has checked the spirit of reformation that was threatening national unity. It has also stopped the spirit of internationalism that was growing under the form of European ideologies. There are isolated Fascist and Communist activities but, as A. A. Berle¹ says in the *Yale Review*:

The bulk of South America, like ourselves, appears to wish to be in the orbit neither of fascism nor of communism; to wish to preserve for its citizens, as well as it can, freedom to choose their own "good life." These countries have not yet evolved the economic method by which this can best be obtained, any more than we have; but they propose to evolve it as best they can, and are actively engaged in endeavoring to work out the mechanism. Government resting on a base other than the ballot box is no novelty in South America. Neither communism nor fascism was needed to create this phenomenon; and the continued existence in various countries of governments which claim sanction from something other than a majority vote of all individuals of full age is hardly a basis for classifying great parts of the continent as having taken sides in the struggle between international ideologies.

This may be applied equally to Brazil. It is almost guess-work to say what will be our situation a few years hence. Anyway, something had to be done; ready-made constitutions of foreign pattern had apparently not suited our needs. This one has features that might amaze the foreigner who still holds traditional prejudices in politics. Let him study, however, our problems, our situation, our democracy, and he will probably understand and say, "Well, that is a truly Brazilian constitution."

¹A. A. Berle, Jr., "After Lima," *Yale Review*, Vol. XXVIII, No. 3, March, 1939, pp. 454-5.