

**“WORDS UNLEASHED FROM THE ROSTRUM HAVE
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PREDICTED”: BERNARDO PEREIRA DE VASCONCELOS, AN
ELOQUENT JURIST?**

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MUITO LONGE, QUE NEM SEMPRE SE PODE PREVER”:
BERNARDO PEREIRA DE VASCONCELOS, UM JURISTA
ELOQUENTE?¹*

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SUMMARY: *Introduction; 2 Bernardo Pereira de Vasconcellos; 3 Juridical texts by Bernardo Pereira de Vasconcellos; 3.1 Liberal Phase; 3.2 Regresso Phase; 4 Conclusion; Bibliography.*

ABSTRACT: Bernardo Pereira de Vasconcellos was one of the most important characters from the Empire of Brazil. He held many positions and chairs in Brazilian public life (he was a general deputy, senator, State Advisor, Finance Minister, Justice and Empire Minister, inter alia) and is considered as one of the founders of Brazil. Although he graduated in Law, he is best-known as a legislator, politician, and journalist than as a jurist. This article aims to investigate the possibility of applying the “eloquent jurist” concept to this important figure: a small step towards a wider comprehension of what we call “Brazilian legal culture”.

KEY WORDS: Eloquent jurist; Bernardo Pereira de Vasconcellos; Empire of Brazil; Liberalism; Conservative “Regresso”.

RESUMEN: Bernardo Pereira de Vasconcellos fue uno de los personajes más importantes del Imperio de Brasil. Habiendo ocupado varios cargos en la vida pública brasileña (fue diputado general, senador, consejero de Estado, ministro de Hacienda, Justicia e Imperio, entre otros), es considerado uno de los fundadores de Brasil. Aunque estudió Derecho en Coimbra, es más conocido por su labor como legislador, político y periodista que como jurista. Este artículo tiene como objetivo investigar la posibilidad de aplicar el concepto de “jurista elocuente” a esta importante figura: un pequeño paso hacia una mayor comprensión de lo que convencionalmente llamamos “cultura jurídica brasileña”.

PALABRAS CLAVE: Elocuente jurista; Bernardo Pereira de Vasconcellos; Imperio de Brasil; Liberalismo; Retorno Conservado.

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RESUMO: Bernardo Pereira de Vasconcellos foi um dos personagens mais importantes do Brasil Império. Tendo ocupado várias funções na vida pública brasileira (foi deputado geral, senador, conselheiro de Estado, Ministro da Fazenda, da Justiça e do Império, entre outros), é considerado um dos formadores do Brasil. Embora tenha estudado Direito em Coimbra, é mais conhecido por sua atuação como legislador, político e jornalista que como jurista. Este artigo visa a investigar a possibilidade de se aplicar o conceito de “jurista eloquente” a esta importante figura: um pequeno passo rumo à uma maior compreensão daquilo que convencionamos chamar “cultural jurídica brasileira”.

PALAVRAS-CHAVE: Jurista eloquente; Bernardo Pereira de Vasconcellos; Brasil Império; Liberalismo; Regresso Conservador

INTRODUCTION

I. Something in the Brazilian academic tradition compels us to write without a subject. We never use first persons to write about our own research, nor do we address our work and analysis choices directly, preferring passive voice or some other grammar artefacts to play pretend that things exist on its own and that scientists would only watch and interpret them. Deep down, deep down, we know that language comes out of mouths, fingers, hands, and bodies. And that mouths, fingers, hands, and bodies create, sign, and appropriate. Words have authors, owners, users, mediators, teachers, and lawyers who articulate them without innocence. There is no sentence without a subject; there is no subject (or word) without sentence. And if grammar says that “it rains”, it is because grammar “was created”.

The cowardice in this kind of subject is brutal: it pretends that grammar exists without grammars, language without speakers, the State without society, politics without politicians, schools without a party. But words express ideas; ideas have subjects, and subjects have ideas. There are disputes, struggle, power, and ruse to define the meaning and value of each word and each person; there are games and players, winners and losers for each founding myth; there is flesh and blood behind the creations. We, then, understand that the ancestral Eden may have more of a serpent than of paradise, more of ribs than of women, and that the forbidden fruit may be itself a creator God, whom *we* sculpt from clay in our image, in our own image we created Him.

Many Brazilian founding myths, exactly for being “founding”, take place in our first “independent” experience: from the *Grito do Ipiranga* to the *Ordem e Progresso*, by studying through classic History books, one might think there were more battles than soldiers, more heroes than men, more men than women, and more masters than slaves. It even seems that each seed sown by the hands of a house of Bragança subject would grow into a green and yellow tree, whose leaves we can, today, harvest with our hands. Under current academic History, nothing could appear more inappropriate than that.

The Brazilian Empire correspond to a period of instability, in which the future of Brazil as a nation was more uncertain than certain. It was not possible to know if Brazil would remain united¹, if D. Pedro would return to restore his reign², if the coffee was bitter or sweet. It was necessary to live with the imprecise. Internally or externally, in the parliament or in the squares, in the fields or in the battlefields, the steps to be taken by a country trying to invent its own legs were defined each and every second. It was no different in the legal field: many of the parliamentary debates, especially at the beginning, were dedicated to understanding how votes, approvals, codes, and discussions would work. Even later, the task of interpreting of the Constitution of 1824 and the Additional Act would remain immersed in a parliamentary meta-language, fought on daily basis to decide which state Brazil wanted to be³.

There were, of course, prot-agon.ists. First actors, first actresses; whether by precedence, power, or opportunity, some names stood out (or were stood out later on) for their political actions, for the struggles they disputed, or even for the place they occupied, giving themselves greater or lesser possibility of changing the state of affairs, to fight for their interests and for what they thought was right.

II. This work is dedicated to a first investigation into the one of these characters legal thinking, who disputed and argued with determination and distinction for each interpretation, law, budget, word, sentence, or code. Bernardo

¹ The uncertainty about the future of Brazil as a united territory is quite clear in several Bernardo Pereira de Vasconcelos texts and speeches. I highlight an excerpt from the Circular aos presidentes de província in which he warns, focusing above all on the Farrroupilha “rebels”: “no one hides that quelling and scaring the rebellion is a duty of all Brazilians, it is the vital interest of true freedom, essentially linked to the union and integrity of Brazil”. In: VASCONCELOS, Bernardo Pereira de. Circular aos presidentes de província. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: Editora 34, 1999b. p. 243. (Coleção Formadores do Brasil).

² The fear of Brazil returning to the yoke of D. Pedro I or even to Portugal sceptre is especially clear in the speech given by Bernardo Pereira de Vasconcellos in the Chamber of Deputies, July 4 session, 1833, in which he asks the assembly “Is it likely or not the restoration?”, to which he answers himself: “For me, it is probable and very probable”. In: VASCONCELOS, Bernardo Pereira de. Circular aos presidentes de província. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: Editora 34, 1999b. p. 213. (Coleção Formadores do Brasil).

³ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 7 de agosto de 1826. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999c. p. 39-44. (Coleção Formadores do Brasil).

Pereira de Vasconcelos had the power and influence to make his reasons and unreasons heard; he helped create and interpret the world he lived in, that was obviously created and interpreted by him and the worlds that came after his.

One way of interpreting this interesting character's thinking may be focusing on his legal work. Vasconcelos dealt day and night with the “legal” in his life. From legislative battles to discussions in the press, from budgets to slavery, and from legality to violence in the *Regência* wars, Law was imposed as a language, as means and as end; as weapon and as target. If, however, we use the contemporary idea about this concept (law and legal) to categorise who would or would not be a jurist in the Brazilian Empire, we may fall into a small trap of time: the 19th century – especially in Brazil before law faculties – seems to have its own manifestation of the meaning we give to *law* today.

If we take Vasconcelos case as an example, although his short biography on the Brazilian government website⁴ states that “legal works” are a good part of his legacy, I could not find any mention of them in my research⁵. Nor José Murilo de Carvalho and Octávio Tarquínio de Souza (two of Brazilians greatest Historians) do not list or cite didactic or academic publications contemporarily recognised as “legal”. Even when discussing laws, statutes or issues properly related to legal spheres, most of Vasconcelos' works would look, today, as political or journalistic texts⁶. His bachelor in Coimbra does not seem to have added much to in this sense either: one of his most famous quotes says “I graduated there and finally left as a barbarian: I had to unlearn”⁷.

III. How could we, then, call him a jurist? I will let Vasconcelos himself answer this question: “words unleashed from the rostrum have a very far reach, which cannot always be predicted”⁸. His fruitful parliamentary activity demonstrates a deep knowledge of the law. Especially in the debates on the creation of legal faculties in Brazil, in his rendering of accounts as minister, and in his Criminal Code project, we can verify bits of his jurist profile. If we also consider his role as a public figure and as a journalist, we can see that Vasconcelos thought and built the “juridical” – and he did it in a very loquacious way⁹.

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An interesting way to look at this particular type of Jurist is the “eloquent jurist” explanatory category, proposed by Carlos Petit¹⁰ to interpret nineteenth-century Spain, but masterfully taken up by Ricardo Marcelo Fonseca¹¹ for interpreting the Brazilian case. This kind of jurist characteristically give primacy to the spoken language (sometimes even to the detriment of written language), to the usage of “other humanities” (such as philosophy, history, or Latin),

⁴ BRASIL. Ministério da Economia. **Bernardo Pereira de Vasconcelos**. 2015. Available on: <https://www.gov.br/fazenda/pt-br/aceso-a-informacao/institucional/galeria-de-ministros/pasta-imperio-segundo-reinado-dom-pedro-ii/pasta-imperio-segundo-reinado-dom-pedro-ii-ministros/bernardo-pereira-de-vasconcelos>. Access on: 30 may 2022.

⁵ It is worth mentioning, however, that his Criminal Code project very likely circulated in printed versions and was up for sale in January 1827, announced by the newspaper *O universal*, by Vasconcelos himself. In: SOUZA, Octávio Tarquínio de. **Bernardo Pereira de Vasconcelos**. Belo Horizonte: Itatiaia; São Paulo: Editora da Universidade de São Paulo, 1988. p. 61; COSTA, Vivian Chierigati. **Codificação e formação do Estado-nacional brasileiro: o Código Criminal de 1830 e a positivação das leis no pós-Independência**. 2013. 361 f. Dissertação (Mestrado em Filosofia) – Universidade de São Paulo, São Paulo, 2013. p. 107. Also, his Carta aos srs. eleitores da província de Minas Gerais probably circulated printed as well. In: VASCONCELOS, Bernardo Pereira de. **Carta aos senhores eleitores da província de Minas Gerais**. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999a. p. 58-191. (Coleção Formadores do Brasil).

⁶ Vasconcelos almost always had a newspaper at hand to publish and propagate his ideas. The two main examples are “O Universal”, which circulated in Minas Gerais from 1825-1842 (all its editions are available online at <http://memoria.bn.br/DocReader/docreader.aspx?bib=706930&pesq>) and “O sete d'abril”, which circulated in Rio de Janeiro from 1833 to 1839 (all its editions are also available on the website <http://memoria.bn.br/DOCREADER/docreader.aspx?BIB=709476>). A thorough analysis of Vasconcelos' writings in these periodicals can also reveal a lot about his legal thinking.

⁷ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 7 de agosto de 1826. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999c. p. 44. (Coleção Formadores do Brasil).

⁸ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 9 de agosto de 1837. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999i. p. 239. (Coleção Formadores do Brasil).

⁹ SOUZA, André Peixoto de. **Direito público e modernização jurídica: elementos para compreensão da formação da cultura jurídica brasileira no século XIX**. 2010. 208 f. Tese (Doutorado em Direito) – Universidade Federal do Paraná, Curitiba, 2010.

¹⁰ PETIT, Carlos. **Discurso sobre el discurso: oralidad y escritura en la cultura jurídica de la España liberal**. Madrid: Universidad Carlos III de Madrid, 2014.

¹¹ FONSECA, Ricardo Marcelo. Vias da modernização jurídica brasileira: a cultura jurídica e os perfis dos juristas brasileiros no século XIX. **Revista Brasileira de Estudos Políticos**, v. 98, p. 257-294, 2014. Available on: <http://www.gnmp.com.br/publicacao/230/vias-da-modernizacao-juridica-brasileira-a-cultura-juridica-e-os-perfis-dos-juristas-brasileiros-no-seculo-xix>. Access on: 27 mar. 2017.

on their discourses and performances, to constantly working as journalists, in addition, of course, to the rhetorical and oratory grandiloquence baptising this category.

Although both the works of Ricardo Marcelo Fonseca and Carlos Petit highlight lawyers as this kind of jurist typical figure, the activities performed by Vasconcellos and, above all, the form and means used by him to carry them out indicate this concept applicability to him and his work. It is worth, however, the important caveat made by Ricardo Marcelo Fonseca¹²:

É claro que este tipo de investigação, do modo como colocado aqui, não passa de um conjunto de indicações e de pistas que devem ser aprofundadas com o uso das fontes apropriadas, mas de fato parecem existir elementos para vislumbrar, ao menos como “tipos ideais”, a presença no Brasil de um “jurista eloqüente” e de uma passagem para um paradigma diverso, o de um “jurista cientista”¹³.

To analyse Bernardo Pereira de Vasconcelos legal thinking, I will use primary sources, most of them compiled by José Murilo de Carvalho in the book “Bernardo Pereira de Vasconcelos”. His speeches in the Chamber and in the Senate, above all, are interesting texts to analyse how Vasconcelos reasoned about Law, for they discuss Legal creation, their interpretation, and their use. In addition, in them, one may how the norms meanings were discussed, thus exposing his reasons and arguments – something that easily distinguishes a jurist from other legislators or educated citizens. Before delving into studying of his texts, however, a brief analysis of Vasconcelos’ positions and fame, as well as his life and political activity, can help to understand how other characteristics of eloquent jurists, such as the use of other humanities or grandiloquence itself, were also present in his working.

2 BERNARDO PEREIRA DE VASCONCELLOS

IV. Bernardo Pereira de Vasconcellos (in updated spelling, “Vasconcelos”) was a deputy general, senator, State Councilor, Minister of Finance (*Fazenda*), Minister of Justice and the Empire, Minister of the Empire. He held several positions in the Minas Gerais government, was the drafter of the draft Penal Code of 1830, and of the Additional Act of 1834, in addition to other important laws. A tireless journalist, he was also the main oppositional liberalist voice against D. Pedro I (Brazilian first Emperor). Later on, he was also the main leader of the conservative *regresso*¹⁴.

After his death, his name continued to bear prestige and power: his speeches and texts were read and reread by generations of intellectuals in pompous collections (one of them recognizing him as one of the “formers of Brazil”¹⁵ and his biography was written more than once – the main one is by Octávio Tarquínio de Souza¹⁶, an author who, according to Sérgio Buarque de Holanda, “wanted to approach History from the point of view of the men who

¹² FONSECA, Ricardo Marcelo. Vias da modernização jurídica brasileira: a cultura jurídica e os perfis dos juristas brasileiros no século XIX. *Revista Brasileira de Estudos Políticos*, v. 98, p. 257-294, 2014. Available on: <http://www.gnmp.com.br/publicacao/230/vias-da-modernizacao-juridica-brasileira-a-cultura-juridica-e-os-perfis-dos-juristas-brasileiros-no-seculo-xix>. Access on: 27 mar. 2017.

¹³ It is clear that this kind of investigation, as presented here, is nothing more than a set of indications and clues that must be deepened with the use of appropriate sources, but in fact there seem to be elements to glimpse, at least as “ideal types”, the presence in Brazil of an “eloquent jurist” and a transition to a different paradigm, that of a “scientific jurist”.

¹⁴ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). *Bernardo Pereira de Vasconcelos*. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

¹⁵ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). *Bernardo Pereira de Vasconcelos*. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

¹⁶ SOUZA, Octávio Tarquínio de. *Bernardo Pereira de Vasconcelos*. Belo Horizonte: Itatiaia; São Paulo: Editora da Universidade de São Paulo, 1988.

made History”¹⁷. To posterity, Vasconcelos seems to carry the image of his portraits¹⁸: a strong, official man, apathetic expression, well-crafted (officially) clothes; his social position portrayed in the details (scarf, tie, hair and beard). Healthy. Prestigious and respected.

His caricatures¹⁹ and physical descriptions²⁰, however, seem to portray a totally different man: an austere and frowning countenance, crutches, devils, slaves, and ironic nicknames (which well suited speaking choices) keep him company and seem to qualify him: feared and respected. Perhaps his contemporaries saw him this way, or the other – or both, for he was human and not yet myth.

Reverend Robert Walsh²¹, when describing his passage through Brazil in 1828 and 1829, crosses Bernardo Pereira de Vasconcellos on many occasions. In more than one, he is referred to as the great political figure in the Brazilian parliament (ps. 365 and 424); in others, he is compared to emblematic figures of American liberalism (ps. 214 and 445). It is not uncommon that in his descriptions of Vasconcellos a certain incompatibility between his physical appearance (fragile and opulent – ps 445 and 424-425), his rather simple manners, and his incredible oratorical ability:

His person is heavy and ungraceful, and his manner, when he commences, is correspondent; but as he warms with the interest of his subject, he gradually becomes more and more impassioned, and his language and his delivery are then eloquent and convincing. He is, however, more distinguished for logical precision; and in acuteness of reasoning, he has no equal in the assembly²².

Despite making clear he was one of the strongest figures in Imperial Brazil, Robert Walsh describes a Vasconcellos still in the early years of his parliamentary career (Vasconcellos made his first speech in the Chamber in 1826²³. Curiously, later on in his book, he also seems to describe him as if he were at the end of his life²⁴: from the beginning, due to his poor health, it may have been reasonable to speculate about his death and that soon his chair would be a vacuum in Brazilian political life. In just a few years, nevertheless, two of the statements made by Walsh would be revoked: Vasconcellos did not die soon (his political life would still last 25 years), and reneged, at the time he became leader of the conservative *regresso*, the comparisons between him and United States liberals. In this sense, Christian Edward Cyril Lynch:

[Vasconcellos’] favourable reference to United States unionists (federalists) was peered by another one, unfavourable to United States radical liberals. Vasconcellos referred to Jefferson as an authority to whom he was not “very fond, perhaps because of my *regresso* system²⁵.”

¹⁷ HOLANDA, Sérgio Buarque de. Octávio Tarquínio e Pedro I: a História a partir dos homens. In: SOUZA, Octávio Tarquínio de. **Bernardo Pereira de Vasconcelos**. Belo Horizonte: Itatiaia; São Paulo: Editora da Universidade de São Paulo, 1988.

¹⁸ Two interesting portraits by Bernardo Pereira de Vasconcelos are available on Wikimedia Commons in public domain and in good resolution. Available at the links: https://pt.wikipedia.org/wiki/Ficheiro:Bernardo_Pereira_de_Vasconcelos.jpg and <https://pt.wikipedia.org/wiki/Ficheiro:BernardoPereiradeVasconcelos.jpg>. Access on: 31 may 2022.

¹⁹ All available on CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

²⁰ As examples, I cite, again, CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil) and WALSH, Robert. **Notices of Brazil in 1828 and 1829**. London: Frederik Westley and A.H. Davis, 1830.

²¹ WALSH, Robert. **Notices of Brazil in 1828 and 1829**. London: Frederik Westley and A.H. Davis, 1830.

²² WALSH, Robert. **Notices of Brazil in 1828 and 1829**. London: Frederik Westley and A.H. Davis, 1830. p. 430-431.

²³ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

²⁴ WALSH, Robert. **Notices of Brazil in 1828 and 1829**. London: Frederik Westley and A.H. Davis, 1830. p. 430-431.

²⁵ LYNCH, Christian Edward Cyril. Modulando o tempo histórico: Bernardo Pereira de Vasconcelos e conceito de “regresso” no debate parlamentar brasileiro (1838-1840). **Almanack**, Guarulhos, n. 10, p. 327, ago. 2015.

V. Bernardo Pereira de Vasconcellos life plays a fundamental role in the place he occupied and still occupies in society. A brief look at his biography helps us to understand his thinking. To this end, I use of the works of Octávio Tarquínio de Souza²⁶ and José Murilo de Carvalho²⁷.

Bernardo Pereira de Vasconcellos was born in Ouro Preto, in 1795. He was the son of a Portuguese father raised in Brazil and a Brazilian mother with an influential family in Portugal. For José Murilo de Carvalho²⁸, “[his] family was a perfect example of integration between the metropolis and colonial bureaucratic elites”. Bernardo Pereira de Vasconcellos’ brothers also had prestigious careers both in Portugal and Brazil.

At the age of twelve, Bernardo Pereira de Vasconcellos was sent to Lisbon to study under his uncles’ care. The Napoleonic occupation of Portugal frustrated this attempt and Bernardo, still a boy then, had to return to Brazil after a short stay in England. It was only in 1813 that he managed to return to Portugal, this time to study law in Coimbra, which would become the “main centre for the formation of the imperial political elite”²⁹.

Vasconcellos returned to Brazil after graduation and, for four years, held legal positions, having been *Juiz de Fora* in Guaratinguetá³⁰ and *Relação* Justice in Maranhão (a position he never actually occupied³¹). In 1824, he was elected deputy general for Minas Geraes thanks to the influence and power of his family. In the following year, he became part of that State Government Council. Victim of a spinal disease that tormented him from 1827 until his death (hence the frailty and “imminent death” described by Walsh), Vasconcellos “seemed to try to compensate for the suffering and loneliness by obsessively dedicating himself to debate and political action”³². He died in the first yellow fever epidemic that ravaged Rio de Janeiro in 1850.

VI. One of the most interesting questions about Vasconcellos’ political performance is linked to his political orientation: during the First Reign and much of the Regency, he was one of the main liberal leaders and, from 1834 onwards, he became the leader and main theorist of the Conservative *Regresso*³³, adopting a withdrawn liberal position³⁴. This change of positioning - almost sudden - does not prevent us from perceiving in Vasconcellos’ thinking ideas that are his own, in addition to various hybrids that enrich his production and that maintain coherence even with his change of positioning.

In both his liberal and conservative phases, Vasconcellos did not hesitate to defend the maintenance of slavery (and the end of the slave trade for no other reason than English pressure); he also admired England, the United States, and France as examples of civilization; he defended the constitutional monarchy, independence, and sovereignty of Brazil. He argued, both as liberal and conservative, for the legality of the government and its procedures and for

²⁶ SOUZA, Octávio Tarquínio de. **Bernardo Pereira de Vasconcellos**. Belo Horizonte: Itatiaia; São Paulo: Editora da Universidade de São Paulo, 1988.

²⁷ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcellos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

²⁸ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcellos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

²⁹ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcellos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

³⁰ Octávio Tarquínio de Souza (1988, p. 222) brings a copy of a sentence given by Vasconcellos.

³¹ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcellos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

³² CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcellos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

³³ LYNCH, Christian Edward Cyril. Modulando o tempo histórico: Bernardo Pereira de Vasconcellos e conceito de “regresso” no debate parlamentar brasileiro (1838-1840). **Almanack**, Guarulhos, n. 10, p. 314-334, ago. 2015.

³⁴ One of the most famous texts attributed to Vasconcellos is entitled “Fui Liberal” (I was Liberal) and is about “one of the most famous and certainly the best written profession of faith in the political history of Brazil”. The primary source was never found, but its text is very similar to other texts by Vasconcellos and some of his contemporaries (da Veiga and Nabuco). Renowned historians (Souza and Carvalho) could not locate the original text, but claim to be Vasconcellos authorship. In: CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcellos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

freedom of the press. He had a love for order and a horror of anarchy. So many permanences may even show that, at least in Brazil, Liberalism and Conservatism were more divergent than different.

In Europe, for example, later criticisms of liberal and/or enlightenment periods failures were, in general, based on an absolutist past as the only possible solution, aiming at old monarchies' restoration as a way of restoring order³⁵. In Brazil, on the contrary, even when facing the end of the liberal phase in the first half of the 19th century, it would not make sense even for the most conservative politician to defend the return to the absolutist past, as this would inevitably mean restoring colonial status. They just wanted to go backwards and change political itineraries, as liberalism would be taking them away from true freedom and leading them towards the abyss³⁶. Not rarely, the *saquaremas* (conservative party) justified themselves by talking about true freedom³⁷, which would be guaranteed if and only if the Brazilian State remained united and order was restored.

Christian Edward Cyril Lynch³⁸, in a text dedicated to investigating whether the Brazilian conservative return could be considered a form of “reaction”, in Benjamin Constant's terms – to set back the course of history and return to absolutism, analyses several discourses of saquaremas or conservatives in the *Regresso* period– especially Vasconcelos. He concludes that, in Iberian America, not even they intended a return to Absolutism. “The return to the Ancien Régime would mean the restoration of colonial status, just like that. Refusing liberalism would also mean the denial of the independence process itself, of which it was its the most valuable product”.

These analyses even allow raising the hypothesis that, at the beginning of the Brazilian Empire, institutions were first elaborated under liberal ideals and then, within the conservative advance, these same institutions continued to be moulded and adapted by speeches denouncing an undeniable crisis, turning themselves to the realization of a utopian future³⁹.

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VII. Vasconcelos reveals his legal mastery in several texts (comprising also speeches and other productions). From his liberal phase, in chronological order, we can mention the speeches he made in the Chamber on the legal faculties formation (7th August session, 1826⁴⁰), the speech on the need of criminal judges publicity (11th May session, 1827⁴¹), on the *fala do trono* (throne speech) (18th June session, 1827⁴²), and on slave trade and England interference in Brazilian affairs (3rd July session, 1827⁴³); his Letter to the electors of the province of Minas Gerais⁴⁴, which is a kind

³⁵ LYNCH, Christian Edward Cyril. Modulando o tempo histórico: Bernardo Pereira de Vasconcelos e conceito de “regresso” no debate parlamentar brasileiro (1838-1840). *Almanack*, Guarulhos, n. 10, p. 314-334, ago. 2015.

³⁶ VASCONCELOS, Bernardo Pereira de. Discurso no Senado, sessão de 27 de maio de 1839. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999k. p. 255-261. (Coleção Formadores do Brasil).

³⁷ LYNCH, Christian Edward Cyril. Modulando o tempo histórico: Bernardo Pereira de Vasconcelos e conceito de “regresso” no debate parlamentar brasileiro (1838-1840). *Almanack*, Guarulhos, n. 10, p. 314-334, ago. 2015.

³⁸ LYNCH, Christian Edward Cyril. Modulando o tempo histórico: Bernardo Pereira de Vasconcelos e conceito de “regresso” no debate parlamentar brasileiro (1838-1840). *Almanack*, Guarulhos, n. 10, p. 314-334, ago. 2015.

³⁹ On the emergence of the philosophy of history as a way of dealing with a new utopian future towards which humanity would walk, the classic work of KOSELLECK, 1999, is worth mentioning.

⁴⁰ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 7 de agosto de 1826. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999c. p. 39-44. (Coleção Formadores do Brasil).

⁴¹ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 11 de maio de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999d. p. 45-48. (Coleção Formadores do Brasil).

⁴² VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 18 de junho de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999e. p. 49-52. (Coleção Formadores do Brasil).

⁴³ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 3 de julho de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999f. p. 53-57. (Coleção Formadores do Brasil).

⁴⁴ VASCONCELOS, Bernardo Pereira de. Carta aos senhores eleitores da província de Minas Gerais. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999a. p. 58-191. (Coleção Formadores do Brasil).

of accountability for his activities – and those of the Chamber of Deputies – to Minas Gerais voters. Finally, I make a cursory study of his draft to the Empire Criminal Code, which is certainly the most remarkable one.

His conservative phase equally provides articles published in the press as well as speeches in the Chamber of Deputies and in the Senate, from which we can extract important aspects to understand his legal thinking and analyse his characteristics as an eloquent jurist. Again in chronological order, we can cite his Exposition of the principles of the Ministry of Regency, his speeches in the Chamber of Deputies about the suspension of guarantees and the repression against revolts and the civil war (4th July session, 1833⁴⁵); his speeches on press freedom (4th July session, 1833, 9th August session, 1837, May 19 session, 1838, among others^{46,47,48}); his speeches about the need for centralization of the Empire (especially 1st July session, 1834⁴⁹); its defence of the *regresso*, and the interpretation and criticism of the *Ato Adicional* (Additional Act) (9th August session, 1837, May 19, 1838^{50,51}), and its provisions on the *Golpe da maioria* (Legal Age Coup). The following is a brief analysis of each of these texts.

3.1 LIBERAL PHASE

VIII. The first example demonstrating legal mastery by Bernardo Pereira de Vasconcellos is the 7th August 1826 debate, on the creation of legal faculties; in it, Vasconcelos makes some comments on the Public Instruction Commission project, accepting it. He argues positively about the attempts to move away from an old law; he then criticises and makes a sarcastic synthesis of the course he attended at the University of Coimbra. It is worth the quote.

I was taught that the Kingdom of Portugal and its accessories was heritage; sometimes they maintained that the Portuguese were given as a dowry to the lord D. Afonso I, as slaves or cattles are given, other times they said that God, in the Ourique countryside, had given him and his descendents all the powers; sometimes the Cortes de Lamego existence was denied, others the existence was confessed, but the sovereignty that the peoples exercised in them was denied; it was said that the other the Portuguese Nation assemblies only had, by law and in fact, consultative votes: the right of resistance, this Liberty bulwark, was entirely outlawed; and wretched whoever remembered him! These and other doctrines are taught at that University, and why? Because it is entirely incommunicable with the rest of the scientific world. Correspondence with the other academies is not allowed there; degrees are not conferred except to those who have studied the rancidity of their textbooks; there was an Inquisition continually alert, ready to send to the flames anyone who had the misfortune to recognize any truth, either in religion, or in jurisprudence, or in politics. Hence, the student, who left the University of Coimbra, should, first of all, unlearn what was taught there and open a new study career⁵².

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⁴⁵ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 4 de julho de 1833. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999g. p. 204-217. (Coleção Formadores do Brasil).

⁴⁶ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 4 de julho de 1833. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999g. p. 204-217. (Coleção Formadores do Brasil).

⁴⁷ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 9 de agosto de 1837. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999i. p. 225-241. (Coleção Formadores do Brasil).

⁴⁸ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 19 de maio 1838. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999j. p. 247-254. (Coleção Formadores do Brasil).

⁴⁹ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 1º de julho de 1834. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999h. p. 218-224. (Coleção Formadores do Brasil).

⁵⁰ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 9 de agosto de 1837. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999i. p. 225-241. (Coleção Formadores do Brasil).

⁵¹ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 19 de maio 1838. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999j. p. 247-254. (Coleção Formadores do Brasil).

⁵² VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 7 de agosto de 1826. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999c. p. 44. (Coleção Formadores do Brasil).

This text demonstrates that Vasconcelos criticises what he believes to be a remnant of an outdated Law, useless, destitute of any correspondence with the lights of the 18th/19th century. In this speech, Vasconcelos even suggests who should be the chairs in the courses and even implied, for some, the best authors to study. In Canon Law, for example, he acidly recommends to “never adopt an author named Cavallario [...]. There are modern textbooks of the greatest acceptance for containing pure doctrines, free from the darkness with which the Curia of Rome has sought to entangle that science”⁵³. The optimism and belief in the future can also be seen when Vasconcelos suggests the History of Legislation withdrawal, claiming that new Codes will be organised, revoking the Legal tradition. In this passage, given during one of the first assembly sessions, one can see not only Vasconcelos’ legal mastery, but also the eloquence and acidity with which he makes his argument – in the greatest eloquent jurist style.

XIX. The next selected text for this analysis is his speech in the Chamber of Deputies, session of 11th May session, 1827, in which Vasconcelos’ knowledge of the Constitution of the Empire is clear. In addition to questioning taxes and criticizing spending on the Cisplatin War, Vasconcelos addresses how the Chamber should deal with the *Fala do trono* (throne speech):

with what admiration, Mr. President, have I not heard [...] that the throne speech cannot be discussed, or that its discussion should be in general terms. [...] very and very diverse is my way of thinking, and if I am wrong, I have great writers as my companions, and the most enlightened orators of the Legislative Assemblies of Europe. The speeches of the throne were always regarded as ministerial acts; their discussions are always in the presence of the ministers, whose job it is to explain and defend them, like any government proposal⁵⁴.

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More than just a procedural issue, this text demonstrates Vasconcelos believes in the legislature independence from the Executive and Moderator powers (issues on stake back then). The situation becomes more critical if we remember that D. Pedro had closed the parliament for almost four years. Those were then practically the first parliamentary sessions in Brazil. One can also notice the habit, yet incipient, to quote and refer to European affairs, either supporting or criticising them, but always demonstrating erudition.

XX. In the session 18th June 18 1827 session, Vasconcelos implies his legal mastery when talking about a bill that provided on the criminal judges publicity: an almost beccarian Vasconcelos, whose Criminal Code draft Project was already being processed in the Chamber, and in the special commissions. on his words: “I do not believe that we could reach perfection in this [penal] matter without creating a new code, abolishing the current one, a copy of canon law, added with barbaric customs, who in middle age invaded Europe”⁵⁵.

In this speech, as in the previous one, Vasconcelos exhibits a deep knowledge of the functioning of justice in England and from this experience extracts three bases on which Brazilian justice should also be structured: “distinction between a judge of law and a judge of fact, or jury; itinerant or travelling justice; and the greatest publicity possible to all the procedural acts”. “It is by the combination of these three ingredients that the administration of justice in England excites the admiration of all wise men, and draws praise even from the fiercest enemies of that land of liberty. Oh! If only we could imitate such wise institutes!”⁵⁶.

⁵³ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 7 de agosto de 1826. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999c. p. 39-44. (Coleção Formadores do Brasil).

⁵⁴ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 11 de maio de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999d. p. 46. (Coleção Formadores do Brasil).

⁵⁵ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 18 de junho de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999e. p. 49-52. (Coleção Formadores do Brasil).

⁵⁶ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 18 de junho de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999e. p. 49-52. (Coleção Formadores do Brasil).

XXI. In his speech to the Chamber of Deputies, 3rd July session, 1827, Vasconcelos, when dealing with the controvert slavery issue, questions himself about the humanity of this type of trade, which would be “reproved by the holy religion that we profess and offensive to the imprescriptible and sacred rights of nature [...] manifests as an insult to the high lights and recognised liberalism of this august Chamber.”⁵⁷ At first glance, this speech seems like a harsh critique of slavery; a more careful analysis, however, may lead us to interpret this discourse differently. Here is a small quote:

[...] the abolition of this traffic will produce a better treatment of the existing slavery, which will result in its multiplication. [...] Ah! Gentlemen, let us imitate the American states; Brazil is today the only country on the globe that still pursues this trade; let us change our behaviour with regard to Africans in all our fellow men, as proven by the Haitians⁵⁸.

The quote first part clearers that, even if the slave trade ends, slavery can still multiply with the reproduction of captives. That would follow the United States example, no longer trafficking slaves, but maintained slavery. Haiti, in turn, not only abolished slavery, but had an enslaved revolution, abolishing slavery, and was commonly used by the Brazilian elite as a feared and terrible example. It is, therefore, a great irony, almost imperceptible at first reading.

Still in that speech, Vasconcelos strongly criticizes English interests and interferences, using strong irony by stating that England would want the good of humanity so much that they allied themselves with the Holy Alliance and willingly accepted the emancipation of America. Vasconcelos still argues in a well-founded manner, invoking and interpreting the Brazilian constitutional text to invoke the illegality of treaties made by the government with England.

XXII. Another very important text from his liberal phase is the Letter to the Electors of the Province of Minas Gerais, written as a response to Marquis de Baependi pamphlets denouncing him as “a universal accuser of all authorities and civil servants”⁵⁹. In it, criticisms abound of the conduct of the minister and even the emperor, both accused of despotism and authoritarianism by Vasconcelos. They would not act according to the lights of the century or in the best interests of Brazil and Brazilians, among other criticisms. José Murilo de Carvalho⁶⁰ considers that “the *Letter* is, in itself, a document that reveals the spirit of the time”.

Vasconcelos divided his long “rendering of accounts” into twenty chapters, in which he deals with the circumstances in which Brazil finds itself; the bylaws; the national festivities law; public health laws, laws peculiar to the provinces, imperial grace regulations; population, industry, taxes, budget and public credit, the army and navy artillery, the imperial family. Public works, political and civil rights, administration of justice and the treasury, public instruction and observance of the Constitution and laws...

For my purpose here, the most interesting thing is exactly the fact that one of the main works in which Vasconcelos deals with the Law is precisely a *letter*, written in a very grandiloquent tone, addressing his interlocutors with a speech-ish pomp. More than one, he quotes in Latin. Two specific passages in the *Letter* are worth noticing for its deep juridical approaches: when he addresses the administration of justice and when he criticises the arrest of four military personnel from Ceará without due process.

⁵⁷ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 3 de julho de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999f. p. 53-57. (Coleção Formadores do Brasil).

⁵⁸ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 3 de julho de 1827. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999f. p. 53-57. (Coleção Formadores do Brasil).

⁵⁹ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

⁶⁰ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

XXIII. Along the *letter* another very important Vasconcellos work is his Criminal Code draft⁶¹ consisted of a single part called “Crimes and penalties”, with 334 articles, divided into five titles: “Crimes and penalties in general”, “Police crimes”, “Of private crimes” “Of public crimes” and, finally, “General Provision”⁶².

The first title defined the concepts of crime and criminal; aggravating and mitigating circumstances, the penalties adopted by the code⁶³. In short, it is a small treatise on the theory of crime and punishment, keeping track with what was going on in European legal jurisprudence at the time. It is notable, nevertheless, a somewhat more liberal profile when compared to other legislation in force at the time. Another distinguishable feature in Vasconcellos’ draft is how it was organised, innovating on the subject and its order. Not only it had a general and special part, but framed crimes according to its “nature”. The second title categorised under “police crimes” the crimes of illicit gatherings and secret societies, abuses of the press and offences against religion. In the third title, Vasconcelos added crimes against people, honour, property, morals, etc. The fourth title brought crimes against the Empire, the treasury the Constitution, etc. The fifth and last title indicated the need to regulate, in other laws, crimes against commerce and military crimes.

3.2 REGRESSO PHASE

XXIV. The first Vasconcello’s conservative text dates before the so-called *regresso* phase, when he was still in the bosom of the liberal government. It is a transitional text published by him in the press, exposing the Ministry reasons (he was the minister) in those times of revolts spreading across the Empire⁶⁴. Vasconcelos argues for the responsibility of “finding the indispensable strength to maintain public order and promote public prosperity” (p. 200). He defends the unity feeling of arisen from the “glorious of the 7th of April revolution” (p. 200), in which the people would have used the “undeniable right of resistance” (p. 201), but then contradicts itself by saying that the new government is firm in the repression of violence and sedition “because it initiates the disturbance of order, something only a weak government and insufficient laws can tolerate” (p. 201)⁶⁵.

This is an interesting speech because it demonstrates how, in fact, liberalism and the future *regresso* were on quite similar political spectrums, allowing such discourse to be made within the liberal government and that even the *regresso* system, to which we will return later, aimed to the future; besides, both gave some consideration for the centrality and unity of the Brazilian nation, especially at a time when even its territorial unity was quite fragile.

XXV. The second text still belongs to the transitional period in which, even acting in the liberal government, we can already begin perceiving some of the reasons that later supported the *regresso* bases. In his speech to the Chamber of Deputies in the 4th July 4 session, 1833, Vasconcelos discussed the application of the September 1830 law even to the freedom of the press. Then, when rebutting criticisms about the government’s role in repressing revolts and civil war, he compares it with d. Pedro actions, understanding it would have been (and was) much worse. He argued that the 7th April government acted legally, employing mild means to reduce the insurgents to obedience and avoid the evils of anarchy.

⁶¹ The Vasconcelos project was worked on by Vivian Costa, who even compared it to other projects of the time and to the Criminal Code of the Empire, highlighting their similarities and differences. In: COSTA, Vivian Chieregati. *Codificação e formação do Estado-nacional brasileiro: o Código Criminal de 1830 e a positivação das leis no pós-Independência*. 2013. 361 f. Dissertação (Mestrado em Filosofia) – Universidade de São Paulo, São Paulo, 2013.

⁶² Curiously, Vasconcelos’ draft Criminal Code is not found in the annals of the chamber in the year it was submitted (1827), but only at the end of volume III of the year 1829. Available at: <http://bd.camara.leg.br/bd/handle/bdcamara/28361>.

⁶³ COSTA, Vivian Chieregati. *Codificação e formação do Estado-nacional brasileiro: o Código Criminal de 1830 e a positivação das leis no pós-Independência*. 2013. 361 f. Dissertação (Mestrado em Filosofia) – Universidade de São Paulo, São Paulo, 2013.

⁶⁴ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). *Bernardo Pereira de Vasconcelos*. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

⁶⁵ VASCONCELOS, Bernardo Pereira de. Exposição dos princípios do Ministérios da Regência. In: CARVALHO, José Murilo de (org.). *Bernardo Pereira de Vasconcelos*. São Paulo: 34, 1999. p. 200-203. (Coleção Formadores do Brasil).

He ends by arguing that he thinks the restoration of Brazilian colonial status, with the return of Portuguese troops, was very likely. He also argued that if a Republic was installed in Brazil, d. Pedro would definitely return to secure throne to his son. To support his motives, he resorts to detailed quotations on French politics – resorting to politics and erudition as ways of constructing reasoning is a strong characteristic of an eloquent jurist:

XXVI. The third text needs to be understood in its institutional context. The year 1834 is marked by the edition of the *Ato Adicional* (Additional Act), a reform on the Empire Constitution to remove the characteristics liberals still considered belonging to absolutism. Vasconcelos once again presents his talent as a legislator: he was the author of the *Ato Adicional* project. Many alterations were made on the draft, though, and Vasconcelos, who aimed to avoid extreme positions, fears it might become the letter of anarchy.

In this text, Vasconcelos especially defends the need for centralisation of government. In order to defend it, he demonstrates a deep historical knowledge of the processes that led to the decentralization and distribution of US powers, and even makes specific mentions of the histories of those colonies, highlighting their profound difference with Brazil, accusing the impossibility of adopting those institutes here. He argues that if one chose to give so much freedom to the provinces here, the result would be the calamities that occurred in Mexico. Even if this is a transitional text, it presents two clear *regresso* characteristics: “the idea that changes must be made slowly, without leaps, in an almost imperceptible way” and the “insistence and not losing sight of the “state of civilization of the country”. For José Murilo de Carvalho, “these are positions that remind Burke, although there is no reference to this typical representative of conservative thought”⁶⁶.

XXVII. In the fourth text, Vasconcelos resolves “to defend the amendment he offered to the Justice budget, and to redress an eminently governmental and wise system, which is the system of return” (p.225). Vasconcelos then assumes the conservative position for which he is best known. This speech also stands out for its trenchant. At one point, Vasconcelos, when rebutting the accusation made by the Minister of Justice that the opposition “did not have the consent of the intelligent men of the country”, responds that he will pay a tribute of gratitude, proposing to make him a revelation of equal importance: “that the current government does not deserve the country’s trust!”⁶⁷.

Vasconcelos then discusses the budget in detail and always based on the Constitution, denouncing intrusions by the executive into the legislature, the judiciary, and the press. He asks for the reduction of expenses, among other interesting points, but in general indifferent to the analysis I intend to proceed here. When he finally turns to the *Regresso* defence, he says that “there is not a man in the world who does not desire progress” (p.237), but that “revolutions tend to exaggerate all principles” (p.238) and that all places that have gone through revolutions have suffered terrible consequences. He then quotes Seyès to defame revolutions and say that when one opts for them, the whereabouts of progress is the abyss. For him, “only in the calm of passion does opinion deserve worship as queen of the universe. I espoused this system not as a synonym for going backwards, but as a synonym for resource”. And he assumes that he has changed his mind and that this is the greatest of virtues, citing the French brothers Ainé to substantiate his position⁶⁸.

XXVIII. In the fifth text, also a speech in the Chamber of Deputies⁶⁹, Vasconcelos continues with his defence of the *Regresso*, and mentions episodes that took place within the French chambers and fights for freedom of the press. But above all, he fights for the interpretation of the *Ato Adicional* (Additional Act), now the object of a law.

⁶⁶ CARVALHO, José Murilo de. Introdução. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999. p. 9-35. (Coleção Formadores do Brasil).

⁶⁷ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 9 de agosto de 1837. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999i. p. 225-241. (Coleção Formadores do Brasil).

⁶⁸ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 9 de agosto de 1837. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999i. p. 225-241. (Coleção Formadores do Brasil).

⁶⁹ VASCONCELOS, Bernardo Pereira de. Discurso na Câmara dos Deputados, sessão de 19 de maio 1838. In: CARVALHO, José Murilo de (org.). **Bernardo Pereira de Vasconcelos**. São Paulo: 34, 1999j. p. 247-254. (Coleção Formadores do Brasil).

He recalls that he had been the rapporteur of this amendment, now part of the Constitution, and he would defend it from unconstitutional interpretations that do not respect the law. Changes must always occur “with a firm foot, but slowly” (p. 253).

XXIX. In the sixth and last text I analyse, Vasconcelos writes right after the parliamentary *Golpe da Maioridade* (Legal Age Coup), explaining to the nation the reasons for not supporting the coup and opting for the constitution and for discussions between calm spirits, which is why he tried to postpone the discussion of this topic to another moment. He compares the Brazilian situation with the Portuguese one, where d. Pedro also left an infant under regency and, right afterwards, a coup was carried out, usurping the throne and returning to Absolutism.

4 CONCLUSION

XXX. Many of the myths about the creation of Brazil sooner or later reach Vasconcellos' hands. On one side or the other, actions were sensitive in several episodes of Empire of Brazil: the creation of legal faculties, a liberal Criminal Code that even inspired other countries, the revolt of the three priests, the *Ato adicional* (Additional Act), regency period revolts, the Legal Age Coup... Beyond these myths we have the man of his time who acted and thought about these institutions as his social position, education, political will and ability allowed him.

His actions were directly linked to the ability of reflecting on the law, whether in the moments discussing how to apply the Law, or in the moments in which he lost his battles; the ones in which won them, also in the moments in which it produced not only new laws, but new ways of thinking about law and acting politically in Minas Gerais society, in the national territory, or abroad, for he knew experiences and authors from other countries.

490 – Whether in theory or in practical Statism, as performed by Vasconcellos himself, having historical sensitivity – and precision – to know how to deal with and interpret other forms of jurists (and legal thought) can help us to understand other new meanings and the formation of the Brazilian State: especially in a 19th century that was constantly rehearsing the reduction of the Law to State Legislation.

No matter how eloquent the jurist is, he will hardly present a stronger voice than that of historical time, which cries out, sometimes to deaf ears, for the need to understand each time with what belongs to it, avoiding projecting our present passions onto the past world. Recognising Vasconcelos as a jurist, although clearly a jurist different from what we are used to today means more than a historical-legal metalanguage; it means giving voice and ears to a time when the law was built more on spoken than written texts; which came more from tribunes and newspapers than from academies and courses.

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