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By #2. Bowler

29 November 1965

SPECIAL MEMORANDUM NO. 29-65

SUBJECT: The Political Situation in Brazil: The Meaning of
the Second Institutional Act

SUMMARY

President Castello Branco's proclamation in late October of a second Institutional Act, under which he assumed near-dictatorial powers, represented a major setback for his efforts to promote a gradual return to constitutional normality in Brazil while at the same time pursuing what he believed to be the priority goals of the April 1964 military revolution. He reluctantly chose to increase his formal authority when he realized, from his inability to stem the recent post-election crisis, how far his informal influence over the military and political establishment had declined. He probably still hopes to steer a moderate political course and to retain control of the situation until the end of his term (March 1967), with as little use of his new powers as possible. Should he begin to feel that he was losing his ability to keep this control, we think the chances are better than even that he would resign. In this case, his successor would almost certainly be a more authoritarian military ruler.

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Origins of the October Crisis

1. According to the Brazilian military, their April 1964 coup against President Goulart was an "authentic revolution," made necessary by some twenty years of civilian political misrule. They believed that the incompetence, corruption, and demagoguery of the Vargas-Kubitschek-Quadros-Goulart regimes not only had thwarted national progress, but had almost led to a Communist takeover of the country. Instead of permitting the election of a civilian successor to Goulart, the military placed General Castello Branco in the presidency and decreed an Institutional Act to arm him with special powers as executor of their revolution.*

2. President Castello Branco, by nature a political moderate and a constitutionalist, chose to use his extraordinary executive authority with restraint. The military's hostility toward the civilian political establishment persisted.

* Although Congress preserved form by duly electing Castello Branco as Goulart's successor, the military did not seek ratification of the Institutional Act, preferring to have it rest solely on their authority as successful revolutionaries. The Act empowered Castello Branco for specified periods arbitrarily to cancel the mandates of elected officials, deprive individuals of their political rights, and remove members of the bureaucracy and armed forces without regard to tenure. It also gave him special powers to speed up congressional legislation and constitutional amendments.

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But until recently Castello Branco's considerable personal influence over both establishments enabled him to avert direct clashes between the two and to resolve those that did occur in the narrowest possible terms. Thus his administration made progress toward the political and economic objectives of the revolution and at the same time fostered a gradual movement toward constitutional normality.

3. The trend toward constitutional normality was sharply reversed in October 1965 when Castello Branco issued a second Institutional Act, under which he assumed near-dictatorial powers. Paradoxically, this increase in his formal powers represented a major defeat for the President and was directly related to the decline, over the preceding half-year, of his informal influence. The military, especially the younger, "hardline" officers increasingly questioned his leadership, in part because of their frustrations over his concern for legality when it came to punishing the "enemies of the revolution," in part because of their impatience with the slow progress of his economic policies. The politicians steadily adopted a more independent, more partisan stance as their fears of a military takeover receded and their interest in the

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upcoming gubernatorial elections grew. This included key leaders of the National Democratic Union (UDN), the party most closely associated with the revolutionary regime. Governor Carlos Lacerda of Guanabara (city of Rio de Janeiro) became far and away the most outspoken critic of Castello Branco's leadership; Governor Jose Magalhaes Pinto of Minas Gerais, a more circumspect critic.

4. The returns from the 3 October gubernatorial elections triggered the first direct military challenge to Castello Branco's authority. The preceding March, while at the height of his military and political prestige, the President had decided to go ahead with the elections normally scheduled for 1965 in 11 of Brazil's 22 states. He saw to it that Congress passed stiff eligibility requirements and that the courts interpreted them strictly, so that several candidates offensive to the revolution were eliminated. The eventual winners were political moderates individually acceptable to the government. But the election results were not acceptable to the revolution, in the opinion of its military guarantors. In the key Guanabara and Minas Gerais races, candidates representing a Social Democratic (PSD)-Labor Party (PTB) coalition won unexpectedly strong victories over

the UDN disciples of Governors Lacerda and Pinto. This was interpreted as a defeat for pro-revolutionary forces and an opening for the return to power of the politicians most responsible for Brazil's pre-revolutionary troubles.^{1/}

5. Castello Branco's efforts to convince his military comrades that the new governors would pose no real danger to the revolution were immediately overwhelmed by rapidly rising political tensions, brought on by the return from voluntary exile of ex-President and PSD leader Juscelino Kubitschek and by a series of anti-government articles by Lacerda. Only the support of War Minister Costa e Silva enabled Castello Branco to regain temporary control over the much-agitated military. The President then went to Congress with a series of stern measures to "protect the revolution."^{2/} For the first time

^{1/} UDN candidates did reasonably well in the other contests, especially where the Castello Branco government and the local party were able to cooperate closely. This was not the case in the two key contests. The government had especially mixed attitudes toward the Guanabara race, where a strong UDN victory would have strengthened Lacerda's political influence at the expense of the President's.

^{2/} These measures included (1) broadening of the President's powers to intervene in states, (2) military trial for civilians accused of crimes against the national security or military establishment, (3) restrictions on the activities of those deprived of their political rights. They were subsequently incorporated, among others, in the second Institutional Act.

since taking office he could not obtain a congressional majority to overcome a military-political crisis: his largely informal parliamentary bloc disintegrated, as former PSD and UDN supporters polarized around the standards of Kubitschek and Lacerda. At this point Castello Branco concluded that the only way he could avoid a serious split in the military and regain control over the situation generally was to promulgate a new Institutional Act.

6. The Act grants Castello Branco, for the remainder of his term (30 March 1964), almost unlimited powers vis-a-vis Congress, the courts, and the state governments. It permits him -- without the consent of Congress -- to declare a state of siege, to rule by decree, and to intervene in the affairs of state governments. It renews his discretionary authority to cancel electoral mandates, deprive individuals of their political rights, and fire civil servants under tenure. It also increases the jurisdiction of military courts at the expense of their civilian counterparts and provides for the "packing" of the Supreme Court. Finally, the Act cancels the direct presidential elections scheduled for November 1966 and substitutes indirect elections by the present Congress, to

take place no later than October 3, 1966. At his own insistence, Castello Branco is specifically declared ineligible for re-election.

Prospects

7. Castello Branco promulgated the second Institutional Act only reluctantly; he now hopes to use its powers as little as possible and to regain some of the lost ground toward constitutionalism during the final sixteen months of his tenure. Toward this end he has been moving to re-establish his personal influence and control. Over the past several weeks he has stepped up the number of his public appearances and addresses. Apparently with the cooperation of War Minister Costa e Silva, he is shuffling military assignments to move pro-government officers into key posts, especially in the command structure of the First Army (Guanabara), the center of military unrest during the October crisis. Through Justice Minister Juracy Magalhaes, until recently Ambassador to the US and now the President's leading political advisor, he is promoting a re-organization of the political party structure; he hopes to

create a new party that is both pro-government and pro-revolution and independent of the influence of either Lacerda or Kubitschek.*

8. We believe that Castello Branco will probably be able to hold the loyalty of the military on most issues, although this is likely to be an increasingly delicate task. He probably can still count on the strong support of the senior officers, most of whom are his comrades of several decades standing. Also, respect for hierarchy and for constitutionalism still are important, if diminished, theses of the Brazilian military mentality.

9. Castello Branco is more dependant than formerly on the support of War Minister Costa e Silva, whose prestige among the officer corps, especially the younger officers, now probably exceeds his own. At this point there is some doubt that Costa e Silva will continue to back the President in the difficult task of holding military dissidence in check. Costa e Silva strongly desires to be the revolution's candidate in next year's presidential elections. This could lead to a major falling out if Castello Branco throws his support to another candidate.

* In order to facilitate political reorganization, the second Institutional Act abolished all existing political parties. Kubitschek, under the threat of prosecution on charges of corruption in office, has once again left the country.

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10. Whatever role Costa e Silva plays, we believe military dissidence will grow to some extent over the next year. In part it will take the form of attempts by supporters of Lacerda and other would-be leaders of the revolution to harass or overthrow the Castello Branco government. In most cases, however, it will be more ideological than political in motivation. Among hardline junior officers, there is a growing disdain not only for all civilian politicians, but also for the leadership of senior officers generally. Although there now is some anti-government plotting among these elements, they are largely unorganized, and unlikely to act in unison except when faced with a crisis that is widely interpreted as a threat to the revolution. Even then, they would find it difficult to overcome Castello Branco's resistance on an issue, unless they were able to convince the military establishment at large that the revolutionary cause was in danger.

11. The first test between the President and some groups of military dissidents will come over the investiture of Governor-elect Negrão de Lima of Guanabara, scheduled for 5 December. Negrão has given assurances of close cooperation with the federal government, but is strongly opposed by supporters of Lacerda. Castello Branco has made the seating of

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all the governors-elect a point of honor and recently issued a public warning to the anti-Negrao agitators. We believe that the bulk of the military will support the President on this issue, and that any attempts to prevent the inauguration of Negrao will be overcome. But other tests of strength are certain to follow, as one group of hardliners after another presses the President to use his powers against local "enemies of the revolution."

12. Castello Branco's chances for gaining the support, or at least the cooperation, of most of the political establishment are good. Some congressmen dropped off the President's bandwagon only because they misjudged the severity of the military's reaction in the October crisis. They see once again that support of Castello Branco is the only alternative to outright military rule. The new governors in particular will almost certainly cooperate with the government to insure their tenure.

13. There will nonetheless be very considerable political problems. The planned reorganization of the party structure down to the local level will press against a myriad of vested regional, economic, and personal, as well as partisan, interests. Lacerda, quiet for the moment, will probably return to his demagogic attacks against the government. Leftist extremists will

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try to provoke the government or the military into repressions, to split the two, and to prevent any progress toward constitutionalism. These political tensions will almost certainly intensify with the close approach of the presidential elections and of the congressional and gubernatorial elections still scheduled for November 1966.

14. In short, it will probably be more difficult than in the past for Castello Branco to avert clashes between the military and political establishments. Nonetheless, we believe that he will seek to keep control of the situation through the end of his term (March 1967), perhaps with somewhat more frequent use of his arbitrary powers than in the past. Should he begin to feel that he was losing the ability to keep this control, we think the chances are better than even that he would resign. In this case, his successor would almost certainly be a more authoritarian military ruler. Also, unless Castello Branco makes some progress toward constitutional normality before the end of his term, even a duly elected successor -- now very likely to be another professional military man -- would probably be more prone than he is to rule arbitrarily.

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