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## The Referendum in the Portuguese Constitutional Experience

Rodrigues, A.F.G.

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**Author:** Rodrigues, António Filipe Gaiao

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## Chapter 2

### The First Republic: 1910-1926

#### 1. The National Referendum in the Constitution of 1911

##### 1.1 The Republican Revolution

The Republican Revolution began on 3 October 1910. In the face of indecision and disillusionment amongst officials, the rebellion capitalised on the determination of army soldiers and sergeants, supported by Lisbon civilians. The support of three warships was decisive in the face of an Army that had little interest in fighting the revolution (Valente, 2004, pp. 113-150). The republican forces soon reached victory, abolishing a Monarchy that had lasted eight centuries. On 5 October, a republican regime was proclaimed with the strong support of the people of Lisbon.<sup>27</sup>

As soon as the Republic was proclaimed, a provisional government with full powers was organised, led by Teófilo Braga. The majority of the Government belonged to the political group led by Afonso Costa, the Republican Party top figure. However, the Government also integrated the most outstanding figures of the other main political tendencies that had emerged in the Republic, including António José de Almeida and Brito Camacho.<sup>28</sup> As João Bonifácio Serra (1992, p. 21) States, the Provisional Government's action cannot be described as a coherent sum of measures or a product of a defined programme, accomplished by a unified team. On the contrary, these actions were the result of ministerial whims, a symptom of an acephalous government where ministers each acted independently. As a consequence, the governmental programme appeared disconnected and incoherent.

The regulation for the Constituent Assembly election was established through Provisional Government Decrees, published on 14 March and 5 April 1911. The electoral constituencies were established by

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<sup>27</sup> On the republican revolution and the subsequent political evolution, several reference works exist, such as: Maltez (2005); Marques (1978, 1991, 1998); Medina (2004); Ramos (1994); Santos (1990); Serra (1992); Valente (2004); Wheeler (1978).

<sup>28</sup> These three personalities would come to lead the three main parties of the republican regime: Afonso Costa led the widely prevailing Democratic Party (*Partido Democrático*); António José de Almeida, was at the forefront of the Evolutionist Party (*Partido Evolucionista*); and Brito Camacho was head of the Unionist Party (*União Republicana*).

the Decree of 20 April 1911. The elections were summoned on 28 May 1911, by a Decree dated 28 April.<sup>29</sup>

## **1.2. The Constitution of 1911 - General Aspects**

The Constituent Assembly met for the first time on 19 June 1911. Its first sittings sanctioned the Revolution of 5 October 1910, thus proclaiming the Democratic Republic and abolishing the Monarchy. Neither the Provisional Government nor the Republican Party introduced any draft Constitution, preferring to leave the Constituent Assembly totally free on this matter (Souza, 1913, p. 5). However, the Head of Government, Teófilo Braga, drew a Constitutional draft, which was distributed to the Cabinet and addressed to the Constituent Assembly for consideration, under the title of “Indications” (Braga, 1911).

During the sessions held on the 20 and 21 June 1911, the Constituent Assembly put a committee in charge of working out the Constitutional draft. This was chaired by Correia de Lemos and had Sebastião de Magalhães Lima as the reporter.<sup>30</sup> Furthermore, some deputies introduced their own Constitutional drafts. Some citizens even openly introduced Constitutional texts to be considered by the Constituent Assembly.<sup>31</sup>

The draft made by the Constitutional Committee was introduced during the session of 3 July 1911. It had a strong leaning towards a presidential system, in the line of the North American and Brazilian Constitutions. This was broadly rejected from the instant discussion on the general principles began. After that debate, the Constitutional draft was

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<sup>29</sup> These statutes are published in Namorado & Pinheiro [1998 (II) pp. 515-536] and Almeida (1998, pp. 525-583).

<sup>30</sup> See biographical syntheses of all First Republic parliamentarians and ministers in Marques, *et al.* (2000).

<sup>31</sup> These were the cases of Fernão Botto-Machado (Machado, 1911), José Barbosa (Barbosa, 1911) or Machado Santos (Santos, 1911). The Parliamentary Historical Archive of the Assembly of the Republic holds original typewritten or handwritten Constitutional drafts presented by Deputies João Gonçalves and António Cabreira, and also by José Soares da Cunha e Costa, a lawyer who sent a Constitutional draft to the Constituent Assembly to be taken into consideration. The Deputy Nunes da Mata introduced a Constitutional draft during the debate on the general principles, in the 19th session, on 12 July 1911. The Masonic Organization Grémio Montanha also sent a draft to the Constituent Assembly (Grémio Montanha, 1911).

modified and a consensus emerged around the principle of parliamentary supremacy.<sup>32</sup>

The 1911 Constitution did not include the national referendum. However, some of drafts that were introduced contained references to referendums. The lawyer José da Cunha e Costa rejected the idea, rejecting the Swiss Constitution as a source of his draft, considering that its application in Portugal would soon lead to anarchy. Meanwhile, some deputies welcomed it in their proposals, although under different forms.

### **1.3. The ‘Popular Veto’ in João Gonçalves’ Draft**

The draft introduced by João Gonçalves proposed, in Article 43, the existence of ‘initiative committees’ in both parliamentary chambers (the Chamber of Deputies and the Senate). These would be charged with creating laws, and could utilise the advisory referendum of the municipal authorities (*câmaras municipais*) and other corporations on any statute under procedure.

Article 101 (and the following articles) of the same draft also proposed that the country could object to the adoption of certain parliamentary deliberations within 15 days if a two-thirds majority had not been obtained in either chamber. In that case, those deliberations were submitted to a ‘popular veto’. The right to reject legislation was restricted to loans, administrative issues, electoral subjects and Constitutional revisions. The legislative chambers could also add new topics to be submitted to the popular sanction if a two-thirds majority was not obtained. The municipal authorities would make the complaints, which had to be signed by a quarter of the voters under their governance. After that, the text would be submitted, within 15 days, to the vote to all of the Nation’s municipal authorities. ‘Special legislative committees’ were chosen to express the will of each constituency.

João Gonçalves even suggested that legislative committees and municipal authorities should have the right to initiate legislation. These, in turn, could take the initiative on subjects that could be submitted to a ‘popular veto’. If they represented at least a quarter of all votes pertaining to the committees and *câmaras* of the entire country, they could introduce their bills directly to Parliament.

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<sup>32</sup> For the main aspects of the 1911 Constitution, see Souza (1913); Miranda (1981, pp. 240-246); Lopes (1992); Canotilho (1998, pp. 156-171); Gouveia (2010, pp. 455-473) and Assembleia da República (2011).

If those bills were rejected by either of the parliamentary chambers by a two-thirds majority, they would be rejected for all intents and purposes. If the rejection was decided by an inferior number of votes, the bill could be submitted to the vote of the municipal authorities and legislative committees. If some parliamentary chamber passed a counter project, it could also be submitted to the 'popular veto'.

The matters excluded from the 'popular veto' included: the State Budget, the State accounts, expenditure on war materials, alliances and treaties, and resolutions taken by the Chambers in secret sessions. In addition, matters considered urgent by both parliamentary chambers would be exempt, provided a two-thirds majority in both chambers agreed with this categorisation.

#### **1.4. The Referendum in Botto-Machado's Draft**

In the introduction of the Constitutional draft published by Fernão Botto-Machado there is a staunch defence for the referendum as found in Switzerland and other republics: without the referendum, the people's sovereignty would continue to be defrauded. For Botto-Machado, a republic without a referendum is nothing but an 'ancient regime' (Machado, 1911, p. 16).

The proponent criticised the republicans, who had been 'so radical' before, but were now saying that the people were not prepared for the referendum. According to him, they had forgotten that the referendum had been practised in the Greek and Roman Republics two thousand years before. If people were insufficiently educated, it was necessary to educate them, since only those who get accustomed to using freedoms know how to use them.

However, he did not introduce a concrete proposal. He was still almost willing, as an experiment, to propose the referendum only in the cities of Lisbon, Oporto and *Coimbra*, naturally the most educated and involved in political life. Nonetheless, the fears were such that he proposed that the referendum be only exercised by the members of the municipal authorities (*vereadores*). In those terms, Botto-Machado proposed a sort of organic referendum, under the designation of 'legislative review'. Any legislative proposal approved in the legislative chambers could be submitted to the referendum of *vereadores* before becoming a Law of the Republic.

This referendum would be optional and remain in the Government's free will, but it could be mandatory on Acts that raised

taxes, whenever requested by more than half of the presidents of district authorities (*juntas gerais*), by one tenth of the *vereadores*, or by more than a thousand *comunas*.<sup>33</sup> The Republic's budget could never be submitted to referendum.

Regarding a Constitutional revision initiative, Botto-Machado also proposed the intervention of local and regional power bodies: the Constitution would be reviewed whenever the people's sovereignty determined it, or at least every 10 years if demanded by two thirds of both legislative chambers or by the districts, municipalities and *comunas*. This proposal, however, was badly explained. The expression 'at least every ten years' was ambiguous: would the revision be mandatory every 10 years, or would it be possible at any moment? The author also failed to explain how the people's sovereignty would be demonstrated in order to make a Constitutional revision.

### **1.5. Other Proposals for National Referendum**

The draft made by the Constitutional Committee did not welcome the referendum at a national level. Only Article 56 allowed for a Constitutional revision to be anticipated in five years<sup>34</sup> if such was claimed as necessary by two thirds of the *vereadores*. However, during the Constituent Assembly debates, some deputies suggested a number of ways in which the national referendum could be included in the text.

The unionist Goulart de Medeiros introduced two proposals: the first was a device to resolve deadlock between the parliamentary chambers. If neither of the chambers would withdraw their opinions, then the matter could be resolved by a supreme appeal to the Nation as the first and genuine holder of sovereignty (*DANC*, 20, 13 July 1911, p. 12). The second consisted of, according to Jorge Miranda (1996a, p. 245), a singular modality of a referendum on unConstitutionality: The Supreme Court of Justice would judge any complaint against the enactment of unConstitutional Acts. Depending on that decision, there would then be an appeal to the Nation, which would be consulted directly (*DANC*, 49, 15 August 1911, p. 29).

Carlos Olavo proposed the popular referendum as way to dissolve Parliament in case of conflict between the Legislative and Executive powers. 'When there is a conflict between the executive power

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<sup>33</sup> In Botto-Machado proposal, '*comuna*' would be the same as parish (*freguesia*), the smallest local authority.

<sup>34</sup> The ordinary revision should happen, according to the draft, every 10 years.

and Parliament, the people are consulted. If the people's answer authorizes the dissolution, it means removing the mandate which had been given to the representatives; if it does not authorize it, Parliament remains in its powers with reinforced proof from the popular vote' (*DANC*, 22, 17 July 1911, p. 11). This proposal meant, according to Luís Barbosa Rodrigues (1994, p. 121), an arbitrage model coupled with a mechanism of popular decision-making, seeking to solve conflicts between Parliament and the Executive.

The draft sent to the Constituent Assembly by the Masonic organisation, *Grémio Montanha*, did not forget the referendum, but established it only for the future and in an undefined way. As provided in Article 110, five years after, if the National Assembly should want it, it could decree and regulate the referendum. That is, in the first five years of Constitution validity, the referendum would not be admitted. After that period, the referendum could be decreed and regulated by the Parliament.

None of these proposals progressed because of the fears mentioned by Botto-Machado in his draft introduction about the people's lack of political culture. These fears were shared by others, including José de Freitas, who noted that: 'In Portugal, I would admit the referendum if our people were not in the pitiful delay of civic education in which they find themselves and if the monstrous percentage of more than 70 percent of illiterates did not exist' (*DANC*, 22, 17 July 1911, p. 18).

## **2. The Plebiscitary Purposes of Paiva Couceiro**

Military attempts to restore the Monarchy were commanded from Spain by Captain Paiva Couceiro, who invaded the north of the country twice, in October 1911 and July 1912. However, these raids were carried out by a small and ill-armed group of fighters who joined forces in Spain, and were easily defeated by the republicans due to their weakness. It also matters to refer that the conspiracy programme did not explicitly want to reestablish the Monarchy, but only to challenge to the Republican Government to accept a plebiscite on the choice of the regime (Maltez, 2005, p. 188; Ventura, 2004b, p. 184; Ramos 1994, p. 459).

On 18 March 1911, Paiva Couceiro sent an ultimatum to the Republican Government inviting it to dissolve the Republic and to trust the country to a new power, which would re-establish order and would organise elections so the sovereign people could peacefully decide between the Monarchy and the Republic (Couceiro, 1917, p. 10; Lavradio, 1942, pp. 186-188). Two days after, on 20 March, he escaped to Spain, after being advised that he would be arrested (Valente, 2006, pp. 85-86).



Couceiro hoped to take power by military means, and then hold a referendum on the regime, followed by free elections. However, he expressed no desire to return Dom Manuel II on the Throne (Valente, 2004, p. 254). His first purpose was 'to cease the revolutionary State of the country', accomplish 'free and fair elections as soon as possible', and consecutively to move on to 'the choice of the regime, the Constitution and the Higher Magistrate' (Dias, 1912, p. 99).

As Rui Ramos (1994, p. 459) explains, the will of the conspirators to separate themselves from the unpopular Constitutional Monarchy was so strong that Paiva Couceiro openly declared that he did not want to restore the Monarchy, but rather requested a plebiscite on the regime. He hoped that his entrance in Portugal could break out a general revolt in the country, which could isolate Lisbon. However, as Couceiro was alone in Spain, with some serious communication problems, this scenerio of simultaneous revolts was unfeasible and the invasions were easily dominated by the Republicans (Valente, 2004, pp. 254-255).

Couceiro, or at least some of his supporters, played a double game in search of help near those faithful to Dom Manuel II. In the Memoirs of Marquis of Lavradio we can read that the relationship between Couceiro and Dom Manuel was not easy, given that the former King could not accept the idea of a plebiscite to choose between the Monarchy and the Republic. In fact, it was on behalf of that idea that the supporters of the absolutist branch of the Monarchy made their propaganda. Meanwhile, some of Couceiro's followers made the King aware of their conviction that Couceiro's idea didn't have any importance and that as soon as he entered Portugal, he would acclaim the Monarchy and Manuel II as King (Lavradio, 1942, pp. 194-195).

The ambivalence of the movement was criticised heavily by Dom Manuel II. In a Statement on 31 October 1911, he greeted the partisans committed to the restoration of the Monarchy, but he considered the movement to be neutral, because it joined persons who had completely different ideals and hoped to overcome the decisions of the country in a future plebiscite. In addition, he expressly declared his complete disapproval towards the neutrality of the movement and his rejection of any kind of agreement with the other royalist party (Lavradio, 1942, p. 208).

This Statement would give rise to great perplexity in those who struggled inside the country for the monarchic restoration. Even some close confidentes of Dom Manuel II, including his private secretary,

Marquis of Lavradio, objected and requested the dismissal of his functions as a consequence of this disagreement (Lavradio, 1942, p. 209). The Statement was not only considered to be ungrateful by those who struggled in Portugal for the restoration of the Monarchy, but it also allowed the *miguelistas* to increase their influence in those movements. That Statement would have also caused a deep displeasure in Couceiro and, as he wrote to Lavradio, it would have reinforced the *miguelistas* who accepted his idea of the monarchic restoration by plebiscite (Lavradio, 1942, pp. 212-215).

Nevertheless, the disagreement was resolved during Couceiro's journey to Richmond (London), where the King was exiled. After a two hour meeting with Dom Manuel, Couceiro agreed to end the neutral movement (Lavradio, 1942, pp. 217-219). Paiva Couceiro's plebiscitary purposes never achieved success. By the time of his second frustrated attempt of military invasion, in 1912, when he occupied the small town of *Vinhais*, he did not introduce himself as a proponent of a plebiscite but as a royalist, acclaiming Dom Manuel II as King (Ramos, 1994, p. 460).

It is important to remember that the idea of a plebiscite against the Republic was not a new idea in Paiva Couceiro's thought. He had pleaded this idea during the Monarchy, as a way of avoiding the advent of the Republic, and he renewed it as a way of defeating the Republic. Obviously, at the basis of that proposal was the idea that the Republicans had electoral influence only in the urban centres, and that the electoral mobilisation of rural areas could favour royalist purposes.

Furthermore, in several occasions, Couceiro would come to repeat his proposal of plebiscite. He did it in 1914, when he was included in an amnesty, but nobody followed him (Valente, 2006, p. 122). He did it again in 1918, during Sidónio Pais' Government, and in 1919, then in harmony with a significant part of the monarchic opposition who also assumed that claim. Vasco Pulido Valente (2006, p. 126) refers that, in his first appointment with Sidónio Pais, António Cabral, one of the eminent figures of the monarchic opposition, asked for a plebiscite on the regime, which Sidónio refused almost angrily.

In the summer of 1918, Couceiro insisted on the presence of several military chiefs who conspired with him, and on the need of a military cabinet to assure public order and to make a plebiscite (Valente, 2006, pp. 127-128). After Sidónio Pais' death, Couceiro, who was still in exile, urged a revolt against Canto e Castro, claiming the need for a military dictatorship and a plebiscite (Valente, 2006, p. 129). Even after

the defeat of the ‘Monarchy of the North’ proclaimed by him between 19 January and 17 February 1919, and already exiled in Spain, he repeated the idea of a plebiscite in an interview to the newspaper *El Sol*. According to Pulido Valente (2006, p. 129), the reaffirmation of that proposal by Couceiro was the discredit of the ‘Monarchy of the North’ and of himself.

### **3. The Local Referendum**

#### **3.1. The Constitutional Inception**

In the draft introduced for the discussion of general principles on 3 July 1911, the referendum did not obtain any Constitutional inception, neither at the national level nor in the sphere of local administration. As for the latter, the draft only referred, in Article 61, that ‘special laws based on autonomy and decentralization compatible with the Nation’s unity, readiness and effectiveness of National Defence, and municipal financial resources, will reorganise the local administration, as well as the mainland and adjacent islands and the overseas provinces.’

However, that position soon changed during the debate. During the 10 July session, Pedro Martins proposed a motion to introduce the autonomy of local administration and the municipal referendum (*DANC*, 17, 10 July 1911, p. 12). On 12 July, Barbosa de Magalhães defended the administrative referendum ‘although in a restrictive way’ (*DANC*, 19, 12 July 1911, p. 20). On 13 July, Eduardo de Almeida proposed the introduction of referendums in each parish (*freguesia*) of the mainland to decide on its most important and private interests, and the municipal referendum in Lisbon and Oporto (*DANC*, 20, 13 July 1911, p. 18). On 14 July, João Gonçalves, recovered his ‘popular veto’ and ‘popular legislative initiative’ as a draft amendment (*DANC*, 21, 4 July 1911, pp. 18-19). Celestino de Almeida considered the referendum to be very convenient at a local level, but not for laws and Governmental Acts (*DANC*, 22, 17 July 1911, p. 15). Finally, Jacinto Nunes introduced a motion to reinforce local autonomy, proposing a sort of organic referendum exercised by the municipal authorities on certain deliberations from the district authorities, which was well accepted by the Committee.

As a consequence of these debates, the Constitution Committee amended the text. The version introduced for discussion on the details already suggested that, in Article 55, the organisation and attributions of administrative bodies would be regulated by special law. It also Stated that they would be based on the referendum exercised by the municipal authorities from the district authorities’ deliberations, and by the parish

authorities on the deliberations from the municipal authorities if they involved an increase in expenses.<sup>35</sup>

The opinions expressed during the discussion of the details concerning this proposal were very divergent. Miranda do Vale completely disagreed, considering that the members of the *juntas de freguesia* would be less cultured than the *vereadores*, and the same happened with the *vereadores* in regards to the members of the *juntas gerais* of districts. But there were other reasons: if a municipal authority wanted to improve the conditions of the seat of the municipality, and for that reason decided on a certain number of extraordinary expenses, the surrounding *juntas de freguesia* could agree on making a constant obstructionism of all improvements that the *câmara* wanted to implement. Therefore, in order to avoid that, he proposed that the referendum be enshrined in the Constitution 'in the terms and for the deliberations prescribed by law' (*DANC*, 50, 16 August 1911, p. 12).

João de Menezes proposed the final solution for Article 66 of the Constitution on behalf of the Committee. The organisation and attribution of administrative local institutions would be regulated by special law, which would be based on the exercise of referendum in the terms established by law.

Marnoco e Souza (1913, pp. 593-595), although considering the limited nature of the Constitutional disposition, welcomed it enthusiastically: according to him, that reform allowed a wider decentralisation, and a more effective control by the people on the local administration acts. The responsibility of administrative bodies before the people in the referendum system made them unavoidably more careful and attentive to the exercise of their functions. The people, through referendum practice, would become empowered, over time, to exercise the referendum in the great issues of national politics.

Although the Constitutional and legal inception of local referendum was, beyond doubt, a feature of the first Portuguese Republic, there are no specific studies on that subject, except for brief references in publications on the referendum in general or about local power during that historical period.<sup>36</sup> The authors only referred that the referendum was merely sent to the local administration level, (Cardoso, 1992, p. 69; Pinto,

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<sup>35</sup> The original hand written document is available at the Historic Parliamentary Archive of the Assembly of the Republic, Lisbon.

<sup>36</sup> See Oliveira (1996a) and Baiôa (2000) for the local power in the First Portuguese Republic.

1988, p. 64; Duarte, 1987, pp. 9-10), which is correct, and some of them referred to the legal provisions in it (Suordem, 1997, pp. 23-26), but there is no publication about its concrete application. Nevertheless, the local referendum existed from this time.

### **3.2. The Administrative Code**

#### **3.2.1. General Aspects**

Article 85 of the 1911 Constitution charged the first Congress of the Republic with the task of drawing up the Administrative Code. When the Republic was established, João Franco's Administrative Code, published on 4 May 1896, was still in force. It was strongly centralist, and its structure was considered to be intensively conservative and incompatible with the republican system's doctrines. This was affirmed by the introduction of the Decree of 13 October 1910, which determined that if the Administrative Code were not enacted in accordance with republican principles, the administrative bodies established by the Administrative Code of 6 May 1878 would be reinstated. However, as the simple resurrection of the Code of 1878 was not viable, the courts had to admit the validity of the Code of 1896 in some matters. Therefore, with the Republic maintaining two codes, a new one became indispensable.

The Republic had a historical commitment to the principles of administrative decentralisation. One of their first ideologists, José Félix Henriques Nogueira, conceived the Republic as a federation of municipalities (Silva, 1976). Portugal would be organised into one hundred municipalities, which would be as self-sufficient as possible. They would be associated into regions, thus constituting a federal State where the central power would have scarce and controlled powers (Oliveira, 1996a, pp. 243-245). However, as César de Oliveira mentions (1996a, p. 259), during the revolutionary period, republicanism was in a contradictory position. On the one hand, it had the duty to decentralise in order to implement the ideals of its heritage; on the other, the jacobinism of its main leaders' impelled the Republic towards centralism. Shortly after, on 25 October 1910, the Home Minister, António José de Almeida, appointed a commission to draft the Administrative Code, led by José Jacinto Nunes.

#### **3.2.2. The Bill**

The Administrative Code Bill, introduced in the Chamber of Deputies on 21 November 1911 (*Ministério do Interior*, 1911), where discussions began on 13 February 1912 in the Chamber of Deputies and

19 June 1913 in the Senate, did not contain, in its initial version, any mention of the popular referendum. Only certain kinds of deliberations required any participation from the citizens.

The Government could: change municipalities from a district to another, and civil parishes from a municipality to another; create new municipalities and new parishes; change the seat of municipalities and civil parishes; and extinguish districts, municipalities and civil parishes that did not have enough resources to satisfy their obligatory duties.<sup>37</sup> However, those decisions required the assent of two-thirds of the respective voters (Articles 4 to 7). The extinguished civil parishes and the municipalities would be incorporated, entirely or partly, into contiguous similar constituencies, according to the will of the majority of the respective inhabitants (Article 8).

There were also provisions for some types of organic referendums. Certain deliberations from the district authorities required the approval of the majority of municipalities. When the municipal authorities deliberated on important financial matters (Article 102), the most significant taxpayers could take part in the meetings, in an equal number to that of the *vereadores*, thus having a deliberative vote.<sup>38</sup> On the other hand, the parish authorities could not make some deliberations without the favourable opinion of the majority of the 10 most significant taxpayers of the parish (Article 181).

### **3.2.3. The Debate in the Chamber of Deputies**

During the debate of the Administrative Code in the Chamber of Deputies, the issue of local referendums was widely discussed. Barbosa de Magalhães considered the referendum principle as one of the most precious liberal conquests. In the parishes, it should be direct. In the municipalities, the parish authorities should exercise it, because they would know the needs and conveniences of their municipality better (*DCD*, 60, 28 February 1912, p. 5). He also proposed that complaints be presented to the administrative courts in order to dissolve the administrative bodies. These should be submitted to referendum and must obtain the support of two thirds of voters (*DCD*, 85, 26 March 1912, p. 14). João de Menezes defended that the right to vote for the popular

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<sup>37</sup> The Government within the first six months of the Code's validity could take these kinds of deliberations. After that period, such decisions could only be taken by the legislative power (Article 10).

<sup>38</sup> The number of *vereadores* could be 32, 24 or 16, depending on the size of the municipality.

referendum would be restricted to male citizens, 31 and older, that paid taxes because otherwise a popular referendum would not be obtained but rather the cacique's will (*DCD*, 61, 29 February 1912, p. 8).

Filemon de Almeida proposed that the change of municipalities to other districts or the change of parishes to other municipalities should be voted by two thirds of the respective electors. A referendum should be mandatory whenever it was requested by at least a third of the members of the municipal or parish authorities, or by a tenth of the registered electors (*DCD*, 81, 21 March 1912, p. 30). This idea obtained acceptance from the Chamber of Deputies, but was rejected in 1913 by the Senate.

Dias da Silva proposed that the parishes with more than a thousand inhabitants could exercise functions that belonged in general to the municipal authorities, thus exercising, according to the proposed designation, 'communal functions'. The Congress of the Republic would declare the establishment of those communal functions by petition, subscribed by a third of the parish electors and sanctioned in referendum by two-thirds (*DCD*, 124, 31 May 1912, p. 10). The petition should be sent to the Home Minister who within two months should submit it to the referendum. Jacinto Nunes, believing that it would create a new category of administrative bodies, vehemently contested Dias da Silva's proposal.

In the session of 31 May 1912, the Public Administration Committee introduced its draft for discussion regarding the responsibilities of parish authorities, proposing that some of their deliberations should be submitted to referendum. Jacinto Nunes clearly showed his disagreement (*DCD*, 124, 31 May 1912, p. 12).

Finally, the version passed in the Chamber of Deputies included the local referendum in the following situations:

- a) The suppression and the creation of municipalities and parishes, as well as the change of parishes to other municipalities, should be requested by a third of the electors, and voted by two thirds of them (Articles 4 to 7). The abolished constituencies would be integrated, wholly or partly, into contiguous similar constituencies, according to the proposal made by the respective administrative body, sanctioned by referendum (Article 9).
- b) Some deliberations of district authorities should be approved by a majority of municipal authorities in order to become 'executory' [Article 56(§1)].

- c) Certain deliberations from municipal authorities should be approved by most of the parish authorities in order to become ‘executory’ (Article 107), and some of them would have to be submitted to referendum if requested by a tenth part of the electors [Article 107(§1)].
- d) Some deliberations from parish authorities should be obligatorily submitted to referendum in order to become ‘executory’ (Article 190).<sup>39</sup>

### **3.2.4. The First Debate in the Senate**

On 19 June 1913, the Senate began to debate the Administrative Code Bill, already passed in the Chamber of Deputies. Before the debate began, it decided to consider only 12 of the 20 proposals. The Administrative Code, given its scale and complexity, would need time and reflection, which was impossible in such a short period. On the other hand, the provisional situation of the administrative bodies should cease immediately (*DS*, 134, 19 June 1913, p. 15). Thus, the Senate did not discuss territorial division, the suppression or creation of municipalities and parishes, or the change of parishes to other municipalities, including the referendums needed for those changes.

The rest was the organic referendum of municipal and parish authorities, as well as the popular referendum on the deliberations from parish authorities, which were the object of several Statements. Pedro Martins considered the referendum a beautiful idea and a democratic aspiration, but worried that under the special conditions of the country, it might be risky and dangerous (*DS*, 135, 19 June 1913, p. 73). João Freitas was more pessimistic, fearing that the experience was disastrous because the exercise of the referendum presupposed a degree of civic education that the people, mainly in the rural areas, lacked at the current time (*DS*, 137, 20 June 1913, p. 29).

### **3.2.5. Law No. 88, of 7 August 1913**

The result was Law No. 88, of 7 August 1913 (*DG*, 183) on the organisation, working, attributions and responsibilities of administrative bodies. Local administrations were not definitively reorganised by a new Administrative Code. According to Law No. 88, the administrative bodies were the *junta geral* in the district, the *câmara municipal* in the

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<sup>39</sup> In the Portuguese Administrative Law, ‘executory’ is the ability of an administrative act to be fully effective: in other words, it is an act which is coercive by itself and executed without a judicial decision (Correia, 1982, p. 332-334).



municipality, and the *junta de paróquia* in the civil parish (Article 2).<sup>40</sup> Regarding the organic or popular referendum, it essentially welcomed the proposal passed in the Chamber of Deputies. Under these terms it Stated that:

- a) Some deliberations from the *juntas gerais* or *câmaras municipais*, only became executory, after being submitted to an organic referendum and approved, respectively, by the majority of the *câmaras municipais* or *juntas de paróquia* [Article 45(§ unique) and Article 96].
- b) Some deliberations from the *câmaras municipais* should be submitted to the popular referendum, if requested by a tenth part of the electors [Article 96(§1)]. In the case of a popular referendum request, the organic referendum from the *juntas de paróquia* would not be held (*DCD*, 52, 13 February 1912).
- c) Some deliberations from the *juntas de paróquia* had to be submitted to popular referendum to become executory (Article 147).

In general, the deliberations that could be submitted to referendum were those that proposed increased expenditure. Given that the right to vote was still restricted at the time, the local referendum was essentially gave taxpayers the right to prevent any deliberations from administrative authorities that had financial implications.

Meanwhile, Congress passed a law concerning expropriation in the public interest, which actually included the local referendum for the first time. While the Chamber of Deputies discussed the Administrative Code, Senator Silva Cunha introduced a bill in the Senate proposing that there should be a declaration of public interest in order to expropriate which would be submitted to a referendum of the constituency electors in case the expropriator was an administrative body. The Senate passed the proposal on 13 May 1912<sup>41</sup> and the Chamber of Deputies did the same on 6 July 1912. Thus, the Law of 26 July 1912, in Article 3(§ unique), laid down that the declaration of public interest for expropriation purposes would be made by the legislative power, or by referendum in the

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<sup>40</sup> Fernando Farelo Lopes (1992, p. 87) informs that there were 17 districts, 263 municipalities and 3,620 parishes in Portugal in 1914.

<sup>41</sup> The Senate passed the proposal despite some controversy: Machado de Serpa declared that he could not admit the referendum in a country of illiterates (*DS*, 87, 13 May 1912, p. 9). Bernardino Roque said that in the northern provinces of the country 'the referendum is perfect celestial music, because nobody knows what that is' (*DS*, 87, 13 May 1912, p. 7).

respective constituency, depending on whether the expropriator was the State or an administrative body (*DG*, 185, 1 August 1912).

### **3.2.6. The Second Debate in the Senate**

On 12 March 1914, the Senate re-opened discussion of the Administrative Code. The Committee responsible for appreciating the Deputies Chamber proposal gave an opinion (*DS*, 54, 12 March 1914, p. 7) and foresaw that some decisions could be submitted to referendum if requested by a third and voted by two thirds of the male citizens aged 21 and over who fully enjoyed their civil rights. These decisions were **a)** the passage of municipalities to an upper order<sup>42</sup> when they did not have the number of inhabitants demanded but had a remarkable industrial and commercial increment [Article 4(§3)]; **b)** the annexation and disunion of administrative circumscriptions (Article 6); **c)** the creation of new municipalities and parishes (Article 7); **d)** the incorporation of suppressed circumscriptions (Article 10).

Senator Leão de Meireles proposed that the right to vote in the referendum would only be granted to male citizens, aged 21 and over, voters, owners and industrial taxpayers, in the full enjoyment of their civil rights, and residents in the circumscription for more than six months (*DS*, 70, 6 April 1914, p. 14). The Senate rejected the proposal (*DS*, 72, 14 April 1914, p. 14), but passed a proposal by Pais Gomes giving the right to vote in the referendum to taxpayers (*DS*, 70, 6 April 1914, p. 14).

The Bill of Administrative Code submitted by the Committee to the Senate contained a Title XV on the referendum (*DS*, 116, 17 June 1914, pp. 40-41), which laid down that:

- 1) The referendum would be exercised by all male citizens, aged 21 and over, in full enjoyment of their civil rights, residents in the circumscription, who were electors or taxpayers (Article 251).
- 2) The ballots would be a flat piece of paper, one green coloured for approval, and the other red for rejection (Article 252).
- 3) The referendum would be realised by the assemblies on an appointed Sunday at least twenty days before by the

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<sup>42</sup> The municipalities could be of the first order (district capitals, municipalities with more than 40,000 inhabitants, and still those whose chief-town was a city with more than 18,000 inhabitants); second order (municipalities with more than 18,000 and less than 40,000 inhabitants) and third order (all others).

administrative body whose deliberation was in cause. It would also be publicised by warning and published in the local newspapers along with posted edicts (Article 255).

- 4) After the chair of the assembly was constituted, the call for votes would take place and each citizen, when called, would give his ballot to the chairperson (Article 256).
- 5) The deliberation under referendum would be confirmed if it had the participation of 30% of registered citizens, except for decisions relating to administrative circumscriptions.

The discussion did not end, however, in that legislative session. The following years would be disturbed by the beginning of World War I, the postponement *sine die* of the parliamentary elections, and the establishment of a dictatorship government led by General Pimenta de Castro at the beginning of 1915. In this manner, the local referendum remained without any type of regulation, despite its urgency.

### **3.3. The Lack of Regulation and Its Consequences**

In 1914, despite the lack of regulation on the local referendum, Congress (which joined the Chamber of Deputies and the Senate) created seven new municipalities by law: *Bombarral* (Law No. 123, of 28 March); *Alpiarça* (Law No. 129, of 2 April); *Ribeira Brava* (Law No. 154, of 6 May); *Alcanena* (Law No. 156, of 8 May); *Sines* (Law No. 167, of 19 May); *Alportel* (Law No. 178, of 1 June); *Castanheira de Pêra* (Law No. 203, of 17 June). This attitude from Congress attracted severe criticism.

In the session of 18 March 1914, which passed the bill to create the municipality of *Bombarral*, approved by the Chamber of Deputies but refused by the Senate, Jacinto Nunes considered that the only serious, loyal and honest way to decide the issue would be the referendum (*DC*, 7, 18 March 1914, p. 8). In the Senate sittings of 17 April 1914, in which a bill to create the municipality of *Ribeira Brava* was discussed, Senator Tasso de Figueiredo proposed the postponement of that decision until the appreciation by the Chamber of Deputies on the Administrative Code had already passed in the Senate. The idea was to avoid the creation of municipalities under extraordinary conditions (*DS*, 75, 17 April 1914, p. 10). The Chamber passed the postponement, but on 27 April, the bill was passed, in spite of several protests.

These discussions were repeated throughout 1914 due to a veritable avalanche of bills aimed at changing administrative

circumscriptions.<sup>43</sup> At the Chamber of Deputies' session on 22 April 1914, Barbosa de Magalhães, on behalf of the Public Administration Committee, appealed to the urgent regulation of Law No. 88, having obtained a promise from the Head of Government that such would be made as soon as possible (*DCD*, 79, 22 April 1914, p. 9).

While the legislative power did not approve the regulation for the local referendum, some decisions were taken without a referendum. Three parishes were created in 1915: *Painho* (municipality of *Cadaval*), *Caneças* (*Loures*), *Estoril* (*Cascais*); Six in 1916: *Quarteira* (*Loulé*), *S. Mamede* (*Batalha*), *Santa Iria de Azóia* (*Loures*), *Amadora* (*Oeiras*), *Vale de Paraíso* (*Azambuja*), *Cristelo* (*Paredes*). In 1917, even after the publication of the law which established the rules for local referendums, the municipality of *Marinha Grande* was created by law, without a referendum.

Although the lack of a referendum had consequences concerning the bills needed to change administrative circumscriptions, it also concerned other types of decisions. For instance, in the Senate session of 27 June 1914, Senator Tasso de Figueiredo criticised a bill that authorised the *Câmara Municipal* of *Vila Real de Santo António* to create a tax. Such authorisations should have been submitted to a referendum, and the Chamber approved the objection (*DS*, 127, 27 June 1914, pp. 6-9).

Another problem was that some deliberations from local authorities needed a referendum to approve their execution. Given that the way to accomplish the optional referendum requested by the electors was not regulated, nothing prevented the deliberations. However, in the case of deliberations that needed an organic referendum from parish authorities, which was mandatory, the courts judged that those deliberations were merely provisional until a referendum took place. In fact, in April 1917, the Supreme Administrative Court granted an appeal against a deliberation from a parish authority, which had acquired a piece of land, without a referendum.

During this period, certain deliberations of local authorities had to be confirmed by referendum. However, until 1916, no law governed the conduct of referendums. After the publication of Law No. 621, of 23 June 1916, the court ruled that all decisions made in the previous years were only provisional until approved by a referendum. This judgment was based on Article 12 of that Law, which applied retrospectively. The Court

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<sup>43</sup> See for example: *DS* (83, 29 April 1914, p. 5) or *DS* (87, 6 May 1914, p. 16).

therefore considered that all pending deliberations must be submitted to a mandatory referendum [*DG* (II) 91, 18 April 1917].

### **3.4. The First Restrictions on the Extent of the Local Referendum**

On 24 August 1915, António Fonseca, who was member of the Democratic Party, introduced a bill. It stated that the deliberations from the municipal authorities regarding expenses only had to be submitted for approval from parish authorities, or through a referendum, if the increase of taxes was greater than that of the previous year. The same rule would be valid for the referendum on the decisions regarding taxes taken by parish authorities (*DCD*, 56, 24 August 1915, p. 15). The Chamber of Deputies approved this bill on 26 August 1915, thus giving origin to Law No. 446, of 18 September 1915 [*DG* (I) 189].

Nevertheless, even within this new legal system, the law was sometimes ignored. For example, during the session of 10 February 1916, Jorge Nunes, member of the unionist opposition, criticised the municipal authority of Oporto for having increased taxes without respecting the Administrative Code, that is, without consulting the parish authorities (*DCD*, 38, 10 February 1916, p. 15).

### **3.5. Law No. 621, of 23 June 1916**

#### **3.5.1. The Debate in the Chambers**

Finally, on 24 March 1916, the Public Administration Committee introduced, in the Chamber of Deputies, a bill regulating the local referendum [*DG* (II) 72, 27 March 1916, pp. 1095-1099]. The Bill drew on the debate that had taken place two years previously in the Senate, and proposed that:

- a) The restriction of the electoral body, which gave male citizens aged 21 and over the right to vote, as long as they fully enjoyed their civil rights, were electors or taxpayers, and lived in the constituency for more than one year.
- b) The reduction of the municipal authorities' deliberations submitted to the parish authorities' organic referendum.
- c) The restriction of the deliberations submitted to the municipal referendum required by one tenth of the electors, which could only happen on deliberations concerning loans or taxes.

- d) The suppression of an organic referendum from parish authorities on deliberations made by Lisbon and Oporto municipal authorities, which could be submitted to popular referendums only for the restricted terms mentioned above.

The debate began on 10 May 1916 (*DCD*, 85, 10 May 1916) and the Public Administration Committee prepared a new draft, which was different in some aspects from the previous one. The text no longer referred to the abolition of municipalities and *freguesias* (new designation for the parishes), but only mentioned their creation, which still had to be approved by referendum, requested by a third of the electors and voted by two thirds of them. To change parishes from one municipality to another, it would suffice to have the approval by a third of the electors.

The electoral body for the referendum would be the same as for other electoral acts, with references to the taxpayers' participation and to residence in the circumscription for more than one year having disappeared. Those who did not vote would no longer be considered as giving tacit approval. The new draft changed other details, namely the ballot paper, which should have only one colour, thus guaranteeing the secrecy of vote.

The Chamber reduced the use of the organic referendum from parishes on the municipalities' deliberations, but not to the extent proposed. As for the electors' optional referendum, the restriction was more evident: the taking out of loans and the creation of taxes could be subject to a popular referendum. There would be no special regime for Lisbon and Oporto. The deliberations from municipal authorities would be tacitly approved if the parish authorities did not communicate their resolutions within the 45-day term.

Parish authorities repeatedly requested restrictions on the popular referendum for two main reasons. The first was the staff resource required by the local authorities to raise the referendary device with all the legal requirements, and the second was the difficulty felt by the local authorities of obtaining revenues, given the foreseeable refusal of any tax increase by taxpayers (*DCD*, 71, 12 April 1916, p. 4).

After passing, the bill returned to the Senate for further debate during the session of 19 May 1916. The Chamber introduced further amendments: **a)** the change of parishes to other municipalities would need the vote from two thirds of the electors, and not only a third; **b)** the referendum on the creation of new municipalities should take place in

each parish that had requested it; c) the approved rules should be applied to the pending cases (*DS*, 72, 19 May 1916, pp. 21-22).

### **3.5.2. The Rules Passed**

This long and troubled legislative process ended with the passage of Law No. 621, of 23 June 1916, which finally regulated the local referendum in the following terms:<sup>44</sup>

- 1) The creation of new municipalities, the partial or total change of parishes to other municipalities, or the change of villages from a parish to another, should be requested by a third of the voters and should be passed a two-thirds majority.
- 2) For annexations or the dissolution of unions, such as the creation of parishes or municipalities, the referendum only took place in the area that proposed to separate. It was summoned by the administrative body of that circumscription within 15 days of the delivery of a request signed by a third of the citizens registered in that part. If that summon was not made, any elector could request it to the district judge.
- 3) The Law introduced some restrictions on the extent of local referendums, but the taking out of loans and the creation of taxes could be submitted to referendum if requested by a tenth of the citizens.
- 4) When the parish authorities had not communicated their resolution on the municipal deliberations submitted to the organic referendum within 45 days, tacit approval would be assumed.
- 5) The citizens registered to vote in each constituency had the right to vote in the local referendum.
- 6) The ballot papers would be in white, flat, printed or lithographed paper, and would only mention: '*aprovo*' (I approve) or '*rejeito*' (I reject).
- 7) The referendum would be held by assemblies, which would meet on a Sunday scheduled at least 20 days before by the administrative body. The deliberation from this body would be publicised by advertisements in local newspapers and divulged in common places, thus informing citizens of the purpose of the referendum.

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<sup>44</sup> For a detailed description of the local referendum procedure, see Oliveira (1924).

- 8) The assemblies' chairpersons were appointed as Stated in the Electoral Code, and the chairs were constituted much like the parish elections.

### **3.6. The First Local Referendum on Territorial Issues**

The first local referendum on territorial issues that we have observed occurred in the small parish of *Covelo de Paivô*, located about 30 kilometres from the seat of the municipality (*S. Pedro do Sul*), and about 15 kilometres from the seat of the neighbouring municipality (*Arouca*). For geographical reasons, the people of *Covelo de Paivô* wanted to become part of the *Arouca* municipality and the legislative power approved the proposal, without a referendum, by publishing a Law on 16 February 1917.

The municipality of *S. Pedro do Sul* objected to the decision, and on 24 June 1917, the people of the parish were consulted through a local referendum on whether they preferred to remain in the *Arouca* municipality or return to *S. Pedro do Sul*. This referendum was mentioned in the Senate as being the first time that such an act would take place (*DS*, 69, 22 June 1917, pp. 3-4). However, the Administrative Court of *Aveiro* would consider that referendum null and void. A valid referendum was held on 15 July, in accordance with Law No. 621, of 23 June 1916. Therefore, the integration in *Arouca* proceeded, and the boundary reorganisation of July 1917 remains in place to this day.

## **4. The New Republic (*República Nova*)**

### **4.1. The 'Sidonist Interregnum'**

On 5 December 1917, exploiting the dissatisfaction that came from all sides towards the Portuguese participation in World War I, Major Sidónio Pais, Professor at *Coimbra* University and Finance Minister of the first Constitutional Government, instigated a *coup d'état*. Having the support of the urban populations who had backed the 1910 revolution, he was able to resist the government's counteroffensive, proclaiming a Revolutionary Committee that arrested the President (Bernardino Machado) and the Head of Government (Afonso Costa), dissolved Congress, and established a regime called the New Republic (*República*



*Nova*).<sup>45</sup> On 10 January 1918, the new power dissolved all administrative bodies.

The simultaneous elections for the President of the Republic and for a Parliament with constituent powers took place on 28 April 1918. Meanwhile, a new electoral law gave the right to vote to all male citizens aged 21 and over. With the widening of suffrage, the population that could be registered to vote increased from 617,201 to 1,510,545 and the effective census had about 900,000 electors registered. Sidónio Pais was elected President with 513,958 votes. Participation in the parliamentary elections was very low (36% in Lisbon) due to the call for abstention made by the Democratic, Evolutionist and Unionist parties (Marques, 1978, p. 610; Maltez, 2005, p. 243).

The new Parliament met between 23 July and 6 August 1918, but it did not decide how the new Constitution should be drawn up. Sidónio Pais merged the functions of President and Head of Government, and he broke with the syndical movement that had supported his ascension to power. The regime leaned to the right and assumed a fascist character (Serra, 1992, pp. 60-61; Santos, 1990, pp. 255-260). On 14 December 1918, Sidónio Pais was murdered in Lisbon. During the ‘*Sidonist* interregnum’, the Government created three new parishes by decree: *Penha de França* (Lisbon), *Serra de Santo António* (Alcanena) and *S. Cristóvão* (*Montemor-o-Novo*). Only in the last one did the decree refer to the execution of Law No. 621, which demanded that its creation be requested by a third of the electors and voted for by two-thirds.

#### **4.2. The Referendum in Carneiro de Moura’s Draft Constitution**

On 24 July 1918, the ‘*sidonist*’ Senator Carneiro de Moura, introduced a draft Constitution (Serra 1992, p. 60-61), which proposed the inception of the national referendum. If the President of the Republic refused to give assent to a statute, after hearing the Council of State,<sup>46</sup> he could submit the final decision to a popular referendum (Article 79).<sup>47</sup> If

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<sup>45</sup> On the New Republic, see Serra (1992, pp. 54-57); Santos (1990, pp. 83-85), Maltez (2005, p. 234) and Wheeler (1978, pp. 151-173).

<sup>46</sup> According to the draft, the Council of State would be composed by the Presidents of the Legislative Chambers, the President of the Supreme Court of Justice, the Dean of the University of Lisbon, the Commander of the Navy, the Commander of the 1<sup>st</sup> military division, and six members representing the working class, fine arts, agriculture, industry, trade and liberal professions.

<sup>47</sup> If the President did not appeal to the popular referendum, he should enact the diploma within a 15 day term (Article 80).

the popular referendum approved the statute, it would be enacted (Article 81). If the referendum rejected an important resolution of the Legislative Power, the President could dissolve both parliamentary chambers, after hearing the Council of State (Article 112). Beside this proposal of national referendum, the draft also included the popular referendum on subjects of great regional interest (Article 141).

The Carneiro de Moura draft, in its most relevant part, which was the inception of the national referendum, wanted to reinforce the President's Constitutional position. This idea was dear to '*sidonism*', and the alliance with the popular strata that supported the New Republic. In the case of conflict with Parliament, the President could appeal directly to the people, and the defeat of the legislative body by the people triggered the power of dissolution. This draft, however, would expire with the new parliamentary elections in May 1919 without ever being discussed.

### **4.3 The Royalists and the Plebiscite**

With the Democratic Party removed from power by Sidónio's revolution, and with elections expected during February 1918, the supporters of the Monarchy tried to organise their own participation. Hoping to achieve that aim, they created a monarchic electoral commission and, on 2 February, they met Sidónio Pais. According to the former minister, António Cabral, who took part in the delegation, the purposes of that meeting were to discover Sidónio's guidelines and political intentions. But they also sought to find out if they would be permitted to distribute their electoral propaganda freely in assemblies and meetings, diffusing their ideas, publishing their principles, introducing their candidates, and using, in accordance with the law, every legitimate way that they judged necessary to take a condign representation in parliament (Cabral, 1932, p. 359).

Sidónio Pais guaranteed the freedom to meet, and to make electoral propaganda. However, he tried to lure Cabral and his followers into accepting the new situation by expressing the desire that the supporters of the Monarchy participate in the Republic on equal terms with the republicans, arguing that, with a new Constitution, the moment was opportune (Cabral, 1932.p. 360). António Cabral considered the proposal insulting and threatened to leave. Sidónio, trying to pacify him, defined his proposal as an experiment instead of an abdication. The monarchists would support Sidónio in the direct presidential election in order to avoid the disturbances. Before such an appeal for a direct vote, the royalists replied with a proposal for a plebiscite, so that the nation

could freely choose the political system. According to António Cabral (1932, p. 360), Sidónio refused that idea peremptorily and appeared to be annoyed.

The supporters of the Monarchy did not accept the compromise and insisted, during that year, on their claim for a plebiscite. Miguel Dias Santos (2003, p. 170) made a survey of the claim for a plebiscite by the monarchic press in 1918, referring to articles published in the newspapers *A Pátria* on 13 February, 16 August, 1, 2 and 17 October, 7, 19 and 22 November; *O Liberal* on 19 and 26 February; and *Diário Nacional* on 14 February and 27 November. In spite of being well aware that Sidónio Pais, as a republican, would never accept the plebiscite, the monarchic press demanded it consistently throughout 1918. The plebiscite would become a flag of some supporters of the Monarchy. However, the idea was not unanimous among them, and the exiled King did not accept it. That was clear in the monarchic movements in the aftermath of Sidónio Pais' death.

Hipólito Raposo (1945, pp. 42-45), a supporter of Paiva Couceiro's military movements against the Republic which gave place to the ephemeral proclamation of the 'Monarchy of the North' in January 1919, recalls in his memoirs that he tried to obtain the approval of the exiled King for those military movements, and that he himself sent a document to the King's representative, Aires de Ornelas. That document asked for the opinion of Dom Manuel II about the possibility of a military movement promoted by monarchic and republican military officials, and proposed that the country hold a plebiscite on the political system. The verdict brought on that paper by Aires of Ornelas was, for the first point: 'Go on! Words of the King'. However, as for the second: 'I do not see reason for a plebiscite.'

Monarchic opinion remained divided over the plebiscite. João de Almeida (1937, pp. 216-217), who fought militarily for the monarchic restoration, defended the plebiscite for tactical reasons in the beginning, but he later changed his opinion, deciding that the plebiscite would only serve to legalise the will of the Government that imposed it. Alfredo Pimenta (1937, p. 161) considered himself an anti-liberal and anti-democratic royalist. He was an admirer of Dom Manuel II and, in a text written in 1925, he expressed his agreement with the King's position, refusing the idea of a plebiscite in principle. He thought the plebiscite was contrary to the monarchic doctrine. The King was a King because of the Grace of God. His power came from God. A plebiscitary King would be a King of the democracy, a King of the vote, a King of the ballot, a King of

the party. His conclusion was that a plebiscitary monarchy would be a republic.

The monarchic position on the plebiscite varied therefore between the positions of those who refused it for reasons of principle, like Dom Manuel II himself, and others who accepted it for tactical reasons. For the *Miguelist* branch, the idea of a plebiscite allowed them to join the opposition to the Republic and to fight against the return of Dom Manuel II to the throne. For the supporters of a restoration by military means, the plebiscite would appear as a way of avoiding the pure and simple return of a Monarchy that had been defeated. They were conscious that achieving restoration without broadening their political support base would be difficult, and they wanted to legitimise the return of the Monarchy through plebiscitary means. On the other hand, the plebiscite idea, when working as a 'democratic' challenge to the Republican regime, was intended to unite, and to win the support of, all those discontented with the Republic, taking full benefit of the deep political instability and crises that typified the First Portuguese Republic.

Therefore, the idea of a plebiscite did not have unanimous support amongst the supporters of the Monarchy, and it was even opposed by the exiled King. Nevertheless, the defeat of the military attempts to restore the Monarchy excluded the possibility of such a plebiscite. The ephemeral proclamation of the Monarchy in occupied places during those campaigns was made on behalf of the return of King Manuel II, and never under condition of a plebiscite to confirm his legitimacy. The practical difficulties of the plebiscite would be certainly real. However, it is not relevant to analyse these in detail, since the question was solved by revolutionary means. The monarchic reaction was centered fundamentally in military actions in spite of its weakness. The plebiscite functioned as a political argument for some monarchic sectors, but a plebiscite would have been unlikely even if the military outcome had been different.

## **5. The Last Years of the First Republic**

### **5.1. The Constitutional Revision of 1919**

After Sidónio Pais' murder, the Government assumed executive power based on the Constitution of 1911 and decided to hold elections for a new President of the Republic according to its rules. The President elected was Admiral Canto e Castro, who completed Bernardino Machado's term of office, which finished on 5 October 1919. Tamagnini Barbosa assumed Government leadership.

Until February 1919, the country had a president and a government with disputed legitimacy, since Bernardino Machado had never resigned. Furthermore, it faced revolutionary revolts in Lisbon and *Covilhã* (10 January), and *Santarém* (12 January), along with the declaration of the Monarchy in the North of the country by Paiva Couceiro on 19 January, and a monarchic military revolt in Lisbon on 22 January. When the republican opposition overthrew the monarchic revolt in Lisbon, a government led by José Relvas, which included all parties from the 'Old' Republic, took power on 27 January 1919. The 'Monarchy of the North' surrendered on 17 February. The Parliament, which had carried over from *Sidonism*, was dissolved on 19 February. In the legislative elections, which took place on 11 May 1919, with electoral suffrage again restricted, the Democratic Party elected 55% of the deputies, in spite of the absence of Afonso Costa, exiled in Paris after Sidónio's coup (Serra, 1992, pp. 63-71).

In August 1919, there was a Constitutional revision process. Two draft amendments included different kinds of referendums. The draft from the socialist José António da Costa Júnior, proposed, in the provision regarding local institutions, the inclusion of the exercise of referendum by universal suffrage, on any political, social or economic measure that could worsen or make it difficult for the municipal community (*DCD*, 26, 22 July 1919, p. 52).

The draft introduced by José Mendes Nunes Loureiro and other members of the Democratic Party (*DCD*, 26, 22 July 1919, p. 53) proposed the referendum for Congress dissolution. If some proposal for the self-dissolution of Congress were introduced, it would be dissolved if the proposal was approved in a joint session with both Chambers. However, if the proposal obtained a third of the votes from the Congress members, it would be submitted to referendum.

The schedule of the referendum would imply the immediate suspension of the ministers' functions, with the Government being assumed by a body called the National Council, chosen during a joint session of both Chambers of Congress. In case of a negative answer from the voters, the ministers would retake their functions immediately. These proposals did not have any success and, once again, the arguments against the referendum were based on the citizens' lack of knowledge and understanding.<sup>48</sup> The fact that the dissolution of Congress was

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<sup>48</sup> In that sense, see the speeches by António Maria da Silva and Vasco Borges (*DCD*, 31, 30 July 1919, pp. 14 and 27).

Constitutionally forbidden until then was a real problem for the republican political system, and explains the association between the referendum and Congress dissolution. That power would later be conferred to the President of the Republic, although in a conditioned way, but the referendum did not obtain any role in that process.

## **5.2. The Local Referendum in the Last Years of the First Republic**

The final years of the First Republic were categorised by a dizzying succession of governments, and this instability would lead to its final collapse. The Democratic Party was torn apart by dissidence. The Evolutionist and Unionist Parties disappeared, giving room to the Liberal Party. From the death of Sidónio in February 1919, until 19 October 1921, the country had 13 governments. On the night of 19 October 1921, the so-called 'bloody night', the Head of Government, António Granjo, and other key republicans were assassinated.

The next Government lasted only 17 days. The only exception to this instability, which lasted until the collapse of the Republic, was a two year period, between 1922 and 1923, when a clear electoral victory for the Democratic Party allowed for some governmental stability under António Maria da Silva's leadership. From 21 January 1920 to 30 May 1926, the country had 24 governments (Santos, 1990, pp. 260-275, Maltez, 2005, pp. 249-333). However, in those last years of the First Republic, references to the local referendums are frequent in the parliamentary works, namely regarding the creation of parishes. Between 1919 and 1925 (inclusive), the legislative power created 28 new parishes, and the holding of the referendums demanded by law were expressly referred in respective works.<sup>49</sup> There are also references to referendums on the annexation and disunion of parishes,<sup>50</sup> to proposals refused due to the lack of legally required referendums (*DCD*, 49, 11 March 1924, p. 7), as well as to referendums held in parishes on other issues.

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<sup>49</sup> As examples see the references to referendums held in *Bustos (Oliveira do Bairro)*, (*DCD*, 81, 14 January 1920, p. 3); *Vila Cortumes (Alcanena)*, (*DCD*, 85, 20 February 1920, p. 4); *A-Ver-o-Mar (Póvoa de Varzim)*, (*DCD*, 44, 8 April 1921, p. 4); *Afrivida (Vila Velha de Ródão)*, (*DCD*, 90, 3 August 1922, p. 26); *Albergaria dos Doze (Pombal)*, (*DCD*, 161, 1 November 1922, pp. 4-7); *Lomba da Fazenda (Nordeste)*, (*DCD*, 7, 14 December 1923, p. 9); *Vila Nova de S. Pedro (Azambuja)*, (*DCD*, 115, 2 July 1924, p. 22); *Queluz (Sintra)*, (*DCD*, 68, 23 April 1925, p. 7); or *Silveira (Torres Vedras)*, (*DCD*, 34, 21 April 1925, pp. 16-17).

<sup>50</sup> As an example see the disunion of a part of *Alverca* and its annexation to *Alhandra*, preceded by referendum (*DCD*, 67, 6 June 1922, p. 32).