

“The Funeral of Democracy”

The Showdown with the Military and Institutional Act No. 5

“Brazil is watching the decision we will make. But history alone will judge us.”¹ With this weighty line, Márcio Moreira Alves stepped away from the rostrum in the Chamber of Deputies on December 12, 1968. For the past two months, he had stood at the center of Brazil’s direst crisis since 1964. In response to his speeches criticizing the UnB invasion, military leadership had demanded the revocation of his parliamentary immunity so that he could be tried for “subversion.” Now Congress was poised to vote. Would the 369 deputies present, two-thirds of whom belonged to ARENA, cave in to military pressure? Or would they take the perhaps politically suicidal step of defying the generals and sending a message that the military had gone too far in its efforts to reform the political class? The 1967 constitution had theoretically given the “Revolution” the tools to effect its transformation of Brazil while promising that legislators were inviolable in the exercise of their office. Now the military was attempting to extend its repression to Congress. For many politicians, this was the last straw. The showdown that ensued would fundamentally alter the relationship between politicians and the military.

Although it is widely recognized that the Moreira Alves case was a pivotal moment for the military regime, key questions remain about this second act in the 1968 showdown between politicians and the military. Why, despite the “chaos” the student movement unleashed, was it a congressional speech that incited the military? Why, after four years of tolerating the erosion of their influence, did politicians choose now to take a stand? What were they taking a stand for? By analyzing the military’s response to Moreira Alves’s speeches, the frantic attempts to find a compromise, politicians’ efforts to guess the military’s reaction to disobedience, and the final debate, this chapter answers these questions, which have remained unresolved after five decades of reflections.

In the wake of Moreira Alves's speeches on September 2 and 3, vague "lower military echelons" complained to Army Minister Lyra Tavares.² In a letter to Costa e Silva, Tavares emphasized that the deputy's speech was his "right as an adversary of the government." However, since the military existed to defend Brazil's institutions, the "restraining of such unjustifiable violence and verbal aggression against the Military Institution" would constitute a "measure to defend the regime itself." Although Tavares never suggested that Moreira Alves be prosecuted, he hinted that the military would not look kindly on a failure to restrain him: "Notwithstanding the manifest gravity of the insults . . . the Army continues to make every effort to contain them within the bounds of the discipline and serenity of its attitudes, obedient to the civilian authorities and confident in the steps that you decide to take."³

What ensued over the next three months illustrates the regime's concern with legality (as the military saw it). If an Argentine politician a few years later had made a similar attack on the military, that individual probably would have been abducted, beaten, and likely never seen again. But in Brazil the new constitution had institutionalized the "Revolution," returning Brazil (in theory) to a full democracy. Costa e Silva could not simply arrest Moreira Alves; there were legal procedures. He thus forwarded Tavares's letter to the justice minister, who concocted a legal argument to allow the Supreme Federal Court (STF) to try Moreira Alves.

The fifty-five-year-old justice minister, Luís Antônio da Gama e Silva, was one of the regime's most polarizing figures. A graduate of the São Paulo Law School, in 1939 he lost his job as political editor for a newspaper due to his opposition to Vargas. After the *Estado Novo* fell, he was hired as a law professor at the University of São Paulo (USP), and in 1963 he was named USP's rector. He wholeheartedly supported the coup and in 1967 was appointed Costa e Silva's justice minister.⁴ His unconditional support for the regime, enthusiastic repression of the student movement, and petty vindictiveness made him one of the regime's most "radical" figures and earned him a host of enemies. General Olympio Mourão Filho, one of the architects of the coup, described him as someone "lacking character, who confuses . . . violence with authority."⁵

Gama e Silva immediately received (or solicited) letters from the navy and air force ministers that echoed Tavares but in stronger terms. The air force minister asked him to take the "legal steps capable of restraining the repetition of these verbal aggressions that deliberately aim to disparage" the military.⁶ The navy minister asked Gama e Silva to prosecute Moreira Alves for attempting to "place the Armed Forces in conflict with the people with the clear intention of attacking the democratic order."⁷ After a "meticulous study," Gama e Silva submitted a report to Costa e Silva recommending prosecution.⁸ Costa e Silva approved it, and on October 11 a federal prosecutor, Décio Miranda, forwarded the case to the STF, which if it decided to pursue a trial would have to request the revocation of Moreira Alves's parliamentary immunity.

Gama e Silva's argument was based on article 151 of the constitution, which stated that freedom of expression did not apply in cases involving "an attack on the democratic order" or corruption. Should the person violating this article be a federal legislator, the applicable house of Congress would have to grant permission for a trial. Yet article 34 guaranteed that deputies and senators were "inviolable in the exercise of their office, for their opinions, words, and votes." Parliamentary immunity was a hallowed principle of Brazilian law, enshrined in five of Brazil's six constitutions (the sole exception was Vargas's 1937 constitution). There were two questions. First, did the exceptions to free speech in article 151 override the parliamentary immunity enshrined in article 34? And second, did Moreira Alves's comments constitute an "attack on the democratic order"? Gama e Silva argued strenuously that the answer to both questions was yes.⁹ If the Chamber agreed, it could give permission for the STF to try him, and the STF (which AI-2 had packed by increasing the number of justices from eleven to sixteen) could then remove him from office. If the exceptions did not supersede immunity or if his speeches had not constituted an attack on democracy, Moreira Alves could not be tried.

WEIGHING BENEFITS AND RISKS: THE POLITICAL CLASS AND MILITARY MANEUVER UNDER DURESS

Once the chief prosecutor requested that the STF try Moreira Alves and the case went public, politicians realized that it could spark a dangerous confrontation. They thus searched for a way to keep Congress from having to vote on the matter. Perhaps the STF would decline to prosecute Moreira Alves.¹⁰ Or maybe a flurry of meetings and letters between the ARENA leadership, Costa e Silva, and military leaders could defuse the crisis. In early November the government agreed to a 30 percent salary increase for military and civilian public employees.¹¹ Other proposals included a special Chamber session in tribute to the Armed Forces; censure for deputies who insulted the military, with repeat offenders forfeiting up to a month's pay; and a constitutional amendment limiting immunity for insults to the Armed Forces.¹² Yet all these solutions came to naught. When no one in the military responded, a showdown became likely.

Although the press and the political class were paying avid attention, most Brazilians were not. A poll in the *Jornal do Brasil* revealed that 40 percent of Guanabara respondents approved of the case against their native son, while 38 percent had no opinion; only 22 percent were opposed.¹³ Of course, the government saw these polls and realized that Moreira Alves would not receive public sympathy; as a US embassy report put it, "It is doubtful that many Brazilians perceive any important relationship between their own lives and the political intrigues at the federal level."¹⁴

Still, "intrigues at the federal level" were highly relevant to Moreira Alves, whose career, and possibly life, was in danger. After several threatening phone

calls and a report from a military contact that several officers planned to kidnap, beat, and possibly castrate him, he installed floodlights around his home, hired a bodyguard, and purchased a stockpile of guns.¹⁵ His experience as a correspondent in the Suez Canal Zone and wounding during the 1957 shootout in Alagoas had earned him a reputation as a marksman, though he had not fired a gun in either Egypt or Maceió. A fellow deputy experienced in violent political disputes ridiculed his precautions; this sort of situation, he explained, required at least two machine guns, five rifles, three thousand rounds of ammunition, and five seasoned bodyguards.¹⁶

In late October, the STF agreed to take the case.¹⁷ The court now requested that the Chamber grant permission to try Moreira Alves.¹⁸ For the next five weeks, while the case was examined by the Constitution and Justice Committee, the Chamber weighed its options. There were compelling reasons to believe that the deputies would grant the request to try an unpopular colleague.¹⁹ Moreira Alves did nothing to help himself when in late October he castigated Rio de Janeiro police as “bandits” and “crazy sadists” after they shot demonstrating students.²⁰ ARENA leadership and Covas convinced him to authorize the exclusion of the most offensive lines from the *Diário da Câmara*. Many deputies were incensed that he spoke so aggressively at this sensitive moment. As one newspaper mused, “If he . . . aggravates the threat that also hangs over the entire institution, it would be better for the institution to throw him overboard to try to avoid a shipwreck.”²¹ Deputies also feared that the military might retaliate, even close Congress, if they refused to hand over Moreira Alves. ARENA’s Clovis Stenzel, who enjoyed close military contacts, warned that the MDB’s involvement with “subversion” could lead to a new institutional act and further cassações.²² As the speaker of the Chamber put it to ARENA vice-leader Geraldo Freire, “No one’s going to trade their place in Congress for Márcio’s.”²³

Still, if the deputies set this precedent, who would be next? What would happen to Congress’s remaining power and prestige? As it stood, Congress had lost many of its legislative functions, but it was still free to speak its mind. Now even that right to serve as a moral check was threatened. As Covas pointed out years later, “If you approved that [request], everyone [else] who was inconvenient for the regime would be successively removed from parliamentary life.”²⁴ Deputy Fr. Antonio Godinho put it starkly but accurately: “If the Chamber hands over one head, it will automatically be putting its own neck on the guillotine.”²⁵

Indeed, rumors circulated that the government was targeting several outspoken São Paulo MDB deputies, and government allies were sent into a panic over a rumor that four arenistas would be next.²⁶ When another rumor had it that the regime was preparing a list of Guanabara state deputies to remove, Gama e Silva offered the tenuous reassurance that nothing was planned—for now.²⁷ But in mid-November a military court asked the Chamber to grant permission to try Hermano

Alves for violating the national security law in newspaper articles.²⁸ It was clear that the witch-hunt would not stop with Moreira Alves and that no one was safe.

The request was dealt a serious blow by its failure to win the support of key ARENA leaders, in particular, its national president, Rio Grande do Sul senator Daniel Krieger. A foe of Vargas who was thrice imprisoned under the *Estado Novo*, Krieger was first elected to the Senate for the UDN in 1954. He supported the regime from the beginning, and he had accepted many of its most controversial extralegal measures.²⁹ When ARENA was formed in early 1966, Castelo Branco asked Krieger to lead the new party. Still, disagreements emerged. After the coup, he helped author a proposal for an institutional act that the military rejected as too timid, instead adopting AI-1. In late 1966 he declined Costa e Silva's invitation to serve as justice minister and criticized the new constitution's restrictions on civil liberties.³⁰ From the beginning he opposed the prosecution of Moreira Alves, and in early October, before the case went public, he sent Costa e Silva a letter explaining his disagreement. He also refused to have the party take a formal position and declined to pressure deputies to vote in favor of the request. As he put it a decade later, "I could not permit myself to cooperate, out of fear of reprisals, with the castration of Congress and the rape of the Constitution."³¹ Publicly, however, when asked his opinion by reporters, the ARENA president maintained a prudent silence, limiting himself to quoting an Arab proverb, "Saying little is worth silver; saying nothing is worth gold."³²

Krieger's position was a slap in the face to the military because it felt like a violation of their trust. He had supported the coup, accepted extralegal measures, and delivered key votes in Congress. He was untouched by accusations of corruption, and though he could stand on principle, he avoided embarrassing the regime. If the military could not trust Krieger, who could they trust? For members of the military committed to the dream of reshaping political practice, Krieger was acting as though politicians could revert to their old habits. Costa e Silva's military chief of staff, General Jayme Portella, fumed that he "refused to understand that a case like this could not be handled with amiability. . . . There had to be a formula or a measure to hold [Moreira Alves] accountable, because the Revolution had not extinguished itself."³³

Such intransigence was alien to politicians accustomed to compromise, and they searched frantically for a solution that would leave both the military's honor and their own intact. Krieger proposed that the Chamber apply an "unprecedented" penalty, suspension of Moreira Alves from Congress, a solution he claimed MDB leaders were prepared to support.³⁴ For politicians, there was no reason why such a compromise could not resolve the impasse. Should it not be enough to demonstrate that Congress regretted the speeches and discipline Moreira Alves itself? If politics was "the art of swallowing toads"—and the political class had swallowed many since 1964—surely the military could swallow one now.

The problems went beyond Krieger. Chamber majority leader Ernani Sátiro had taken a leave of absence due to heart trouble, leaving the ARENA vice-leader Geraldo Freire to defend the case.³⁵ Freire later recalled that when Gama e Silva informed ARENA leadership of the request (after it had already been sent to the STF), Sátiro warned him, “You’re bringing a storm onto our heads; this is going to bring us serious problems.”³⁶ Why would Gama e Silva and the military stir a hornets’ nest? Could they not see the threat that the request posed to politicians’ honor? With Krieger unwilling to defend the request and Sátiro ill, that left only Freire, an obedient but less known and respected deputy, to marshal the ARENA troops.

If the attempts at compromise bore no fruit and the Chamber refused to permit the prosecution, what would the military do? In the best-case scenario, they would accept Congress’s decision, and political life would continue as before. But in the worst case, so-called military hardliners would overthrow Costa e Silva or force him to sign a new institutional act, close Congress, and reinstitute cassações. Yet no one knew how likely this was. If there really was a movement afoot to “radicalize” the regime would it do any good to hand Moreira Alves over? After all, in 1937 the Chamber had revoked the immunity of deputies opposed to Vargas, and it had done nothing to stop the establishment of the *Estado Novo* a few months later.³⁷ Who were the military ministers speaking for when they demanded prosecution? How invested was Costa e Silva in prosecuting Moreira Alves? Even if he accepted compromise, what would happen if fellow officers and the rank and file were dissatisfied with his decision?

Even the US embassy, usually well informed because of the cozy relationship between the two countries’ militaries, was confused. A telegram worried that the “President [is] finding it increasingly difficult to balance the ‘needs’ of the Revolution as expressed by the military who brought him to office against his constitutional responsibility toward civilian institutions,” yet concluded that comparisons to the tense atmosphere in October 1965, when military pressure had led a reluctant Castelo Branco to sign AI-2, were “overly alarmist.”³⁸ As late as December 4, the Americans noted that “senior Army contacts in Rio and Brasília” did not appear to be in crisis mode.³⁹ This was probably because they never expected Congress to actually say no.

Politicians were not as well informed as the Americans and, unless they had their own military connections, were reliant on the press, always a key source of rumor and gossip for Brazilian elites. Reporters expended considerable effort attempting to ascertain the attitudes of Costa e Silva, top military brass, and the rank and file. Reports from an October meeting with the military high command claimed that Costa e Silva had called Moreira Alves’s comments “inconsequential stupidity” and argued that the “rules of the game” would have to be maintained.⁴⁰ Transportation Minister Mário Andreazza (whose thirty-year military career gave him close contacts) claimed, “There is no possibility that [Costa e Silva] will stand back from [the constitution’s] text and destroy the regime.”⁴¹ Also encouragingly,

the *Folha* cited "measurable sectors" in the army that opposed the prosecution on the grounds that it made them look "intolerant and antidemocratic."⁴² Yet nine days later the *Jornal do Brasil* cited equally vague "military sectors" that expected from politicians "flexibility . . . to heed the necessities of the moment," arguing, "The Revolution . . . cannot hinder itself with laws that hamper its efficiency."⁴³ Another source claimed that the military ministers might accept a congressional refusal but that they were being pressured by "lower echelons," who demanded the restoration of military honor.⁴⁴ After all, politicians' speeches were only one symptom of growing "subversion." Interior Minister Afonso Albuquerque Lima, a general with a large following who had open pretensions of succeeding Costa e Silva, declared:

[The military will not remain silent faced with] groups who, having forgotten their duty to the Pátria, hurl themselves against those who have devoted themselves to her and give even their very lives to defend her. . . . All sorts of injustice are committed against the military, who at this moment are in the backlands opening up roads, digging wells, while these melodious singers get rich at pompous festivals, singing hymns of subversion.⁴⁵

While the targets of this threat were surely students and the singer Geraldo Vandré, whose thinly veiled call for armed resistance against the regime had become a hit song, Albuquerque Lima's comments reflected a deeper sense of betrayal.⁴⁶ The pampered middle and upper classes—singers, students, and the political class—whose fortunes had been preserved when the military saved Brazil from communism were now committing "injustices" against their rescuers.

Even with the high stakes, the opposition of powerful arenistas, and hope that the military would act democratically, passage of the request seemed likely, given ARENA's 282–127 majority in the Chamber. Even with a unanimous MDB vote, it would take seventy-eight ARENA defections to defeat it. Yet first the request would be reviewed by the Constitution and Justice Committee, composed of twenty-one arenistas and ten oppositionists, all experts in constitutional law. The chair, Djalma Marinho, a UDN stalwart from Rio Grande do Norte, held a law degree and was a thirteen-year veteran of the committee. Like Krieger, he opposed the request and moved it through the committee slowly, hoping for a compromise.

The first order of business for the committee was to review Moreira Alves's defense, which was made in a forty-one-page document that brilliantly dismantled Gama e Silva's case. Turning the accusations against him on their head, Moreira Alves argued that the case was being brought not against one deputy but against the democratic order itself. Unlike a legislator's immunity from criminal charges, the "inviolability of the rostrum" was not a personal prerogative but an "essential attribute of the Chamber of Deputies itself"; a threat against it represented "an attack on the prerogatives of all Brazilians."⁴⁷ The centerpiece of the argument cited the West German constitution and nine French and Italian legal authorities, all

backed up by an impressive array of Latin legal terms. And through a close reading of both articles in question, it convincingly demonstrated that the inviolability promised in article 34 superseded the exceptions to freedom of expression in article 151. Finally, in an attempt to extend an olive branch, Moreira Alves and his lawyer suggested, “Only the Chamber, through its regimental norms, is able to punish its members who possibly abuse their inviolability.”⁴⁸ If Moreira Alves had done something wrong, the Chamber could discipline him internally.

Next, Lauro Leitão, the ARENA member assigned to examine the case (*relator*), submitted an unconventional opinion that laid out the legal arguments but refrained from taking a position.⁴⁹ In response, Oscar Pedroso Horta (MDB-SP) submitted a brief citing a host of legal scholars and thirteen dictionary definitions of *inviolable* to argue against the government’s case.⁵⁰ In light of Moreira Alves’s eloquent defense, Leitão’s refusal to endorse the request, and Pedroso Horta’s meticulous refutation of the case, eight of the committee’s arenistas quietly made it known that they were not disposed to vote for the request. If the request were defeated in committee, it would still go to the full Chamber, but its passage would be in jeopardy. The top legal minds in a Chamber of lawyers found Gama e Silva’s convoluted justifications absurd.

Costa e Silva, Gama e Silva, and Freire thus began to pressure deputies with “the classic resources for such situations—threats and compromises.”⁵¹ Costa e Silva met quietly with Marinho and several ARENA committee members. While acknowledging their misgivings, he argued that the final decision should be based on “political,” not legal, criteria.⁵² Deputies were “terrified.” The pressure indicated that the president was either deeply invested or under irresistible pressure, making it hard “to believe . . . that it could be possible [for Congress] to maintain any spirit of resistance.”⁵³ Of course, such personal outreach could work both ways, as when former Pernambuco governor, Paulo Guerra, met with ARENA deputies from his state at the Congressional Country Club to urge them to vote against the request.⁵⁴

Meanwhile, Covas instructed MDB deputies to give lengthy speeches in the Constitution and Justice Committee, hoping to delay the vote until Congress’s summer recess began on December 1. This would buy time to find a compromise before the recess ended in March.⁵⁵ Marinho collaborated by refusing to enforce the twenty-minute time limit on speeches.⁵⁶ Meanwhile, Marinho met with Costa e Silva and his civilian chief of staff, Rondon Pacheco, to suggest putting off the vote until the new year, and they appeared amenable.⁵⁷ Here was the beginning, politicians hoped, of a negotiated solution. But that night Costa e Silva dashed their expectations by asking the ARENA leadership to reclassify the case as “urgent,” thus requiring the committee to vote immediately.⁵⁸ He and Gama e Silva instructed Freire to replace nine ARENA committee members opposed to the request with more pliant deputies.⁵⁹ Costa e Silva then called a special session of Congress to force an immediate decision. On December 10, the puppet committee predictably recommended that the Chamber hand over Moreira Alves.⁶⁰ Afterward, the

normally shy Marinho, who became nauseous when forced to speak publicly, took a bold stand. "Rejecting this request is an act of moral courage," he insisted and added, paraphrasing Calderón de la Barca, "To the king [I give] all, except my honor."⁶¹ He quit the committee in protest, along with all ten MDB members. The regime had pulled out all the stops. "Now Márcio's closest friends know that he is doomed, and they've lost hope," mourned one paper.⁶² What Congress had desperately sought to avoid was happening: the Chamber would have to choose between shameful capitulation and principled resistance that could see Congress closed.

While the new committee deliberated, Covas and other MDB leaders were reported to have met with an influential colonel, Francisco Boaventura Cavalcanti, who reassured them that if Congress refused the request the military would do nothing.⁶³ Then on December 4 the army released a statement that denied pressuring Congress.⁶⁴ However, this was followed two days later with a "clarification" that the army did not believe that democracy included "impunity for those who abuse their prerogatives to offend an institution that has the right to be respected and is determinedly disposed to defend that right."⁶⁵ Rumors swirled that "radical" military factions were pressuring Costa e Silva to issue a new institutional act if Congress did not give up Moreira Alves, although some believed the rumors were a bluff.⁶⁶ The stage was set for the final showdown. Congress could take the "political" decision and sacrifice Moreira Alves, hoping that it would placate the military, keep Congress open, and preserve what few of its powers would remain; or it could stand up for principle, send a message that the military had gone too far, and risk the closure of Congress. Which would the deputies choose?

"TO THE KING, I GIVE ALL, EXCEPT MY HONOR": THE CONGRESSIONAL DEBATE

The debate that had raged for two months culminated in nearly one hundred speeches in the two weeks after the packing of the Constitution and Justice Committee. Some deputies advocated capitulation, either because they agreed with the request or because they feared the consequences of a refusal. José de Carvalho Sobrinho (ARENA-SP) argued, "The people don't elect their representatives to be ignorant or corrupt, to mislead [people with] their ideology, to be subversive or degrading toward the institutions or the branch [of government] that they represent."⁶⁷ Clovis Stenzel (ARENA-RS) called for an institutional act "to thwart the illegal opposition that is disturbing the country" and predicted that the Chamber, "with many votes from the MDB," would revoke immunity.⁶⁸ But opponents drowned out the supporters. The MDB was strident in its opposition; between October 10 and December 12, 62 of the party's 127 deputies spoke 140 times, all against the request. The surprise was the 43 speeches by 22 arenistas who, like the dissidents on the Constitution and Justice Committee, were aghast at this attack. Men who had welcomed the coup, stomachached waves of cassações, accepted the

dissolution of their parties, and tolerated the erosion of their power finally took a stand. These 84 deputies were from twenty-one of Brazil's twenty-two states. Forty-four (52.4 percent) were from only five states: Rio de Janeiro, Guanabara, Minas Gerais, São Paulo, and Rio Grande do Sul, all urban, industrialized states in the Southeast and South.

The climax came during the final two days of debate, December 11–12, when thirty-six deputies gave emotionally charged speeches against the request and one, Geraldo Freire, defended the measure (as acting leader of ARENA, he was obligated to defend the party's position before the vote).⁶⁹ The speeches provide profound insight into not only politicians' motivations for opposing the revocation of immunity but also their political culture. What mattered to the political class was not ideology or party; rather, they were united by a common educational and social background, the sociability of life in an isolated capital, and familial and economic ties that produced a shared way of seeing their place in the world. Their speeches reveal common attitudes toward democracy, law, and representation and repeatedly cite honor, literary and regional heroes, and their legacy—all essential elements of this political culture.

Considering that 54 percent of deputies were law school graduates, the most direct argument was a legal one: Did immunity apply to an "attack on the democratic order"?⁷⁰ Brito Velho argued that what was at stake was not free speech but rather the ability to exercise the function of a federal deputy—debating and voting on laws.⁷¹ For his words in Congress, Moreira Alves could never be prosecuted, and revoking immunity would violate the constitution. Nísia Carone, wife of former Belo Horizonte mayor, Jorge Carone, *cassado* (removed from office) in 1965, exclaimed, "It is preferable to be a housewife, where we give the orders, than to be a deputy, be called 'Your Excellency,' and have to vote against the Constitution."⁷²

MEDIA FILE 2. Clip of Nísia Carone speech, December 12, 1968.
SOURCE: Câmara dos Deputados, COAUD, Arquivo Sonoro,
<http://imagem.camara.gov.br/internet/audio/default.asp>.



Of course, the constitution was not the real issue. As Benedito Ferreira astutely observed, "I would like to express my astonishment at the regard in which many in the opposition seem to hold our constitution . . . , when not long ago . . . [they said it was] bestowed from above, savage, 'Polish,' imposed by *manu militari*."⁷³ As for arenistas, their loyalty to the constitution was suspect too, since they had supported a coup that violated the previous constitution. Rather, defending the constitution was attractive because it offered a justification for defying the military. This was probably the thinking of the six paulista arenistas who released this

statement: "We consider lucid loyalty to be the best way to serve the government, as opposed to blind subservience. In a government repeatedly placed at the service of the Constitution, the most appropriate way to follow is to obey what the Constitution commands."⁷⁴ As Carone stated, "A constitution made by the Revolution should be respected by the Revolution."⁷⁵

Others argued that the prosecution was a distraction from the "Revolution's" objectives. Feu Rosa argued that although the "Revolution" had gotten off track, by standing up for their prerogatives, politicians could put it back on the right path:

Since April 1964, a group of soldiers and civilians with the most idealistic and purest desires has desired profound and true transformations in national life. And all of us have been permanently frustrated. The same structures, the same systems, the same old habits, and, in many cases, the same men continue disappointing us, vexing us, and even making us nauseous. . . . I hope that the decision of this Chamber today serves as a turning point from the lame, inferior, slack-legged Revolution of paper and of spittle, to the true Revolution for which this country begs, the Revolution . . . of progress and development, of new mentalities and the modernization of customs.⁷⁶

Appeals to the constitution and the "Revolution" were not directed only at fence-sitting colleagues; they were also directed at the military. Politicians thus sought to convince the military that Moreira Alves's speeches were inconsequential or that his prosecution played into a subversive plot. ARENA's Jonas Carlos da Silva argued that Moreira Alves was a "useful innocent, politically immature." His speech had actually done a service by proving how broad the regime's support was: Had anyone boycotted Independence Day, and had women abandoned their officer boyfriends? By prosecuting Moreira Alves, the Armed Forces were falling into a communist trap; leftists would love to provoke a radical military response, proving that the regime was a dictatorship that required a communist revolution to overthrow it.⁷⁷

Others, like Jairo Brum, appealed to the military's honor: "[It is] inadmissible [that the military] could be pressuring [us] to become cowards and assault the institution they are supposed to protect and preserve. . . . No one can accept that! I can't accept it!" How could men willing to give their lives for the Pátria "turn themselves into the torturers of the Brazilian people"?⁷⁸ As Covas asked, "How can we believe that the Brazilian Armed Forces, who . . . went to defend liberty and democracy on foreign soil [in World War II], would place as a requirement for their survival the sacrifice of liberty and democracy in Brazil?"⁷⁹

Appeals to the constitution, the "Revolution," and military honor all attempted to influence the military or justify disobedience, but they were not the reasons deputies opposed the revocation of immunity. Eschewing legal debates, several offered a compelling explanation based on the separation of powers and legislative autonomy—principles they understood as fundamental to democracy. For them, revoking immunity would demonstrate unacceptable subservience and the loss

of Congress's reputation. Antonio Magalhães argued that the request sought "to establish as a norm of behavior the docility of the legislative branch" and turn Congress into "a mere appendage of the executive, to which it would confer legality."⁸⁰ The problem was not that the request trampled the constitution or betrayed the "Revolution"; it was that it trampled the political class. This time the regime was going too far.

Voting against the request could thus be cast as defending democracy. This represented a liberal conception of democracy that the deputies held universally: in a democracy, the three branches of government remained independent, and Congress, legitimized by the popular vote, could speak its mind freely. For Alcides Flores Soares, "If immunity is violated, the [legislative] branch will be destroyed, and with it, democracy itself."⁸¹ Democracy's guardian was an independent legislature, which served as the nation's spokesperson. "The Chamber of Deputies [is] the branch [of government] in which the people deposit all their hopes," proclaimed one deputy; and another stated, "This is the House of the Brazilian people. . . . Here, the Brazilian people appear every day, to discuss and debate their destiny."⁸² The fact that these "Brazilian people" were nearly all white, male, educated, and wealthy did not generate much concern; as Brito Velho put it, "Man is the builder of history. . . . However, that role . . . belongs not to everyone, but to the few."⁸³ Ordinary people (if literate) participated in politics solely by voting. Of course, if the political class was to enjoy a monopoly on political power, it was vital to justify it through their voters. The deputies reminded each other, "The eyes of the people are upon us."⁸⁴ Eugênio Doin Vieira affirmed that his vote would be motivated, "out of reverence, admiration, and respect for my voters from Santa Catarina. . . . I would not . . . be worthy to return to my state and present myself before public opinion if I did not take this position."⁸⁵

When deputies justified their disobedience in these ways, some surely hoped to protect themselves from retaliation. In addition, Moreira Alves later claimed that many stood accused of crimes ranging from corruption to murder and feared that if immunity were revoked now, it might soon be weakened to exclude their own crimes.⁸⁶ And the refusal to obey the generals was certainly a reaction to the erosion of the political class's prerogatives. Yet politicians were not motivated only by self-preservation; rather, their impassioned defenses of "democracy" were the fruit of nearly a century and a half of elite participation in now-threatened liberal institutions. Moreover, the speeches contain impassioned references to honor, historical heroes, and the judgment of history that were not simply the justifications of people eager to preserve political power, but of people deeply concerned with preserving their honor.

Alfredo de Arruda Câmara, a priest and arenista from Pernambuco, framed his vote as a defense of his reputation: "Old and poor, I possess but one treasure: my name, which I need and want to leave undamaged . . . to posterity."⁸⁷ Joel Ferreira explained, "I cannot leave the legacy to my children and the generations that

come after me of a man who . . . submitted himself to the weight of despotism and force and failed to do his duty."⁸⁸ Honor was related to masculinity. ARENA's Paulo d'Araújo Freire argued that if they capitulated, Congress would become "a group of well-trained high school boys, standing in line."⁸⁹ For Getúlio Moura, the committee's endorsement of the case had set the stage for an "already profoundly emasculated" Congress to become a "mere puppet of the executive branch."⁹⁰ Rio de Janeiro deputy Júlia Steinbruch, married to a senator, recalled three decades later how she had pressured her fellow deputies, saying, "Look at your wife, how she's . . . someone who admires you. Imagine how she's going to be saddened, embittered, if she sees her husband become feeble now."⁹¹

Honor lay not only in upholding the law or democracy but also in measuring up to the heroes of yesteryear. Deputies thus frequently invoked the memories of biblical, classical, regional, or ethnic champions who had challenged the powerful, stood for the law, or defended democracy. Mário Maia cited the biblical story of David and Goliath:

This lesson should serve as an example in the face of all the forces that are being raised up against this House: the weapons that cost the money and sweat of the people, the swords, the guns, the machine guns, and the tanks represent the armor of the army minister. . . . And we must be like David, armed with the stones of dignity, morality, and honor, for only with these shall we defeat brute force.⁹²

Yet if the scriptures contained positive examples, they also contained warnings. Feliciano Figueiredo argued that just as God had supposedly punished the "cursed race" of Jews with two millennia of suffering, culminating in the Holocaust, for allowing Jesus's crucifixion, divine judgment would befall the Chamber if it capitulated:

The simplistic reasoning of the *fisiológicos*, the blind obedience of the cajolers . . . —none of this will save us from the eternal condemnation and degrading afflictions reserved for those who disobey the duties of morality and independence, submissive automatons to the impositions of bayonets, who criminally give service to those who aspire to tyranny.⁹³

Bernardo Cabral freely paraphrased Simonides's famed epitaph at the site of the battle of Thermopylae: "Passerby, tell Sparta that you saw us fallen here because we fulfilled the sacred laws of the Pátria." Just as the Spartans had died in defense of the laws of their Pátria, so also should the deputies be willing to sacrifice in the defense of their ideals. Cabral continued, "If this Congress is impeded from functioning . . . for maintaining untouchable the principle of inviolability, let a monument be raised at its entrance with this inscription: 'Visitor, this House is closed because the majority of its members decided to defend its honor, dignity, and decency.'"⁹⁴ For Arruda Câmara, granting the request would signify Congress's passive acceptance of a forced suicide: "This is Rommel's cup of poison. It is the '*Ave Caesar, morituri te salutant*' of the gladiators. It is the moral death of the Parliament, like

the Gospel writer says: ‘You have the appearance of life, but in fact you are dead.’”⁹⁵ While the scriptural allusions probably would have been recognized in a devoutly Catholic country, it is noteworthy that Cabral and Arruda Câmara assumed their listeners would recognize—or at least be impressed by—quotations from Simónides and Suetonius, hardly commonplace cultural references for most Brazilians.

Brazilians also had their own heroes to emulate. Nísia Carone invoked the slogan of the Inconfidência Mineira, Brazil’s first rebellion against Portugal, “*Liber-tas, quae sera tamen*” (Freedom, albeit late).⁹⁶ Yukishigue Tamura called on the deputies to “do justice to the glories of our forebears” and cited such heroes as a Japanese legislator who had opposed militarism, the paulista *bandeirantes*, Bonifácio de Andrade e Silva, and Tiradentes.⁹⁷ How would history remember this day? Would the deputies join David, the Spartans, Tiradentes, and their local champions in defending their principles? Or would they be reviled for their cowardice? As Unírio Machado prophetically put it, “If we resist, the respect of our contemporaries and of history will be confirmed; if we capitulate, it will be definitively destroyed.”⁹⁸

All these themes—defense of the constitution, the prerogatives of Congress, liberal democracy, and the invocation of honor, heroes, and history—were components of a political culture whose roots lay in centuries of rule by a hereditary political class and 150 years of authoritarian imperial and republican liberalism. They were part of a distinct way of looking at the world and the political class’s place in it. When the deputies insisted that this was not about Moreira Alves, they were right. The stakes were far higher. The attempt to subordinate Congress to a military-dominated executive represented a fundamental threat to the way the deputies thought the world should work. The time had come to draw a line in the sand.

“HISTORY ALONE WILL JUDGE US”: THE CLOSING ARGUMENTS AND VOTE

After two days of debate, Moreira Alves addressed the Chamber. In a speech largely received with silence, he reiterated that he opposed militarism, not the military—a distinction that could give his colleagues a justification to acquit, although it was unlikely to sway the military. “I deny . . . that I have at any time or in any place insulted the Armed Forces,” he stated. “The military . . . deserves my respect. Militarism, . . . a criminal deformation that contaminates civilians and members of the military alike—it is this militarism that we repudiate.” Most of his speech, however, emphasized the threat to Congress’s freedom of expression. “It is not a deputy being judged here; what is being judged is an essential prerogative of the legislative branch.” Ultimately, the vote was a test of Congress’s honor, an opportunity for the deputies to write their legacy. “The coming generations will not remember the deputy whose right to speak his mind from the rostrum is challenged today, but

they will know whether the Parliament that he belonged to maintained its prerogative of inviolability or gave it up."⁹⁹

The brilliance of the speech lay in its reinforcement of the themes that had animated the discourses of his colleagues. Although deputies had other reasons to defend immunity—self-preservation and a desire to defy the regime chief among them—the references to honor and posterity indicate that Moreira Alves believed he could reach them on a deeper, even visceral level. Hardened as they may have been by opportunism and self-interest, the political class still inhabited a world in which appeals to liberal democracy, honor, and the witness of history reverberated strongly. As Moreira Alves put it in his dramatic conclusion:

I pray to God that the Chamber will deserve Brazilians' respect; that in the future we will be able to walk through the streets with our heads held high and look our children and friends in the eye. Finally, I pray to God that the legislative branch will refuse to hand to a small group of extremists the sword of its own beheading. Brazil is watching the decision we will make. But history alone will judge us.¹⁰⁰

Following Moreira Alves's speech, the leaders of both parties made their appeals. First came Mário Covas, the thirty-eight-year-old leader of the MDB. A native of Santos, São Paulo's port city, and an engineer by training, he started his political career as his city's secretary of public works and ran unsuccessfully for mayor in 1961. In 1962 he was elected federal deputy, with his base of support coming from Santos's militant dockworkers' unions. He had been leader of the MDB in the Chamber since March 1967 and was known as a brilliant orator. While he was by no means a friend of the regime, he had a streak of pragmatism. His eloquent speech, given impromptu with only a few jotted notes, would be remembered as one of the great speeches in Brazilian history. He emphasized that the vote would not be a judgment of the *carioca* deputy but of Congress. "Today this House is being placed on trial," he said. "Having withdrawn to the defendant's chair, it awaits the verdict that its own occupants will return."¹⁰¹ Since 1945 dozens of requests to revoke immunity had come before Congress, and the Chamber had upheld not one.¹⁰² Though taking a stand would bring risks, the preservation of the Chamber's honor outweighed them. "When I die," Covas said, "I would rather it be as a defendant of a crime, but in good faith, instead of as one who has committed the sin of diffidence."¹⁰³ He closed with an affirmation, modeled on the statements of belief contained in the Nicene Creed, which, like the creed, served to remind his listeners of the fundamental beliefs they shared.¹⁰⁴

I believe in the people, anonymous and collective. . . . I believe that it is from this amalgam, this fusion of earth and emotions, that not only power emanates, but wisdom itself. And since I believe in them, I cannot doubt their delegates. . . . I believe in the democratic regime, which cannot be confused with anarchy, but which can never . . . serve as a mask for tyranny. I believe in the Parliament, even with its excesses and weaknesses, which will only disappear if we maintain it free, sovereign, and

independent. I believe in liberty, . . . this indispensable condition that confers upon the creature the image and likeness of its Creator. . . . I believe . . . in honor, this attribute that cannot be delegated, transferrable only because it is a divine quality. . . . I wish to declare my firm belief that today the legislative branch will be absolved. From the height of this rostrum, . . . from the loftiness of this assembly, the voices of the Spirit of Law and the Goddess of Justice can be heard in their plaintive appeal, "Do not allow an impossible crime to be transformed into the funeral of democracy, the annihilation of a branch of government, and the mournful hymn of lost liberties."¹⁰⁵

When the applause subsided, it was time for ARENA's Geraldo Freire to take the podium. In Freire's view, opponents of the request had missed the point. Democracy, honor, and the independence of Congress were not the issue; the question was whether the Chamber would grant permission for a deputy to be tried before an impartial STF, whose brilliant legal minds had already concluded that the evidence justified a trial. It was not the Chamber's job to determine whether Moreira Alves had committed a crime because it was not a judicial body but a political one. Freire's argument was based on equality before the law: "It would be utterly incredible if we voted on laws that all Brazilians were obligated to obey while we considered ourselves demigods . . . above good or evil." Everyone was subject to the law—"deputies, rural laborers, factory workers, college graduates, and the unschooled—because in this Pátria, there are no privileges." Parliamentary immunity had limits and could never excuse an "attack on the democratic order," like Moreira Alves's call to boycott Independence Day. "If there is no abuse in this, I ask Brazilians: What is an abuse of rights? From the time we are children . . . we all learn . . . that the Pátria must be placed above all. And if we . . . boycott the commemoration of our own independence, do we not mutilate at the roots the source of our own nationality?"¹⁰⁶

Freire's argument had holes, the insistence that Moreira Alves had attacked democracy and the trust in the STF foremost among them. After all, it was a massive leap from a call to boycott Independence Day to "denying the authenticity of the very independence of Brazil." And he cited only one legal scholar, an Argentine who was unlikely to impress deputies as much as the litany of Brazilian and European scholars whose opinions the other side had gathered.¹⁰⁷ Nonetheless, the speech constituted a shrewd attempt to shift the terms of the debate—from the legal to the political, from democracy to equality before the law, from prerogatives to responsibilities—and provided justifiable (though unconvincing) reasons to vote in favor of the request. Had Freire swayed enough deputies to win the day?

For three hours, the vote and tally proceeded, as each deputy dropped an envelope containing their ballot into the box. The most vocal opponents of the request were applauded as they cast their votes. Female deputies received applause too, since most had been elected to replace their cassado husbands and now had the courage to stand up against more cassações.¹⁰⁸ Still, not even MDB deputies' votes

could be taken for granted. They were politicians too, pragmatic to the core; when the vote was secret, how would they vote? A colleague pulled Covas aside and whispered that he had seen Athiê Coury place a "yes" ballot in his envelope. While Coury, a fellow citizen of Santos, may not have been an "exemplary oppositionist," Covas could not imagine him voting in favor but approached him anyway, joking, "Come on, you tricky Turk, show me your ballot."¹⁰⁹ At this attack on his honor by the leader of his party, Coury "became pale, refused to open the envelope, complained at the lack of trust, and declared himself offended." Covas insisted, "Open it." Coury looked Covas squarely in the eye and delayed opening it. When he finally pulled out the ballot, it was a "no."¹¹⁰

Finally, the vote was complete, the ballots counted. By a margin of 216–141, the Chamber rejected the request. The result was met with "extremely prolonged applause" and the spontaneous singing of the national anthem by the deputies and gallery.¹¹¹ Covas wept openly, and thirty years later he still became emotional when he spoke of it. "It was a magical moment, a moment when it was difficult to contain one's emotions, a very dramatic, beautiful moment, a moment when the Parliament was affirmed," he recalled.¹¹² Moreira Alves, though, slipped out, stopping only to make a briefly statement to reporters, acutely conscious of the handgun in his pocket.¹¹³

The result was shocking. On December 10, the *Jornal do Brasil* had predicted the request would pass by a 190–170 margin.¹¹⁴ "As late as [the] morning [of] December 12," a US embassy telegram noted, "congressional sources and military observers [were] virtually unanimous in expecting [a] government victory in [a] close vote."¹¹⁵ All eyes now turned to the military. Would it accept the Chamber's decision? More hopeful observers pointed out that it was still not too late for a congressional censure or a new request to revoke immunity under another legal pretext, either of which would be preferable to "impulsive extra-constitutional [measures] . . . [that] would . . . create [a] deep division between [the] present government and [the] country's major civilian political leaders."¹¹⁶ Or perhaps there would be a military power struggle, and "moderates" like Costa e Silva would win. "I want to believe that the President . . . will be able to resist the pressure and put an end to this crisis, which . . . will only end up benefiting forces that are truly subversive, which is not the case of the Parliament," the Portuguese ambassador telegraphed.¹¹⁷ Yet when an ARENA vice-leader proposed a statement from both parties clarifying that the vote did not represent an attack on the Armed Forces, he was overruled by Covas and José Bonifácio, who said, "The Chamber has already decided; the decision's been made."¹¹⁸ Deputies huddled in their offices until after midnight, awaiting news from Rio, where Costa e Silva had traveled the preceding afternoon.¹¹⁹ He and Gama e Silva ominously refused to comment.¹²⁰ The military entered a state of alert. Stenzel, who had predicted that the military was planning an institutional act, reported that the military command was demanding more cassações.¹²¹ "Our colleagues in the opposition thought we were just trying

to frighten them with our warnings. Now they'll see that we weren't bluffing," he said.¹²²

On December 13, when Congress held its usual session, the same arenistas who had spoken against the revocation of immunity gave speeches attempting to convince the military to avoid a drastic response. Brito Velho warned, "If the armed classes violate the Constitution, I want to declare that they will have committed a felony."¹²³ The six paulista deputies who had issued a statement justifying their rebellion in constitutional terms issued a new statement. It read, "By consulting Congress, the government showed that it recognizes its autonomy, and having recognized it, it needs to respect its sovereignty."¹²⁴ Yet no one was paying attention. Instead, legislators quietly began emptying their accounts in the congressional branch of the Banco do Brasil, perhaps fearing that the regime might try to freeze their assets.¹²⁵ Still, Covas tried to remain optimistic: "In this case, I'm like St. Thomas—I'll only believe in this act if I read it."¹²⁶

The evening of December 13, the news arrived: the president would sign an institutional act. Shortly after nine o'clock Gama e Silva read Institutional Act No. 5 over the radio. AI-5 authorized the president to place legislatures in recess and decree laws in their stead, replace governors and mayors with appointed interventors, cassar politicians and suspend any citizens' political rights for ten years, forcibly retire civil servants, and declare a state of siege. Habeas corpus was suspended for several crimes. A complementary act immediately placed Congress in indefinite recess. As a US embassy telegram put it, AI-5 was "a self-issued license authorizing [the] executive to govern without [the] trappings or inconveniences of democracy."¹²⁷ The tensions that had simmered between the military and political class for half a decade had boiled over into open conflict, and the military would now rule alone until the political class learned its lesson.

Bonifácio somberly stated, "At this moment, the country goes from the rule of law to the state of fact. . . . Obeying the new regime, I declare [our] mission closed."¹²⁸ Conscious of the moment's historical significance, the ARENA leadership posed for a photo. "I wanted to avoid all this, but no one would believe me," Freire lamented. Some *emedebistas* (members of the MDB), certain they would be cassado, cleaned out their offices. By midnight, nearly everyone was gone. Covas stood outside, chatting with journalists as he awaited his ride. The guards turned out the lights. Darkness descended over Congress, and an open military dictatorship descended on Brazil.¹²⁹

CONCLUSIONS

In 1968 Brazil witnessed upheaval on a scale seldom seen in a country whose elites had always managed to keep unrest in check. Yet now it was these very elites who were the source of unrest. Instead of restraining their "subversive" student children, politicians defended them. A few months later, politicians added insult to injury, refusing to sacrifice their freedom of expression and honor to satisfy the

military. Politicians' resistance was often motivated more by self-preservation, political aspirations, and a defense of elite privilege than by principled opposition. Yet nonideological motives for resistance do not lessen its significance.

Surprisingly, most scholars have minimized politicians' role in the Moreira Alves affair, arguing that it was but a pretext for a military "hard-line" to institute a dictatorship that they had been planning for months, if not years.¹³⁰ AI-5 can be read this way. "Clearly subversive acts originating from the most distinct political and cultural sectors prove that the legal instruments bestowed upon the Nation . . . are serving as a means to combat and destroy [the Revolution]." Among these threats were "subversive processes and revolutionary warfare." Other than the oblique reference to "political and cultural sectors," there was no mention of Moreira Alves or the political class. While AI-5 was decreed in a context of social mobilization and nascent revolutionary struggle, this does not negate the importance of the political crisis sparked by the UnB invasion and Moreira Alves's speeches. Even if elements of the military were planning this earlier, the political class's insubordination is what finally convinced them to carry out a "coup within a coup." After all, organized labor had made a brief comeback, only to disappear after the repression of a June strike near São Paulo. The Far Left's "revolutionary struggle" had claimed the lives of perhaps half a dozen soldiers and police. The student movement, on its own, was not enough to justify an institutional act. The act only came when Congress took a stand that confirmed the military's suspicion that their collaborators in the political class were not truly committed to the "Revolution." Students, workers, and a few armed guerrillas were worrisome to the generals, but in and of themselves they did not represent a fundamental threat. Rebellious and ungrateful politicians did, and for this reason, AI-5 should be understood as a naked attempt to coerce them into submission.

Portella, Costa e Silva's military chief of staff, argued strenuously in his 1979 memoirs that the Moreira Alves case was responsible for the decree of AI-5. While Costa e Silva had expected the MDB to defend its own, "he never could have imagined that the party that gave him support in the Chamber would use the secret vote to respect an insult directed at the Armed Forces by a communist deputy."¹³¹ In Portella's telling, AI-5 became necessary when ARENA politicians let concepts like constitutionality and immunity blind them to the greater importance of preserving the honor of the Armed Forces. While there are problems with Portella's version, his account likely accurately reflects the sense of betrayal many military men experienced when their civilian "allies" stood against them. Such an affront was not a simply a pretext for military "radicals"; rather, the protection of an insolent deputy was a frontal attack on the "Revolution."

Tavares, in the days after the decree of AI-5, explained that it became necessary as a result of a long list of crises. The congressional vote, which he called "one of the blackest pages in the history of Brazilian democracy," made a tense situation unbearable and demanded a response.¹³² Similarly, General Ernesto Geisel, who in 1968 was a minister on the Supreme Military Court, argued twenty-five years later:

In the face of the difficulties created by the students and the politicians, [Costa e Silva] made AI-5. . . . Looking objectively at what happened with Márcio, you have to conclude that it was utterly unimportant nonsense. But when you have responsibility and you're living from one day to the next, you see one thing after another pile up until you reach a breaking point where there must be a reaction.¹³³

Veja explained that the months of social unrest had convinced military leaders that they must put their "Revolution" back on the right track, "for ten years, if necessary." The Moreira Alves case was the straw that broke the camel's back, because it revealed that when push came to shove, the government could not count on its own allies in the political class.¹³⁴

At the same time, for many politicians the violent repression of the student movement and the attempt to revoke Moreira Alves's immunity were the most intolerable in a series of attacks on the political class. The attacks on their children showed the depths of the military's scorn for them. And the Moreira Alves affair demonstrated that the military desired an unacceptable level of tutelage over the political class. Faced with the loss of what little prestige remained to them, 216 deputies risked a new institutional act rather than capitulate. For this act of courage, they paid a heavy price. Congress was closed, and the next nine months saw a wave of attacks on the political class, as a host of politicians were cassado, had their political rights suspended, and, in a few cases, were imprisoned. It is to these dark months that chapter 3 turns.