

# The 1940 Cuban Constitution

## *Research Report*

By Mylena Vazquez

*The 1940 Constitution was Cuba's most democratic, and included a provision for a citizen initiative that was later used by Oswaldo Payá to create the Varela Project. How did it come about? This is a research report on the origins of the 1940 charter, starting with stirrings in the 1930s after the Machado dictatorship.*

Two prominent members of the Liberal Party of Cuba, Dr. Gustavo Gutiérrez y Sánchez and Dr. Juan Antonio Vázquez Bello (brother of Clemente Vázquez Bello, who was president of the Cuban Senate from 1925 to 1932, throughout the Machado regime), feature prominently in an article titled “La Moral del Machadismo en el Exilio,” which appears in the March 4, 1934, issue of *Bohemia*. The two flew to Miami from Havana to speak to an assembly of exiled supporters of ousted Cuban president Gerardo Machado. Their message surprised the audience. *Bohemia* quoted Gutiérrez and summarized his message as follows:

Dr. Gutiérrez, exhaustive in eloquence, lending greatest benevolence to all concepts, made it known to the assembly members this great truth, difficult and cruel: "liberalism did not want anything to do at all with its old bosses." Many of them should delay, indefinitely, their return to the homeland, and not precisely because of the attitude that the oppressed elements of yesteryear could take regarding them. They should prolong their stay in exile, because it was precisely the members of the Liberal Party who would make them spend very unpleasant moments. And, yielding to the imprudent demands of the assembled actors, he cited names. And many resounding last names of yesteryear were heard, condemned today to abstention and to separation.<sup>1</sup>

On November 5, 1934, after breaking with the *Machadistas*, or Machado supporters, and in anticipation of the upcoming elections for delegates to the Constituent Assembly, the Liberal Party published its new party platform. This new party platform included a citizen initiative provision titled “Soberanía Popular,” or “Sovereignty of the People,” which appears on page 28 under the section “Puntos Básicos Constitucionales,” or Basic Constitutional Points. According to the new party platform, individual citizens could propose laws if they had 5,000 or more supporting signatures. It was written as follows:

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<sup>1</sup> “La Moral del Machadismo en el Exilio,” *Bohemia*, March 4, 1934, p. 18, <https://dloc.com/UF00029010/00031/pdf>.

53.—BASE VI.—**Soberanía popular.**—La soberanía reside en el pueblo y de éste dimanar todos los poderes públicos.

54.—La iniciativa de las leyes corresponde en primer término al pueblo, el que puede ejercer ese derecho mediante la presentación de mensajes populares o proyectos de ley al Congreso, siempre que estén autorizados con la firma fehaciente de 5,000 electores por lo menos y estén redactados en forma legible y respetuosa.<sup>2</sup>

Gustavo Gutiérrez served as the Recording Secretary of the provisional National Assembly of the Liberal Party. He wrote a certified statement at the end of the new party platform in which he provided context for its publication, including that the material contained within it was developed, ratified, and approved during two special sessions held on October 28th and November 1st of that same year. This statement was signed by both Gustavo Gutiérrez and Ramón Vasconcelos, President of the Liberal Party.

A young Eddy Chibás wrote an article titled “Cuba Needs Peace!” which was published in the March 10, 1935, issue of *Bohemia*. In it, he included the University’s demands, which were the following:

Las cuatro demandas de carácter nacional y ajenas a todo partidismo propugnadas por la Universidad como bases previas e imprescindibles para el establecimiento de la Justicia y la Paz, la normalidad constitucional y la celebración de elecciones, son:

1ro.—Derogación del Fuero Militar.

2do.—Restablecimiento de los principios democráticos: respeto a la vida ciudadana y derechos del hombre

3ro.—Libertad de los presos políticos.

4to.—Supresión de los Tribunales de Urgencia.<sup>3</sup>

Gustavo Gutiérrez presented his *anteproyecto*, or preliminary draft, for the Cuban constitution on October 30, 1936.<sup>4</sup> It also included a citizen initiative provision. Deviating slightly from the citizen initiative provision published in the 1934 Liberal Party platform, Gustavo Gutiérrez lowered the number of required signatures to at least 1,000 and indicated that they must be notarized. (The Liberal Party platform stated that the signatures must be proven to be real and reliable, but did not specify that they had to be notarized.) Article 89 from Gustavo’s *anteproyecto* reads:

ART 89.—La iniciativa de las leyes corresponde en primer término al pueblo, el que puede ejercer ese derecho mediante la presentación de mensajes populares o

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<sup>2</sup> *El Partido Liberal al Pueblo de Cuba*, November 5, 1934, p. 28.

<sup>3</sup> Eddy Chibás, “Cuba Necesita Paz!,” *Bohemia*, March 10, 1935, pp. 19, 66, <https://dloc.com/UF00029010/00079/pdf>.

<sup>4</sup> Gustavo Gutiérrez y Sánchez, “La Convención Constituyente y la Constitución de 1940,” in *Historia de la nación cubana*, ed. Ramiro Guerra y Sánchez et al., vol. VIII (La Habana: Editorial Historia de la Nación Cubana, S. A., 1952), p. 178, <http://archive.org/details/RamiroGuerraHistoriaDeLaNacionCubanaTVIII>.

proposiciones de ley al Congreso de Representantes o al Consejo Económico del Estado, siempre que estén autorizados por la firma de 1,000 electores por lo menos, autenticada ante Notario, y redactados en forma legible y respetuosa.<sup>5</sup>

Duvon C. Corbitt writes in *The Hispanic American Historical Review* in 1943:

Among the publications which influenced the constitution as finally adopted on July 1, 1940, was a *Proyecto de nueva constitución para la República de Cuba* (Habana: 1940) by Dr. Gustavo Gutiérrez, then president of the House of Representatives. Since, by the law of 1935, that body was required to present such a plan as a basis for discussions in the anticipated constitutional convention, this was used as a starting point for the House.

Dr. Gutiérrez did not take part in the convention but was presiding over the House while the legislation for applying the constitution was under discussion.<sup>6</sup>

Congress presented their own *anteproyecto*, titled “Proyecto de Reforma Integral de la Ley Constitucional,” in December 1936. Their draft was modeled after Gustavo’s *anteproyecto* two months earlier. Congress made many changes and additions to Gustavo’s draft, but they were technical in nature rather than substantive. Gustavo explains this in the introduction of his publication titled *Proyecto de Nueva Constitución para la República de Cuba*.<sup>7</sup> The citizen initiative provision was also included in the Congress *anteproyecto*, though there were some changes made to it. Appearing under Article 90, citizen initiatives would now need 10,000 signatures, though they did not need to be notarized. In the Congress draft, the citizen initiative provision read, “La iniciativa de las Leyes compete:... 6) A diez mil o más electores.”<sup>8</sup>

The inaugural session of the Constitutional Convention took place on February 9, 1940, at 3:15 p.m.<sup>9</sup> The session took place inside the chamber of the House of Representatives in the National Capitol building. Gustavo Gutiérrez describes the scene as tumultuous, with the chamber full of every kind of Cuban person. A sort of nervous excitement and tense anticipation filled the room. He later recalled the event as follows:

El día 9 de febrero de 1940, a las 3:15 de la tarde, se inauguró la Convención Constituyente en el hemiciclo de la Cámara de Representantes en el Capitolio Nacional, atestado hasta su máxima capacidad por una abigarrada muchedumbre integrada por hombres y mujeres del trabajo y del campo, profesionales, hombres de negocios, propietarios y militares, profesores, damas elegantemente ataviadas de los más

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<sup>5</sup> Gustavo Gutiérrez y Sánchez, *Proyecto de Nueva Constitución para la República de Cuba* (La Habana: 1940), p. 30.

<sup>6</sup> Corbitt, Duvon C. Review of *Constitución de la República de Cuba promulgada el día 5 de julio de 1940. Sus antecedentes históricos.-Su espíritu.-Estudio crítico sobre sus más fundamentales principios.*; *Historia constitucional de Cuba.*, by Gustavo Gutiérrez Sánchez & Ramón Infiesta. *The Hispanic American Historical Review* (May 1943), Vol. 23, No. 2, pp. 326–328. <https://doi.org/10.2307/2508039>.

<sup>7</sup> Gutiérrez, *Proyecto Nueva Constitución*, pp. XXII-XXIV.

<sup>8</sup> Andres Lazcano y Mazón, *Las Constituciones de Cuba* (1952), p. 801.

<sup>9</sup> “Sesión primera (inaugural) - 9 de febrero de 1940,” *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 1, p. 1, <http://ufdc.ufl.edu/UFO0072605/00001>.

exclusivos círculos sociales, políticos de todas las militancias, revolucionarios de todas las tendencias. Era un crisol en ebullición, nervioso y apasionado, que tenía un exacto reflejo en el hemicycle de la Convención, y daba un sello de grandeza y emoción extraordinarias al imponente espectáculo. Allí estaba en toda su integridad, con su impresionismo y nobleza característica, la Nación cubana y su legítima representación, la Convención. Afuera, todo el país seguía por radio el grandioso acto.<sup>10</sup>

To open the Constitutional Convention, Federico Laredo Brú, Provisional President of the Republic, addressed the delegates and expressed his hopes for the Convention:

Cuba espera de vosotros, señores Congressistas, algo extraordinario. Quiere que le déis la fórmula salvadora que armonice en lo político el derecho que el hombre tiene a su libertad de pensamiento, de trabajo, con el derecho que la colectividad tiene a que tales actividades sean factores de progreso común. Cuba espera que, en orden a la familia, salvéis la crisis que sufre en el mundo esta institución, base y asiento del conglomerado social. Cuba espera de ustedes, en orden a la propiedad, que conciliéis el respeto sagrado que merece este premio al trabajo, garantía de sosiego y amparo de la familia con la necesidad de utilizarlo en bien de la República.

Y en el orden político, vosotros sabéis lo que los cubanos quieren por haberlo expresado en los programas de sus Partidos.<sup>11</sup>

The oldest delegate of the Assembly—Antonio Bravo Correoso of the Partido Demócrata Republicano—and the two youngest delegates—Salvador Acosta Casares and Eusebio Mujal Barniol, both of the Partido Revolucionario Cubano (Auténticos)—were chosen to head the interim bureau, known as the *Mesa Provisional de la Convencion* or *La Mesa de Edad*, until leaders were formally elected by the Assembly. Bravo Correoso gave a lengthy speech in which he emphasized the word *serenidad*, or serenity, which he urged both the delegates and the Cuban people to have despite their differences.<sup>12</sup> *Serenidad* was a keyword of the Convention. On behalf of the Assembly, Bravo Correoso accepted a special Cuban flag called “La Demajagua,” which covered the tomb of Cuban national hero José Martí. It was given to the Assembly by the Boy Scouts of Regla as a patriotic and symbolic gift, as it was the same flag that was used during the Constitutional Convention of Guáimaro, which yielded the first Constitution of a free Cuba.<sup>13</sup>

Representing the A.B.C. Party (and the majority Opposition faction), Jorge Mañach spoke during the inaugural session, saying, “Vamos a hacer obra advertida del pasado de todos y mirando al porvenir de todos. Nos asiste acaso el pequeño derecho humano de hacer de nuestro presente lo que nos plazca; pero ciertamente no tenemos el derecho a enturbiar el futuro con los

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<sup>10</sup> Gutiérrez, “Convención Constituyente,” in *Historia nación cubana*, p. 138.

<sup>11</sup> “Sesión primera (inaugural) - 9 de febrero de 1940,” *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 1, p. 2, <https://ufdc.ufl.edu/UF00072605/00001/2x>.

<sup>12</sup> “Sesión primera (inaugural) - 9 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 1, p. 5, <https://ufdc.ufl.edu/UF00072605/00001/5x>.

<sup>13</sup> “Sesión primera (inaugural) - 9 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 1, p. 6, <https://ufdc.ufl.edu/UF00072605/00001/6x>.

humores del presente.” He also used the keyword *serenidad* in his speech, saying that “Los Partidos Revolucionario Cubano, Demócrata Republicano, Acción Republicana y ABC declaran hoy, pues, por mi modesto conducto, su firme propósito de contribuir con toda la serenidad de que se sienten dotados, a mantener en esta Asamblea ese ambiente de diafanidad y de pureza que es propio de las alturas históricas, como lo es de toda física eminencia...Esos partidos procurarán evadir en este recinto el debate político estéril y librarán con serenidad y nobleza cuando le sea entablado a su pesar.”<sup>14</sup>

Similarly, José Manuel Cortina spoke on behalf of the Liberal Party (and the minority Coalition faction, made up of the Partido Liberal, Partido Unión Nacionalista, Partido Unión Revolucionaria Comunista, and Partido Nacional Revolucionario). He said, “La moral que nos oriente tiene que ser moral cubana desde la médula hasta la superficie; la virtud que nos inspire tiene que ser virtud cubana; pero la responsabilidad total de nuestros actos es también totalmente cubana, ¡desde la médula hasta el fin!” He also stated, “Aquí debemos apagar pasiones egoístas, y estar hermanados en ese sagrado propósito de trascendente creación social; y para ello es imperiosa la solidaridad nacional. ¡Los Partidos fuera!; ¡La Patria dentro!” Loud and impassioned manifestations in the public galleries dotted his speech, to which he responded, “Llamo la atención, señores, sobre que esta es una Convención Constituyente; que una Constituyente es como un altar de creación: es un templo; y en los templos cada uno está obligado a reprimir sus pasiones. Todos tenemos pasiones en el corazón; todos tenemos fanatismos; ¡pero señores, en momentos peligrosos como estos, no es el fanatismo ni la pasión lo que salva al País: a la Patria solo la salva la comprensión!”<sup>15</sup>

The Convention’s definitive bureau was established on February 14, 1940, with leaders being elected by their peers to their respective positions. Dr. Ramón Grau San Martín and José Manuel Cortina battled for the presidential spot—Grau represented the majority faction of the Opposition, and Cortina represented the minority faction of the Coalition. Grau won the election with a vote of 39 to 29. (It should be noted that Grau was also running against General Fulgencio Batista for President of the Republic during this time.) The leaders of the Assembly were as follows: Dr. Ramón Grau San Martín, President (Opposition); Joaquín Martínez Sáenz, first Vice President (Opposition); Simeón Ferro, second Vice President (Coalition); Alberto Boada, first Secretary (Opposition); and Emilio Núñez Portuondo, second Secretary (Coalition).<sup>16</sup> A photo of the definitive bureau can be found in the February 18, 1940, issue of *Bohemia*.<sup>17</sup>

Upon occupying the presidency, Dr. Grau made a lengthy speech, which he ended by stating, “En esta Asamblea no deben subsistir las rivalidades, los odios ni las banderías que hasta ahora nos han separado. En esta Asamblea, a la hora de discutir las más graves cuestiones del futuro,

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<sup>14</sup> “Sesión primera (inaugural) - 9 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 1, pp. 7–9, <https://ufdc.ufl.edu/UF00072605/00001/7x>.

<sup>15</sup> “Sesión primera (inaugural) - 9 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 1, pp. 9–13, <https://ufdc.ufl.edu/UF00072605/00001/9x>.

<sup>16</sup> “Sesión tercera - 14 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 3, p. 1, <https://ufdc.ufl.edu/UF00072605/00003/1x>.

<sup>17</sup> “En la Asamblea Constituyente,” *Bohemia*, February 18, 1940, p. 28, <https://dloc.com/UF00029010/00335/pdf>.

no debe haber mayoría ni minoría, sino cubanos, legítimos mandatarios en los que el pueblo ha puesto toda su confianza. Si la confianza del pueblo es una, una debe ser la voluntad de sus representantes. Todos debemos actuar con nuestro mayor esfuerzo para responder dignamente a ella.... Porque esta Asamblea representa el destino de Cuba. Y el destino de Cuba es uno, y tiene que ser cordial, con todos y para todos los que deseen el prestigio de nuestras instituciones y la felicidad de nuestro pueblo.”<sup>18</sup>

On February 15, 1940, Article 115 of the Constitutional Law of June 11, 1935, was amended so that the Constitutional Convention of 1940 could operate on a “free and sovereign” basis.<sup>19</sup>

In the February 18, 1940, issue of *Bohemia*, the magazine announced that it would be covering the happenings of the Constituent Assembly in a weekly column written by a distinguished, though unnamed, collaborator. Their message to the public translates to the following:

BOHEMIA, always attentive to the palpitations of national and foreign news, begins to publish, from this issue, a weekly summary of the activities of our Constituent Assembly. In being in charge of this section one of the most illustrious and sharp Cuban journalists, our readers will be able to follow step by step—, from Wednesday to Wednesday—the development of the sessions of the Constituent Assembly, judged in a dispassionate and impartial way by our illustrious collaborator.

In this weekly summary, being unable to detail each and every one of the sessions held by the Assembly, we will limit ourselves to giving an overall impression of them and a critical comment of all things that stand out in the course of those sessions and that is of true national interest. All this within the norms of impartiality and good taste that have been and continue to guide our way of being and acting.<sup>20</sup>

On the page that follows, we see the magazine’s preconception of what the Constituent Assembly would be like given the political climate:

The Comisión Máxima, made up of delegates from the Opposition and the Coalition, has been working actively for a few days, which indicates that the Constituent Assembly will not be, as was supposed at the start, a battlefield, an ardent arena. It is possible that some sensationalism will be lost. But, on the other hand, we gain in fruitfulness, in a task more imbued with responsibility and more influenced by moderation.<sup>21</sup>

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<sup>18</sup> “Sesión tercera - 14 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 3, p. 5, <https://ufdc.ufl.edu/UF00072605/00003/5j>.

<sup>19</sup> Gustavo Gutiérrez Sánchez, *Constitución De La República De Cuba : Promulgada El Día 5 De Julio De 1940 ; Sus Antecedentes Históricos ; Su Espiritu ; Estudio Crítico Sobre Sus Más Fundamentales Principios*, Habana, Cuba: Editorial Rex, 1941, p. 68.

<sup>20</sup> “En la Asamblea Constituyente,” *Bohemia*, February 18, 1940, p. 28, <https://dloc.com/UF00029010/00335/pdf>.

<sup>21</sup> “En la Asamblea Constituyente,” *Bohemia*, February 18, 1940, p. 29, <https://dloc.com/UF00029010/00335/pdf>.

Pages 31–35 of this issue also contain many photos, taken by Amador Vales, of the inaugural meeting of the Constituent Assembly.<sup>22</sup> On page 34, there is a photo of Eddy Chibás chatting with Joaquín Martínez Sáenz. *Bohemia* refers to Chibás as “nuestro querido compañero” (“our dear colleague”). Of particular importance are the photos on page 32 that depict the public galleries during the inaugural meeting, which were completely packed with people. The photo captions on the very top and very bottom of the page, respectively, read:

1. One angle of the stands meant for the public and another of the chamber where the representatives are seated, absolutely invaded by the large and select public that attended the inauguration of the Constituent Assembly.
2. Despite there being distributed a limited number of invitations to attend the inauguration of the Constituent Assembly, the galleries were full to the brim and the chamber invaded by a select and distinguished audience that gave proof of great enthusiasm.<sup>23</sup>

On February 24, 1940, at 12:03 a.m., as part of the February 23rd session, President Grau San Martín informed the delegates that it was officially the anniversary of the “Grito de Baire,” the 1895 uprising led by José Martí that marked the start of the Cuban War of Independence. The Grito de Baire was organized across 35 locations in Cuba. Dr. Grau San Martín stated:

We have the honor, the highest honor, to be surprised by the 45th anniversary of the Grito de Baire, while working, working for Cuba, working for our people. I think it is the best homage we can pay to the founders of our country.

As a tribute to them, in homage to our institutions and our people, I propose that we stand up and cry out “Long Live the Cuban Republic!”

*(The Assembly in full stands up amidst a thunderous ovation, both in the Chamber and in the Public Galleries).*<sup>24</sup>

There is a photo of Joaquín Martínez Sáenz on page 4 of the February 25, 1940, issue of *Bohemia* with the following caption: “El doctor MARTINEZ SAENZ, líder máximo del ABC, en uno de sus fogosos y apasionados discursos” (*trans.* “Doctor MARTINEZ SAENZ, maximum leader of the ABC party, in one of his spirited and impassioned speeches”). In this article, there are also photos of Orestes Ferrara, Pelayo Cuervo Navarro, and Quintin George.<sup>25</sup>

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<sup>22</sup> “Solemne y Emotiva fue la Inauguración de la Constituyente,” *Bohemia*, February 18, 1940, pp. 31–35, <https://dloc.com/UF00029010/00335/pdf>.

<sup>23</sup> “Solemne y Emotiva fue la Inauguración de la Constituyente,” *Bohemia*, February 18, 1940, p. 32, <https://dloc.com/UF00029010/00335/pdf>.

<sup>24</sup> “Sesión octava (plenaria) - 23 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 8, p. 45, <https://ufdc.ufl.edu/UF00072605/00008/45x>.

<sup>25</sup> “En la Asamblea Constituyente,” *Bohemia*, February 25, 1940, p. 4–5, 52, <https://dloc.com/UF00029010/00336>.

The March 3, 1940, issue of *Bohemia* has two amazing “Cohetes” comics related to the Constitutional Convention.<sup>26</sup> Translations and explanations of the comics:

1. Top left
  - Caption (*original*): “A mí me parece que ella está copiando el modelo...”
  - Caption (*trans.*): “It seems to me that she is copying the design...”
  - Explanation: That the 1940 Constitution seems to be heading in the direction of being a copy of the 1901 Constitution
2. Bottom
  - Caption (*original*): “—Ahora, con la Constituyente, este cuadro está de actualidad. —¿Por qué? —Figúrese, se titula ‘Consejeros Provinciales’”
  - Caption (*trans.*): “Now, with the Constituent Assembly, this painting is up to date. —Why? —Imagine, it is titled ‘Provincial Councilmen.’”
  - Explanation: The illustration is of a series of bottles. In Cuban colloquial language, a *botella*, or bottle, refers to someone who “earns a salary without even going to work,” according to a *Granma* post from 2014.<sup>27</sup>

On page 24 of the March 3, 1940, issue of *Bohemia*, the magazine describes the lengthy February 23rd session of the Constituent Assembly. This session was so long that it caused health problems for some of the delegates. The following is a translation of that section: “Doctor Antonio Bravo Correoso, illustrious elder, man of two Constituents and of seventy-six winters, at ten o'clock at night, consulted his watch and his yawn. Both were one single arrow, and that arrow pointed, not to new horizons, but to the serene horizontality of the bed. Mr. Casas, mayor of Matanzas, came out of an amendment to fall into a collapse. It was a pathetic episode and, of course, a clinical one. But the Faculty was there, in the resonant chamber. Dr. Grau San Martín descended from his curule. He took the pulse of Mr. Casas and dictated an order: twenty drops of kola tincture and rest. Still, the next day, there was havoc: Mr. Hornedo caught a cold in the nineteen-hour session. And in this way, Mr. Hornedo, who is a senator and delegate, became fluey.”<sup>28</sup>

In this same March 3rd issue of *Bohemia*, Jorge Mañach is lauded by the magazine for the speech he delivered during the 19-hour February 23rd session in defense of his party, the Partido ABC, as well as the logical and democratic spirit of the Constitutional Assembly more broadly. The speech to which *Bohemia* is referring seems to be what Mañach said in pages 21–22 of *Diario de Sesiones*, Vol. I, No. 8.<sup>29</sup> This is what the magazine said about Mañach’s speech:

In this nineteen-hour day there is a resplendent page, a page that will not be coldly filed in the “Diario de Sesiones.” We refer to Jorge Mañach’s speech. In the illustrious writer there is a Cartesian, a rationalist, a man of clear conscience, of clear

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<sup>26</sup> Vergara, “Cohetes,” *Bohemia*, March 3, 1940, p. 43, <https://dloc.com/UF00029010/00337>.

<sup>27</sup> Alfonso G. Nacienceno García, “La palanca,” *Granma*, June 12, 2014, <http://www.granma.cu/opinion/2014-06-12/la-palanca>.

<sup>28</sup> “En la Asamblea Constituyente,” *Bohemia*, March 3, 1940, p. 24, <https://dloc.com/UF00029010/00337>.

<sup>29</sup> “Sesión octava (plenaria) - 23 de febrero de 1940,” in *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 8, pp. 21–22, <https://ufdc.ufl.edu/UF00072605/00008/21x>.



intellectualism. His speech is an emotional song to reason, to freedom, to human dignity that does not accept to regiment itself and that knows that real reactionism is in the dark, in the instinctive, in the castes that rise above slavery to erect the hierarchy of hatred.

He defends his party against deceptive attacks. But what matters in his speech—sober, lean, linear, harmonious—is the gift of clarity, the neatness of the phrase, the vertical force of reasoning, because this is above all, a defense of man, of man who is not just a number, who is not an anonymous figure, who is not the mass, who is not a lost plot of the universe, but is instead thought, action, creative flame, a force capable of walking freely through dreams, through roads and through smiles.

In the inaugural session of the Constituent Assembly, Jorge Mañach read a speech that aroused applause. It was limp prose, but well-crafted, mature. His speech on Friday is a replica, an improvisation. He rises from his seat to respond, to argue, because it essentially marks his respect for his adversary. In a man of his quality—intellectual and moral—there is not the burning condemnation or the overflowing passion, which can rise to the lips. It is reasoning. But it becomes multi-dimensional to condemn the classist horror and to establish that the dignity of the human creature only flourishes in freedom.

It was necessary that certain words were pronounced in the Constituent Assembly in order to exalt it, to give it a symbolic value and specificity, to extract it from all triviality or from all petty passion. Jorge Mañach has managed to pronounce them. It would serve to underestimate his speech to affirm that it constitutes a tribunitial success or a parliamentary success. For those who like art, beauty, clarity, moderation, the eternal and harmonious graces of reason, it is something more delicate and purer.<sup>30</sup>

On Friday, March 1, 1940, Orestes Ferrara, distinguished Liberal Party leader and delegate to the Assembly, was the victim of an attempted homicide. The vehicle in which he found himself was shot at by another vehicle occupied by four unknown men. The driver of Ferrara's vehicle died and Ferrara suffered injuries necessitating surgery. Details of the incident, along with photos taken by Amado Vales, were published on pages 42–43 of the March 10, 1940, issue of *Bohemia*.<sup>31</sup>

In the March 10, 1940, issue of *Bohemia*, there is a “Cohetes” comic that makes fun of how much time the Assembly devoted to trying to figure out where to sign the Constitution, once finished.<sup>32</sup>

- Caption (*original*): “—¿Qué hacen ustedes ahí? —Estamos discutiendo dónde vamos a firmar la Carta Magna. —Miren, les voy a decir una cosa: si es buena, lo mismo da que la firmen en Guáimaro como en el muro del Malecón.”
- Caption (*trans.*): “—What are you all doing there? —We are discussing where we are going to sign the Magna Carta. —Look, I'm going to tell you one thing: if it's good, it doesn't matter if you sign it in Guáimaro or on the seawall of the Malecón.”

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<sup>30</sup> “En la Asamblea Constituyente,” *Bohemia*, March 3, 1940, pp. 24–25, <https://dloc.com/UFO0029010/00337>.

<sup>31</sup> “El atentado a Ferrara,” *Bohemia*, March 10, 1940, pp. 42–43, <https://dloc.com/UFO0029010/00338>.

<sup>32</sup> Vergara, “Cohetes,” *Bohemia*, March 10, 1940, p. 32, <https://dloc.com/UFO0029010/00338>.

The *Secciones*, or working groups, were created on March 8, 1940. The makeup of the Sección de Organización del Estado can be found in the *Diario de Sesiones*, Vol. I, No. 14, p. 5.<sup>33</sup> The following is a brief *in-progress* analysis:

#	Member Name	Party Affiliation	Coordinating Comm.?
1	<b>Joaquín Martínez Sáenz</b> ( <i>Sección President</i> )	Partido A.B.C.	<b>Yes</b>
2	<b>Emilio Laurent</b>	Partido Revolucionario Cubano (Auténtico)	No
3	<b>Eduardo Chibás</b>	Partido Revolucionario Cubano (Auténtico)	No
4	<b>Carlos Prío Socarrás</b>	Partido Revolucionario Cubano (Auténtico)	No
5	<b>José Maceo</b>	Partido Nacional Revolucionario (Realista)	??? <b>Note:</b> He was the <b>only</b> member of his party in the Assembly <b>and</b> he was part of <b>every</b> single <i>Sección</i>
6	<b>Alberto Silva Quinones</b>	Conjunto Nacional Democrático	???
7	<b>Juan Marinello</b>	Partido Comunista	<b>Yes</b>
8	<b>Francisco Alomá</b>	Partido Nacionalista	<b>Yes</b>
9	<b>Arturo Don Rodríguez</b> ( <i>Sección Secretary</i> )	Partido Liberal	No
10	<b>José Manuel Cortina</b>	Partido Liberal	<b>Yes</b>
11	<b>Orestes Ferrara</b>	Partido Liberal	No
12	<b>Antonio Bravo Acosta</b>	Partido Demócrata Republicano	<b>Yes</b>
13	<b>Joaquín Meso</b>	Partido Demócrata Republicano	No
14	<b>Miguel Coyula</b>	Partido Demócrata Republicano	No
15	<b>Ramón Zaydín</b>	Partido Acción Republicana	???

<sup>33</sup> “Sesión décima cuarta (plenaria) - 8 de marzo de 1940,” *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 14, p. 5, <http://ufdc.ufl.edu/UF00072605/00014/5x>.

On March 14, 1940, Joaquín Martínez Sáenz presented a motion to the Assembly which was also signed by Rafael Guas Inclán, Antonio Martínez Fraga, Fernando del Busto, Ramón Zaydín, and Carlos Márquez Sterling (nearly all of the leaders of the various political parties). These delegates proposed that the Assembly focus only on issues related directly to the question of formulating a new Constitution. This came after several instances of the Assembly entertaining issues unrelated to the new Constitution, such as sending a letter of solidarity to Finland and issuing a proclamation denouncing the attacks on two young men, Joaquín Ferrer and Carlos Martí, at the hands of the police. Note that in the motion below, the word *serenidad* is used, and it appears throughout the text. The following is a translation of part of the text of this motion:

Chosen by the people of Cuba, in order to draft the Constitution by which our future life as a democratic nation will be dogmatically and organically structured, the present Constitutional Convention has a legal deadline of only three months to fulfill its delicate and transcendental task. The various Committees that were appointed to prepare the preliminary drafts for the new Constitution have begun their work and will soon submit their respective reports, which should be the subject of consideration and debate in the plenary Assembly. The Constitutional Convention needs all the time it has to learn these *Dictámenes*, discuss them serenely and give them definitive form.

For this reason, without denying this Organism the right it has, within its sovereign status, to react in the face of events of a universal nature that justifiably affect public opinion of the world today, the undersigned Delegates understand that the Convention can not continue getting distracted for hours in the consideration and treatment of issues outside the strictly constitutional ones that have motivated their meetings.<sup>34</sup>

In the March 17th issue of *Bohemia*, there are two “Cohetes” comics that take jabs at the Constituent Assembly:<sup>35</sup>

1. Bottom left
  - Caption (*original*): “VEINTE AÑOS DESPUÉS. —¿A dónde vas tan apurado? —Al Capitolio que me han dicho que hoy la Constituyente va a aprobar el artículo número cinco de la Constitución.”
  - Caption (*trans.*): “TWENTY YEARS LATER. —Where are you going in such a hurry? —To the Capitol because I have been told that today the Constituent Assembly is going to approve article number five of the Constitution.”
2. Bottom right:
  - Caption (*original*): “UN PADRE PRECAVIDO. —¿Y por qué no quieres usar el radio? —Para evitar que los muchachos vayan a sintonizar una sesión de la Constituyente y puedan aprender malas palabras.”

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<sup>34</sup> “Sesión décima sexta (plenaria) - 14 de marzo 1940. Ordinaria,” *Diario de Sesiones de la Convención Constituyente*, vol. I, no. 16, p. 15, <https://ufdc.ufl.edu/UF00072605/00016/15x>.

<sup>35</sup> Vergara, “Cohetes,” *Bohemia*, March 17, 1940, p. 32, <https://dloc.com/UF00029010/00339>.

- Caption (*trans.*): “A CAUTIOUS FATHER. —And why do you not want to use the radio? —To prevent the children from tuning into a session of the Constitutional Assembly and being able to learn bad words.”

Also in the March 17th issue, *Bohemia* announced that Dr. Ramón Grau San Martín had decided to donate his salary for being a delegate to the Constituent Assembly to a peasant family. Considering the importance placed on peasant and worker rights, this was a very meaningful gesture.<sup>36</sup>

On Monday, March 18, 1940, the Constituent Assembly was meant to gather to discuss the full text of the Dictamen from the Sección de Organización Nacional, Ciudadanía y Extranjería, which was going directly to the Assembly—bypassing the Coordinating Committee, which had not yet been fully established. (The full text of the *dictamen* issued by this *Sección* was published by *Noticias de hoy*.) However, the meeting could not take place because there was a lack of quorum. It was postponed for the following day, but on that day there were only ten delegates present, which also prevented that meeting from taking place. That same day, Ramón Grau San Martín and Joaquín Martínez Sáenz (President and first Vice President of the Assembly, respectively) resigned.<sup>37</sup> Their resignation announcement was published in *Bohemia* on March 24, 1940.<sup>38</sup> There was also a lack of quorum on March 21, 1940, the date for which the presentation of the aforementioned *Dictamen* was rescheduled; only two delegates showed up. The Assembly was supposed to convene Friday afternoon for the Ordinary Session, but it was doubtful that delegates would show up.<sup>39</sup> (They did not.) This can be explained by two things: that it was Holy Week and that the individual *Secciones* were the ones working on specific issues.<sup>40</sup> When the Assembly finally convened on March 24th, the resignation letter from Grau San Martín and Martínez Sáenz was read. José Manuel Cortina proposed that the Assembly vote to reject their resignation, which they did. This was characterized by *Noticias de hoy* as a “great example of democracy.”<sup>41</sup>

In the March 31st issue of *Bohemia*, the editors wrote a plea to Miguel Coyula to return to the Constituent Assembly. It seems that Coyula decided to leave the Assembly as well and retreat into private life. The magazine stated that “the people have the legitimate right to appeal to a man when he is a living symbol of austerity and greatness.”<sup>42</sup>

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<sup>36</sup> “Grau cede su sueldo de Delegado a los Campesinos Cubanos,” *Bohemia*, March 17, 1940, p. 3, <https://dloc.com/UF00029010/00339>.

<sup>37</sup> “Plantéase Crisis en la Mesa de la Asamblea Constituyente,” *Noticias de hoy*, March 20, 1940, p. 1, <https://dloc.com/AA00022089/00885/images/o>.

<sup>38</sup> “Una decisión honorable,” *Bohemia*, March 24, 1940, <https://dloc.com/UF00029010/00340/pdf>.

<sup>39</sup> “Doble Sesión el Sábado en la A. Constituyente,” *Noticias de hoy*, March 22, 1940, p. 1, <https://dloc.com/AA00022089/00887/images/o>.

<sup>40</sup> “Impónese una Mayor Actividad en la Asamblea Constituyente,” *Noticias de hoy*, March 22, 1940, p. 2, <https://dloc.com/AA00022089/00887/images/1>.

<sup>41</sup> “Un Alto Ejemplo de Democracia,” *Noticias de hoy*, March 24, 1940, p. 2, <https://dloc.com/AA00022089/00889/images/1>.

<sup>42</sup> “Llamamiento a Miguel Coyula,” *Bohemia*, March 31, 1940, p. 3, <https://dloc.com/UF00029010/00341/pdf>.

On March 25th, the Assembly voted to create a Coordinating Committee to organize the texts resulting from the work of the *Secciones*.<sup>43</sup> (Note that reference to a “Comisión Dictaminadora” was made as early as March 15th, 1940.<sup>44</sup>) On page 16 of the March 25th session, Bravo Acosta proposed that the Coordinating Committee be composed of one member from each of the *Secciones*. The Assembly approved this proposal with little debate.<sup>45</sup> On page 16 of the minutes from the March 25th session, Bravo Acosta proposed that the Coordinating Committee include one member from each of the political parties represented in the Convention, in addition to one member from each of the *Secciones*.<sup>46</sup> Using this formula, I have concluded that there were 17 delegates who made up the Coordinating Committee.

On March 26, 1940, the Constituent Assembly decided to cancel all of the Ordinary Sessions until April 1st so that the *Secciones* could focus on working on their respective *dictámenes*. A due date of April 1st was set, and it was established that if any of the *Secciones* did not submit their *Dictamen* on time to the President of the Assembly, the Coordinating Committee would do so in their place.<sup>47</sup>

The April 7th issue of *Bohemia* included many photos of the members of the Assembly after they had finished their work on their respective *Secciones*. The article was titled “Gráficas de la Constituyente” and included a brief accompanying statement which explained that the work of the *Secciones* was being carried out in secret (not open to the public and not recorded in the *Diario de Sesiones*), and that it was in these meetings that the real work of drafting the Constitution was being done. The statement said that the work of the *Secciones* was more fruitful than the work done in the chamber by the full Assembly.<sup>48</sup>

On April 2nd, the Coordinating Committee officially began their labors. As mentioned above, the Committee was composed of one member of each of the *Secciones* and one delegate from each of the political parties represented in the Constitutional Convention.<sup>49</sup>

Below is a list of the delegates whose membership in the Coordinating Committee I have been able to verify, along with an *in-progress* analysis of their party affiliation and membership in the *Secciones*:

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<sup>43</sup> “Sesión décima novena - 25 de marzo de 1940,” *Diario de Sesiones de la Convención Constituyente*, vol. 1, no. 19, p. 12, <http://ufdc.ufl.edu/UF00072605/00019/12j>.

<sup>44</sup> Sesión décima séptima - 15 de marzo de 1940,” *Diario de Sesiones de la Convención Constituyente*, vol. 1, no. 17, p. 10–12, <http://ufdc.ufl.edu/UF00072605/00017/10x>.

<sup>45</sup> “Sesión décima novena - 25 de marzo de 1940,” *Diario de Sesiones de la Convención Constituyente*, vol. 1, no. 19, p. 12, <http://ufdc.ufl.edu/UF00072605/00019/12x>.

<sup>46</sup> “Sesión décima novena - 25 de marzo de 1940,” *Diario de Sesiones de la Convención Constituyente*, vol. 1, no. 19, p. 16, <http://ufdc.ufl.edu/UF00072605/00019/16x>.

<sup>47</sup> “Terminarán el Proyecto de Constitución el Seis de Abril,” *Noticias de hoy*, March 26, 1940, <https://dloc.com/AA00022089/00890/images/o>.

<sup>48</sup> “Gráficas de la Constituyente,” *Bohemia*, April 7, 1940, p. 40–41, 74, <https://dloc.com/UF00029010/00342/pdf>.

<sup>49</sup> “Fue Constituida Ayer la C. Coordinadora de la Constituyente,” *Noticias de hoy*, April 3, 1940, <https://dloc.com/AA00022089/00896/images/o>.

#	Member Name	Source	Party Affiliation	Sección Membership
1	<b>José Manuel Cortina</b> ( <i>President of the Coordinating Committee</i> )	D. S. Vol. I, No. 20, p. 54 -and- D. S. Vol. I, No. 20, p. 17	Partido Liberal	Sufragio y Oficios Públicos -and- <b>Organización del Estado</b>
2	<b>José Manuel Casanova</b>	<i>Noticias de hoy</i> , April 11, 1940	Partido Liberal	Trabajo y Régimen de la Propiedad -and- Asuntos Económicos y de Hacienda Pública
3	<b>Emilio Núñez Portuondo</b>	<i>Noticias de hoy</i> , April 10, 1940, p. 6	Partido Liberal	Organización Nacional, Ciudadanía y Extranjería
4	<b>Francisco Alomá</b>	D. S. Vol. I, No. 20, p. 76	Partido Nacionalista	Trabajo y Régimen de la Propiedad -and- <b>Organización del Estado</b>
5	<b>Romárico Cordero</b>	<i>Noticias de hoy</i> , April 16, 1940, p. 1	Partido Comunista	n/a
6	<b>Salvador García Agüero</b>	<i>Noticias de hoy</i> , April 16, 1940, p. 1	Partido Comunista	Derechos Individuales y Garantías Constitucionales -and- Sufragio y Oficios Públicos
7	<b>Juan Marinello Vidaurreta</b>	D. S. Vol. I, No. 20, p. 17 -and- <i>Noticias de hoy</i> , April 11, 1940, p. 6	Partido Comunista	Organización Nacional, Ciudadanía y Extranjería -and- <b>Organización del Estado</b>
8	<b>Blas Roca Calderío</b>	<i>Noticias de hoy</i> , April 11, 1940, p. 6	Partido Comunista	Trabajo y Régimen de la Propiedad

#	Member Name	Source	Party Affiliation	Sección Membership
9	<b>Ramón Grau San Martín</b> ( <i>Assembly President</i> )	D. S. Vol. I, No. 20, p. 17	Partido Revolucionario Cubano (Auténtico)	<i>n/a</i>
10	<b>Antonio Bravo Acosta</b>	<i>Noticias de hoy</i> , April 11, 1940, p. 6	Partido Demócrata Republicano	Organización Nacional, Ciudadanía y Extranjería <i>-and-</i> <b>Organización del Estado</b>
11	<b>Pelayo Cuervo Navarro</b> ( <i>Secretary of the Coordinating Committee</i> )	D. S. Vol. I, No. 20, p. 54	Partido Demócrata Republicano	Sufragio y Oficios Públicos <i>-and-</i> Asuntos Económicos y de Hacienda Pública
12	<b>Francisco Dellundé</b>	<i>Noticias de hoy</i> , April 16, 1940, p. 1	Partido Demócrata Republicano	<i>n/a</i>
13	<b>Mario Robau</b>	D. S. Vol. I, No. 20, p. 9	Partido Demócrata Republicano	Derechos Individuales y Garantías Constitucionales
14	<b>Francisco Ichaso Macías</b>	<i>Noticias de hoy</i> , April 11, 1940, p. 6	Partido A.B.C.	Trabajo y Régimen de la Propiedad <i>-and-</i> Sufragio y Oficios Públicos
15	<b>Joaquín Martínez Sáenz</b>	D. S. Vol. I, No. 20, p. 11	Partido A.B.C.	<b>Organización del Estado</b> <i>-and-</i> Asuntos Económicos y de Hacienda Pública
16	???	???	???	<b>Familia y Cultura</b>
17	???	???	???	<b>Asuntos Provinciales y Municipales</b>

The **bold pink text** above is used to draw attention to Coordinating Committee members who formed part of the Organización del Estado *sección*; Article 135 fell under the purview of this *sección*.

## Missing representation in the Coordinating Committee:

### **Secciones**

Familia y Cultura  
Asuntos Provinciales y Municipales

### **Parties**

Partido Acción Republicana — 5 members in the full Assembly  
Conjunto Nacional Democrático — 3 members in the full Assembly  
Partido Nacional Revolucionario (Realista) — 1 member in the full Assembly

**Possible members:** Each *Sección* had to have representation in the Coordinating Committee. By this logic, the other two members of the Coordinating Committee could possibly be:

**José Maceo González** (Partido Nacional Revolucionario - Realista)

(Asuntos Provinciales and Familia y Cultura and Organizacion Nacional, Ciudadanía y Extranjería and Derechos Individuales and Trabajo y Régimen de la Propiedad and Sufragio y Oficios Públicos and Organizacion del Estado and Asuntos Provinciales y Municipales)

**Antonio Martínez Fraga** (Conjunto Nacional Democrático)

(Familia y Cultura and Organizacion Nacional, Ciudadanía y Extranjería and Asuntos Económicos y de Hacienda Pública)

**Carlos Márquez Sterling** (Partido Acción Republicana)

(Familia y Cultura and Sufragio y Oficios Públicos)

**Eugenio Rodríguez Carta** (Conjunto Nacional Democrático)

(Asuntos Provinciales and Sufragio y Oficios Públicos)

**Adriano Galano** (Partido Acción Republicana)

(Asuntos Provinciales and Derechos Individuales)

The full text of the *dictamen* from the Sección de Trabajo y Régimen de la Propiedad was published in *Noticias de hoy* on April 5, 1940.<sup>50</sup>

The Constituent Assembly was not scheduled to reconvene until April 8th. However, this did not happen on that day, as there was no quorum and the Coordinating Committee was behind schedule, having finished working through only three out of the eight *Secciones*.<sup>51</sup> These three *Secciones* were Cultura y Familia, Derechos Individuales y Constitucionales, and Organización del Estado. The Coordinating Committee is referred to somewhat disparagingly by *Noticias de hoy* as a “comisión fiscalizadora,” or an “auditing committee.” The paper meant that instead of simply organizing all the articles, the Coordinating Committee was meticulously reviewing the work of the *Secciones*. The paper goes on to say in page 6 that the “Coordinating Committee has been transformed into a kind of auditing committee that threatens to suppress all the weak progressive measures included in the *dictámenes* after laborious and long meetings. The reactionary elements that circulate within the Committee have managed to suppress some progressive precepts that were included in the already-discussed *dictámenes*.”<sup>52</sup>

<sup>50</sup> “Confecionado El Dictamen de los Derechos Sociales Para La Nueva Constitución,” *Noticias de hoy*, April 5, 1940, p. 3, <https://dloc.com/AA00022089/00898/images/2>.

<sup>51</sup> “Faltó el Quórum Para la Sesión de la Constituyente,” *Noticias de hoy*, April 9, 1940, pp. 1, 6, <https://dloc.com/AA00022089/00901/images/0>.

<sup>52</sup> “Obstáculos Anti-Populares en el Seno de la C. Coordinadora,” *Noticias de hoy*, April 10, 1940, pp. 1, 6, <https://dloc.com/AA00022089/00902/images/0>.



The Constituent Assembly did not initially grant the Coordinating Committee the extension it sought. The “Cohetes” comic that appeared in the the top-left corner of page 4 in the April 14th issue of *Bohemia* poked fun at this. Translated, the caption read: “AN INDIGENT. —What pity it gives me to see that man! —Why? —Just imagine, he is a poor congressman who, seeing as the extension was not granted, has been left in the most dreadful misery.”<sup>53</sup> However, during the April 16th session, they were granted permission to continue working.<sup>54</sup>

On April 14th, a Sunday night, the Coordinating Committee ended their labors in the middle of a contentious debate about latifundia. It was such a divisive debate that the Coordinating Committee agreed to suspend their work at that point and refer the remaining *dictámenes* that were left to coordinate to the plenary Assembly.<sup>55</sup>

The Coordinating Committee turned in its in-progress work to the full Constituent Assembly on April 16, 1940. They worked ten hours a day for twelve days, for a total of 120 hours.<sup>56</sup> The full text of their in-progress work can be found in pages 18–54 of the April 16, 1940, issue of the *Diario de Sesiones*.<sup>57</sup> The citizen initiative provision appears in two places in this in-progress work; in both instances, it included the “diez mil o mas electores” condition. On page 36 of *Diario de Sesiones* Vol. I, No. 20, the provision appears under “Sección Sexta: De La Iniciativa y Formación de las Leyes” as Article 167.<sup>58</sup> Note that on page 28 of this same issue, it is stated that the articles presented from that point forward, starting with Article 100, had not yet been “dictaminados” by the Coordinating Committee, essentially meaning that the Committee had not done work to them. Thus, the article containing the citizen initiative provision appears here as it emerged from its *Sección* and had not been touched by the Coordinating Committee at that point.<sup>59</sup> On page 54, it is stated that, “since the Coordinating Committee did not get to the study of the *Dictámenes* of the aforementioned *Secciones*, it consigns the aforementioned particulars” to the full Assembly.<sup>60</sup>

At the time the Coordinating Committee presented its in-progress work, it had only worked through 99 out of the 318 articles. Guas Inclán complained about this, and Ramiro Capablanca stated that “all of the parts referring to the organs of the State, and the Municipalities and Provinces, would be gone through much more quickly than the *Dictámenes* referring to Work, to

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<sup>53</sup> “Cohetes,” *Bohemia*, April 14, 1940, p. 4, <https://dloc.com/UF00029010/00343/pdf>.

<sup>54</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 18, <http://ufdc.ufl.edu/UF00072605/00020/18x>.

<sup>55</sup> “Recesa la C. Coordinadora su Trabajo en lo del Latifundio,” *Noticias de hoy*, April 16, 1940, pp. 1, 6, <https://dloc.com/AA00022089/00907/images/o>.

<sup>56</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, pp. 18–54, <http://ufdc.ufl.edu/UF00072605/00020/18x>.

<sup>57</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 3, <http://ufdc.ufl.edu/UF00072605/00020/3x>.

<sup>58</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 36, <http://ufdc.ufl.edu/UF00072605/00020/36x>.

<sup>59</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 28, <http://ufdc.ufl.edu/UF00072605/00020/28x>.

<sup>60</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 54, <http://ufdc.ufl.edu/UF00072605/00020/54x>.

Family, to Culture, and to those other extremes where the Coordinating Committee has had to intensely debate these fundamental questions.”<sup>61</sup> Though the Coordinating Committee presented an unfinished draft, the Assembly approved a motion allowing the Coordinating Committee to continue the rest of their work, despite opposition from some delegates, such as Salvador García Agüero. However, the citizen initiative provision does appear again on page 63 of this issue, this time as Article 90.<sup>62</sup> It was part of the project submitted as part of the “voto particular,” or dissenting opinion, of Francisco Alomá, who disagreed with the Coordinating Committee’s *anteproyecto*.<sup>63</sup> However, Alomá’s proposal was an exact reproduction of the *Proyecto* approved by Congress early on in this process.<sup>64</sup> Alomá, who was also a member of Congress,<sup>65</sup> wanted the plenary Assembly to debate and discuss Congress’s version of the *Proyecto* instead of the one formulated by the Coordinating Committee.<sup>66</sup>

The Assembly did not convene again until April 22, 1940. The Coordinating Committee, who was significantly behind in their labor, was allowed to continue working on the rest of the articles they had yet to examine. As stated above, this was permitted by a vote taken during the previous session, which took place on April 16th.<sup>67</sup> When they did reconvene, Alomá’s “voto particular” was rejected and the Assembly entered into discussion about the *Proyecto* submitted by the Coordinating Committee.<sup>68</sup>

The April 25th session could not take place because there was a lack of quorum. “At the start of the session, the public gallery was completely full. A great number of law students attended in the hopes of witnessing the session. Very acrid comments were heard among the people regarding the absence of the majority of the delegates...One conventionist, during the brief duration of the session, expressed forceful words of censure to his companions who, as he said, had charged, and had incurred the responsibility with the nation to provide it with its Fundamental Law and, nevertheless, were repeatedly absent at the sessions.<sup>69</sup> This is evidence of the level of public involvement and interest in the process of crafting a new Constitution for the Cuban people.

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<sup>61</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 15, <http://ufdc.ufl.edu/UF00072605/00020/15x>.

<sup>62</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 63, <http://ufdc.ufl.edu/UF00072605/00020/63x>.

<sup>63</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 54, <http://ufdc.ufl.edu/UF00072605/00020/54x>.

<sup>64</sup> “Sesión Vigésima Primera - 22 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 21, p. 4, <http://ufdc.ufl.edu/UF00072605/00021/4x>.

<sup>65</sup> “Sesión Vigésima Primera - 22 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 21, p. 5, <http://ufdc.ufl.edu/UF00072605/00021/5x>.

<sup>66</sup> “Discuten en la Constituyente la Nueva Carta Fundamental,” *Noticias de hoy*, April 23, 1940, p. 1, 6, <http://dloc.com/AA00022089/00913/1x>.

<sup>67</sup> “Sesión Vigésima - 16 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 20, p. 18, <http://ufdc.ufl.edu/UF00072605/00020/18x>.

<sup>68</sup> “Sesión Vigésima Primera - 22 de Abril de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 21, p. 6, <http://ufdc.ufl.edu/UF00072605/00021/6x>.

<sup>69</sup> “Constituyente,” *Noticias de hoy*, April 26, 1940, pp. 1, 6, <http://dloc.com/AA00022089/00916/1x>.

In the April 28th issue of *Bohemia*, there is a simple full-page spread with a photo of the Cuban flag and a quote by Miguel Coyula that embodies the spirit of the Convention: “Queremos que haya en Cuba una bandera que tenga que ser la de todos los cubanos: la bandera del Amor.” Translation: “We want Cuba to have a flag that must be a flag of all Cubans: the flag of Love.”<sup>70</sup>

On April 30, 1940, *Noticias de hoy* reported that the Coordinating Committee was now working on the “Organización del Estado” *Sección*. The Committee hoped to finish the entirety of their work within the next three to four days. Because this work had fallen behind, some delegates believed that the Assembly would have to issue themselves an extension to finish the work.<sup>71</sup> This is important because, later on when the complete *Proyecto* was being discussed by the full Assembly, Article 135, containing the citizen initiative provision, would be approved without discussion or debate. As Gustavo Gutiérrez stated in pages 147–48 of “La Convención Constituyente y la Constitución de 1940,” the book he wrote for Vol. VIII of Ramiro Guerra’s *Historia de la nación cubana*, the Assembly spent only one session reviewing the *Órganos del Estado*.<sup>72</sup> In footnote 41, Gutiérrez states that the Assembly rushed through the latter half of the articles in order to be able to finish on time. In fact, 236 articles were approved in only 14 sessions.<sup>73</sup> This could explain why the citizen initiative provision remained the same, requiring the signatures of at least 10,000 eligible voters. However, it should be noted that the content of Article 135 remained completely unchanged throughout all phases of the process—through Congress’s *Ante-Proyecto*, through the *Secciones*, through the Coordinating Committee, through the full Constituent Assembly, and through the Comisión de Estilo. Gutiérrez also states in footnote 41 that, to his knowledge, the minutes from the *Secciones* sessions, the Coordinating Committee sessions, and the Comisión de Estilo sessions—where the actual discussion, debate, and creation of the articles took place—were not published. He states that the records can be found in the archive of the Convention, housed at the Cuban National Archives.<sup>74</sup> Nevertheless, the integrity of Article 135 remained intact until the very end; it always stated the requirement of 10,000 signatures from eligible voters.

The session that took place on Thursday, May 2nd, was a heated one. According to *Noticias de hoy*, the Assembly decided to go into secret session in the middle of that day’s regular session due to a contentious back-and-forth about racism and discrimination in Cuba. Delio Núñez Mesa requested that they enter into a secret session, and the public gallery was then emptied.<sup>75</sup>

That same day, the Assembly approved a motion that stated that the work of the Assembly legally began upon the creation of the *Secciones*, per Article 21 of the Reglamento. The Assembly approved this motion, though Pelayo Cuervo Navarro voted against it, stating that the clock started ticking, if you will, “upon the establishment of the definitive bureau of the Assembly, in accordance with the Reglamento de la Convención del Uno, which is the one that served to

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<sup>70</sup> *Bohemia*, April 28, 1940, p. 36, <https://dloc.com/UF00029010/00345/pdf>.

<sup>71</sup> “Constituyente,” *Noticias de hoy*, April 30, 1940, pp. 1, 6, <https://dloc.com/AA00022089/00919/images/o>.

<sup>72</sup> Gutiérrez, “Convención Constituyente,” in *Historia nación cubana*, pp. 147–48.

<sup>73</sup> Gutiérrez, “Convención Constituyente,” in *Historia nación cubana*, pp. 179–80.

<sup>74</sup> Gutiérrez, “Convención Constituyente,” in *Historia nación cubana*, pp. 179–80.

<sup>75</sup> “Sesión Vigésima Séptima - 2 de Mayo de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 27, p. 11, <http://ufdc.ufl.edu/UF00072605/00027/11x>.

initiate the work of the Assembly.”<sup>76</sup> As we know, the Assembly rushed through many of the later articles (including Article 135) because they were running out of time (by law, they had to finish their work in 3 months). It is interesting that this remained the case even after buying themselves some time through this motion.

On Wednesday, May 8th, Casanova proposed an additional article to the full Assembly, without it having gone through the *Secciones* or the Coordinating Committee. He simply proposed that it be tacked on to the end of the section on Individual Rights, after Article 47. The article proposed by Casanova, Article 48, read: “Se prohíben y declaran ilícitas las asociaciones, sindicatos o cualesquiera otras organizaciones de orden político o social, que impongan a sus miembros obediencia a autoridades u organismos distintos a los de la Republica, asi como los conectados con organizaciones políticas o sociales extranjeras, o de carácter internacional o contrarias al sistema democrático del gobierno.”<sup>77</sup> Blas Roca saw this as a direct attack on the Communist party, and even as an attempt at making the Communist Party illegal.<sup>78</sup>

On page 30 of the May 8th session, Eddy Chibás made an observation regarding the deep differences between Casanova (Liberal Party) and Blas Roca, et al (Union Revolucionaria Comunista), despite the fact that they responded to and trusted the same leader, Colonel Batista. (Both parties formed part of the Coalición Socialista Demócrata.) Chibás also described the debate as “very violent.” Casanova replied to Chibás, saying:

I am going to reply to my distinguished comrade Mr. Chibás. First of all, I must say that no situation of violence has arisen in the debate, nor do we argue violently with the comrades who represent the Communist Party here, who hold ideas, principles and procedures that I do not share and are not shared by the majority of the Assembly. Perhaps that reason has been the driving force and the patriotic impulse that has moved me to present the additional amendment that we are discussing.

There is no violence, Mr. Chibás. We are debating, with the natural passion that these issues that are fundamental to the country provoke, but as civilized men do. I respect, even if I do not share, those ideas; and demand and ask that mine be respected in the same way. This mutual respect is the essential outcome of the freedom of thought that has been consecrated here....

The Communist Party is a separate issue. We liberals maintain our Program, we follow our Program to the letter, which is the old Program of the Liberal Party, renewed with the new ideas and the new anxieties that pulsate through humanity...

My amendment is liberal and very Cuban and very patriotic and very nationalist, and would have been voted for by Maceo, Martí and all the great patriots.<sup>79</sup>

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<sup>76</sup> “Sesión Vigésima Séptima - 2 de Mayo de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 27, p. 12, <https://ufdc.ufl.edu/UF00072605/00027/12x>.

<sup>77</sup> “Sesión Trigésima Segunda - 8 de Mayo de 1940. Extraordinaria (Continuación del día 4),” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 32, p. 15, <http://ufdc.ufl.edu/UF00072605/00032/15x>.

<sup>78</sup> “Sesión Trigésima Segunda - 8 de Mayo de 1940. Extraordinaria (Continuación del día 4),” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 32, p. 16, <http://ufdc.ufl.edu/UF00072605/00032/16x>.

<sup>79</sup> “Sesión Trigésima Segunda - 8 de Mayo de 1940. Extraordinaria (Continuación del día 4),” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 32, pp. 30–31, <https://ufdc.ufl.edu/UF00072605/00032/30x>.

During the May 10th session, Eddy Chibás proposed his own amendment to the article presented by Casanova. It was not approved in the end, but it read:

The Republic, in ensuring the liberties of the people and the full independence of Cuba, prohibits the organization and existence of political groupings with totalitarian tendencies or tendencies of any other nature which, in being dependent on a foreign State, attempt against our national sovereignty by using the democratic safeguards established by this Constitution against the very same representative democratic regime that it guarantees.<sup>80</sup>

Casanova later withdrew his amendment and supported the one proposed by Aurelio Álvarez de la Vega, which can also be found on page 4 of the May 10th session.<sup>81</sup> Before that, however, there was heated debate, particularly between Eusebio Mujal of the Auténticos (a compatriot of Chibás) and Casanova, though Chibás also entered the discussion at points. It should be noted that Mujal considered the original article proposed by Casanova, as well as the amended article by Álvarez de la Vega, to contain “antiliberal and antidemocratic principles.”<sup>82</sup>

Aurelio Álvarez de la Vega described his article as a “preventive” measure, not as an attack on “the authentic communists or the communist authentics.”<sup>83</sup> It should be noted that Álvarez de la Vega was himself an Auténtico, though he seemed to be at odds with many in his party, including Chibás. His article ultimately passed, however, though it did so by a margin of just one vote.<sup>84</sup> Every delegate in the minority faction (but one) opposed it, including Eddy Chibás.

This article appears in its final form as Article 37 of the Cuban Constitution of 1940. It reads: “Los habitantes de la República tienen el derecho de reunirse pacíficamente y sin armas, y el de desfilar y asociarse para todos los fines lícitos de la vida, conforme a las normas legales correspondientes, sin más limitación que la indispensable para asegurar el orden público. Es ilícita la formación y existencia de organizaciones políticas contrarias al régimen del gobierno representativo democrático de la República, o que atenten contra la plenitud de la soberanía nacional.” It translates to the following: “The inhabitants of the Republic have the right to assemble peacefully and without arms, and to march and of association for all the lawful aspects of life, in accordance with the corresponding legal norms, and without any limitation other than that which is necessary to ensure public order. The formation and existence of political

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<sup>80</sup> “Sesión Trigésima Cuarta - 10 de Mayo de 1940. Ordinaria,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 34, p. 4, <https://ufdc.ufl.edu/UF00072605/00034/4x>.

<sup>81</sup> “Sesión Trigésima Cuarta - 10 de Mayo de 1940. Ordinaria,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 34, p. 4, <https://ufdc.ufl.edu/UF00072605/00034/4x>.

<sup>82</sup> “Sesión Trigésima Cuarta - 10 de Mayo de 1940. Ordinaria,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 34, p. 10, <https://ufdc.ufl.edu/UF00072605/00034/10x>.

<sup>83</sup> “Sesión Trigésima Cuarta - 10 de Mayo de 1940. Ordinaria,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 34, p. 13, <https://ufdc.ufl.edu/UF00072605/00034/13x>.

<sup>84</sup> “Sesión Trigésima Cuarta - 10 de Mayo de 1940. Ordinaria,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 34, p. 23, <https://ufdc.ufl.edu/UF00072605/00034/23x>.

organizations contrary to the democratic representative system of government of the Republic, or which in any way seek to subvert complete national sovereignty, is unlawful.”<sup>85</sup>

Unsurprisingly, Article 35 was not included in the 1976 Constitution. What was included appears as Article 53 in Chapter VI: Derechos, Deberes y Garantías Fundamentales. It states the following: “Los derechos de reunión, manifestación y asociación son ejercidos por los trabajadores manuales e intelectuales, los campesinos, las mujeres, los estudiantes y demás sectores del pueblo trabajador, para lo cual disponen de los medios necesarios a tales fines. Las organizaciones sociales y de masas disponen de todas las facilidades para el desenvolvimiento de dichas actividades en las que sus miembros gozan de la más amplia libertad de palabra y opinión, basadas en el derecho irrestricto a la iniciativa y a la crítica.” It translates as follows: “The rights of assembly, demonstration and association are exercised by both manual and intellectual workers, peasants, women, students, and other sectors of the working people, for which they have the necessary means to exercise those rights. Social and mass organizations have all the facilities they need to carry out activities in which their members have the fullest freedom of speech and opinion, based on the unlimited right of initiative and criticism.”<sup>86</sup> This is another instance where the 1976 Constitution guarantees citizens and organizations “the unlimited right of initiative,” in addition to other fundamental freedoms.

During the May 16, 1940, session of the Constituent Assembly, several leaders of the political parties proposed a motion that would shorten discussions so that the Convention could finish their work within the established deadline. They proposed to do so by limiting speaking turns to 10 minutes, limiting the number of allowed interruptions during a speaker’s turn, and limiting the time for explanations of votes to three minutes.<sup>87</sup> Even with this in place, the Assembly rushed through the latter half of the articles because they were coming up on the deadline. At the time that these new rules were established on May 16th, there was less than a month left for the Assembly to finish their work by the June 8th deadline.

In the May 19th issue of *Bohemia*, there are a two “Cohetes” comics about the Constitutional Assembly:<sup>88</sup>

1. Top left

- Caption (*original*): “*En la Constituyente ...Y tengo una idea formidable para poder terminar la Constitución en dos meses: reformar el calendario de manera que los meses tengan trescientos cuarenta días.*”
- Caption (*trans.*): “*In the Constituent ...And I have a formidable idea to be able to finish the Constitution in two months: to reform the calendar so that the months have three-hundred-and-forty days.*”

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<sup>85</sup> “Sesión solemne de promulgación - 5 de Julio de 1940,” *Diario de Sesiones de La Convención Constituyente*, Vol. II, no. 84, p. 9, <http://ufdc.ufl.edu/UFO0072605/00084/qj>

<sup>86</sup> Constitución de la República de Cuba, 1976, ch. VI, art. 53, <http://pdba.georgetown.edu/Constitutions/Cuba/cuba1976.html#mozTocId473927>.

<sup>87</sup> “Sesión Trigésima Octava - 16 de Mayo de 1940. Ordinaria,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 38, p. 24–25, <https://ufdc.ufl.edu/UFO0072605/00038/24x>.

<sup>88</sup> Vergara, “Cohetes,” *Bohemia*, May 19, 1940, p. 6, <https://dloc.com/UFO0029010/00348/pdf>.

## 2. Top right

- Caption (*original*): “*Nuestro Servicio Fotográfica* —Un médico en enfermedades mentales en los momentos en que le examinaban el cerebro a un constituyente. Como dicho constituyente declaró que iba a presentar 82 enmiendas a un artículo, el médico creyó prudente hacerle el examen.”
- Caption (*trans.*): “*Our Photographic Service* —A doctor of mental illnesses in the moment in which he examined the brain of a delegate. Seeing as said delegate declared that he was going to present 82 amendments to one article, the doctor thought it prudent to examine him.”
- **Note**: It is unclear to which specific delegate this comic is referring, or if this is a general commentary about all delegates.

On May 17, 1940, Ramón Grau San Martín (President of the Assembly), Joaquín Martínez Sáenz (first Vice-President), and Emilio Núñez Portuondo (Secretary) presented their “formal and irrevocable” resignations. They expressed that they would continue to serve as delegates in the best faith and with all their efforts, but they renounced their leadership roles.<sup>89</sup> This second time resigning was due to a shift in majority power. However, José Manuel Cortina gave a lengthy and patriotic speech in response to their resignations in which he refutes their reasons for resigning. On pages 12–13 of this same session, he states:

For this reason, I reaffirm—and I want it to remain clear, historically—that our purpose is not and has never been to consider the Bureau of the Constitutional Convention as a political organism, subject to the eventual changes of this Assembly.

We believe that if the Fatherland, as a sentiment of solidarity, does not reign within us in the grand moments, now and in the future, it can expect very poor results in this difficult task of ours.

That is why we, in our support of Mr. Grau San Martín, wanted to signify with it a symbolic expression that, in all instances, we were abstaining from political biases as to the direction of the serious debates that are held here. We wanted this to also mean that we wish to push the dark and turbulent swell of the political passions of the street away from the banks of this Assembly.<sup>90</sup>

On June 5, 1940, the citizen initiative provision, with the requirement of 10,000 signatures, appeared in the *Diario de Sesiones* as Article 135. It was approved by the full Constituent Assembly without debate, discussion, or amendments.<sup>91</sup>

Because Article 135 did not have any amendments, it passed on to the Comisión de Estilo unchanged on June 8, 1940. “A sugerencias de la Presidencia, la Asamblea acordó que los artículos que no tuvieran enmiendas, pasaran a la Comisión de Estilo para su definitiva

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<sup>89</sup> “Sesión cuadragésima. 17 de Mayo de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 40, p. 11, <https://ufdc.ufl.edu/UF00072605/00040/11x>.

<sup>90</sup> “Sesión cuadragésima. 17 de Mayo de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. I, no. 40, p. 13, <https://ufdc.ufl.edu/UF00072605/00040/11x>.

<sup>91</sup> “Sesión septuagésima. 5 de Junio de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. II, no. 70, p. 36, <http://ufdc.ufl.edu/UF00072605/00070/36j>.

redacción en un plazo de veinte y cuatro horas.” Translation: “At the suggestion of the Presidency, the Assembly agreed that the articles that did not have amendments would pass on to the Comisión de Estilo within a period of twenty-four hours for their final drafting.” The Comisión de Estilo was the final stage of this process, but any changes made to the articles would be simply stylistic and not substantive.<sup>92</sup>

On June 8th, the Constituent Assembly finished its work and the Constitutional Convention was called to a close. There were declarations made on this occasion by many delegates. Most notably, the President of the Assembly, Carlos Márquez Sterling, gave a brief speech to conclude the Convention, which ended exactly at midnight:

Few minutes remain to close and declare the work of the Convention of nineteen forty finished. Those brief minutes are not enough to say that this Convention closes the cycle begun in nineteen twenty-seven and hopefully this one is a sign, of days of glory, of honor, of well-being and fortune for the Cuban people.

We have created a Constitution and history will tell if it is good or bad. We have all been able to say tonight that we have fulfilled our duty. I, from the Presidency of this High Body, which came to my hands by chance, have put all my effort, all my patriotism, all my perseverance, and all my will to be able to say at twelve o'clock at night: The Constitutional Convention of nineteen forty has come to a close.

*(Ovation from the entire Assembly).*

*(It was twelve o'clock at night).*<sup>93</sup>

The June 16th issue of *Bohemia* presents a summary of the Constituent Assembly. Instead of its usual “En la Asamblea Constituyente” column, it is titled “Resumen de la Asamblea Constituyente.” It provides a brief summary of the Convention and of the context in which it unfolded. The article states that “the Supreme Law has infused a true human doctrine to individual rights” and that “it is logical that the sensibility of the 1940 conventionist has led him to want to put up barriers to those among us who take pleasure in being apprentices of dictators.” Below is a translation of the final portion of this article:<sup>94</sup>

The Constitutional Convention finished its work. It has developed a Constitution, certainly extensive and prolix. The 1940 conventionist has lacked some sense of synthesis and has sometimes let himself be dragged by the details, by a certain tendency toward regulation. But this very thing could have an explanation. The Constitutional Convention moved within an epoch. It was impregnated by numerous currents. It lacked a straight line, a genuine homogeneity and it sometimes contradicted itself...

There are successes in the new Constitution and there are errors. But to go from that to thinking that the new Fundamental Law will become an active agent of conflicts is

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<sup>92</sup> “Sesión septuagésima novena. - 8 de Junio de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. II, no. 79, p. 18, <http://ufdc.ufl.edu/UF00072605/00079/18j>.

<sup>93</sup> “Sesión septuagésima novena. - 8 de Junio de 1940,” *Diario de Sesiones de La Convención Constituyente*, vol. II, no. 79, p. 29, <http://ufdc.ufl.edu/UF00072605/00079/29j>.

<sup>94</sup> “Resumen de la Asamblea Constituyente,” *Bohemia*, June 16, 1940, p. 28–29, 49, <https://dloc.com/UF00029010/00352/pdf>.



a long stretch. The State is not dismantled when the human person surrounds himself with safeguards, because, unfortunately, the past is full of dark pages and it is logical that the sensibility of the 1940 conventionist has led him to want to put up barriers to those among us who take pleasure in being apprentices of dictators.

No human work is perfect. A Constitution, one which is drawn up during an electoral period, is always risky. It stimulates the speaker, even the silent ones, and allows certain admission to demagogy. But in many extremes, the Constitutional Convention has operated with a precise concept of consideration. The new Charter puts the Judicial Branch on its true path. The new Charter organizes the system of the municipalities to free these living cells of the nation from the contaminations and putrefactions of the narrow-minded minor politicians, and the Supreme Law has infused a true human doctrine to individual rights. It is true that the Constitution is long, prolix, discursive. But that must not be seen by anyone as a catastrophe. A Constitution, after all, is not a police novel, something to read on the train. It is a text that is read, applied and forgotten.

During the symbolic signing of the new Constitution in Guáimaro, Chibás mounted a sort of mini-protest as he signed the new Constitution, denouncing certain authority figures who, in his view, overstepped the limits of their functions. He says he had worked for fifteen years to get Cuba a new Constitution, and that he was signing this one with the utmost honor, but that he would be remiss if he did not mention that he thought certain individuals who were signing their name to this new Constitution were already violating its spirit.<sup>95</sup>

Article 135, the citizen initiative provision, appears for the last time on July 5, 1940, during the *Sesión solemne de promulgación* (the promulgation ceremony). It appeared as follows: “ARTÍCULO 135.—La iniciativa de las leyes compete...(f) A los ciudadanos. En este caso será requisito indispensable que ejerciten la iniciativa diez mil ciudadanos, por lo menos, que tengan la condición de electores.” With that, it was written into the Constitution that citizens had a right to propose initiatives, and that these citizen initiatives would require at least 10,000 signatures from eligible voters.<sup>96</sup>

A new Constitution was formulated under the rule of Fidel Castro in 1976. The citizen initiative provision was written into this new constitution word for word:

Art. 86. La iniciativa de las leyes compete... g) a los ciudadanos. En este caso será requisito indispensable que ejerciten la iniciativa diez mil ciudadanos, por lo menos, que tengan condición de electores.<sup>97</sup>

Oswaldo Payá asserted this constitutional right when he organized the Varela Project.

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<sup>95</sup> “2 Hechos Destacados de la Semana: Chibás en Guáimaro,” *Bohemia*, July 7, 1940, pp. 46–47, <https://dloc.com/UF00029010/00355/pdf>.

<sup>96</sup> “Sesión solemne de promulgación - 5 de Julio de 1940,” *Diario de Sesiones de La Convención Constituyente*, Vol. II, no. 84, p. 20, <http://ufdc.ufl.edu/UF00072605/00084/20j>.

<sup>97</sup> Constitución de la República de Cuba, 1976, ch. VIII, art. 86, <https://pdba.georgetown.edu/Constitutions/Cuba/cuba1976.html#mozTocId829889>.