

TELEGRAM

Foreign Service of the
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Amembassy Office BRASILIA

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BRASILIA 323

SUBJ: Supreme Court Justice Comments on New Constitution

REF: BRASILIA 319, Para 5

1. Following comments on draft Constitution made by Supreme Court Justice Oswaldo Trigueiro to Emboffs December 7:

2. While maintaining that indirect presidential election not evil per se, Trigueiro ridiculed administration rationale given for making presidential elections indirect while governors' remain direct -- i.e. that it necessary to avoid "emotionally-charged atmosphere." Trigueiro pointed out that gubernatorial elections in Brazil traditionally generate more disturbance of peace than presidential elections since former of more vital concern to local politicos.

Pls

3. Censured Constitution's provision giving Supreme Court original jurisdiction in cases involving deprivation of political rights. Pointed out decision would have to be political judgment for which Court unsuitable, rather than juridical decision. Said this bound to harm Court by involving it in controversial political arguments.

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4. Considered new appeals courts set up in Rio and São Paulo as unnecessary and perhaps motivated by Justice Minister Medeiros Silva's desire funnel more business to his son's Rio law firm.

5. Admitted that Medeiros Silva had difficult job in reconciling various points of view as to what new Constitution should contain, but left clear impression he disappointed with final product. Trigueiro reproached administration for keeping text of new Constitution secret for so long, declaring that it released only now, in mid-December, since country's courts would be going into recess until February, thereby depriving justices of natural forum for making known their views of new Constitution.

6. Comment: As noted reftel, Trigueiro is administration-supporting conservative, placed on court by President Castello Branco. Cannot judge yet how widespread his (or similar) negative views on new Constitution likely to be.

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