

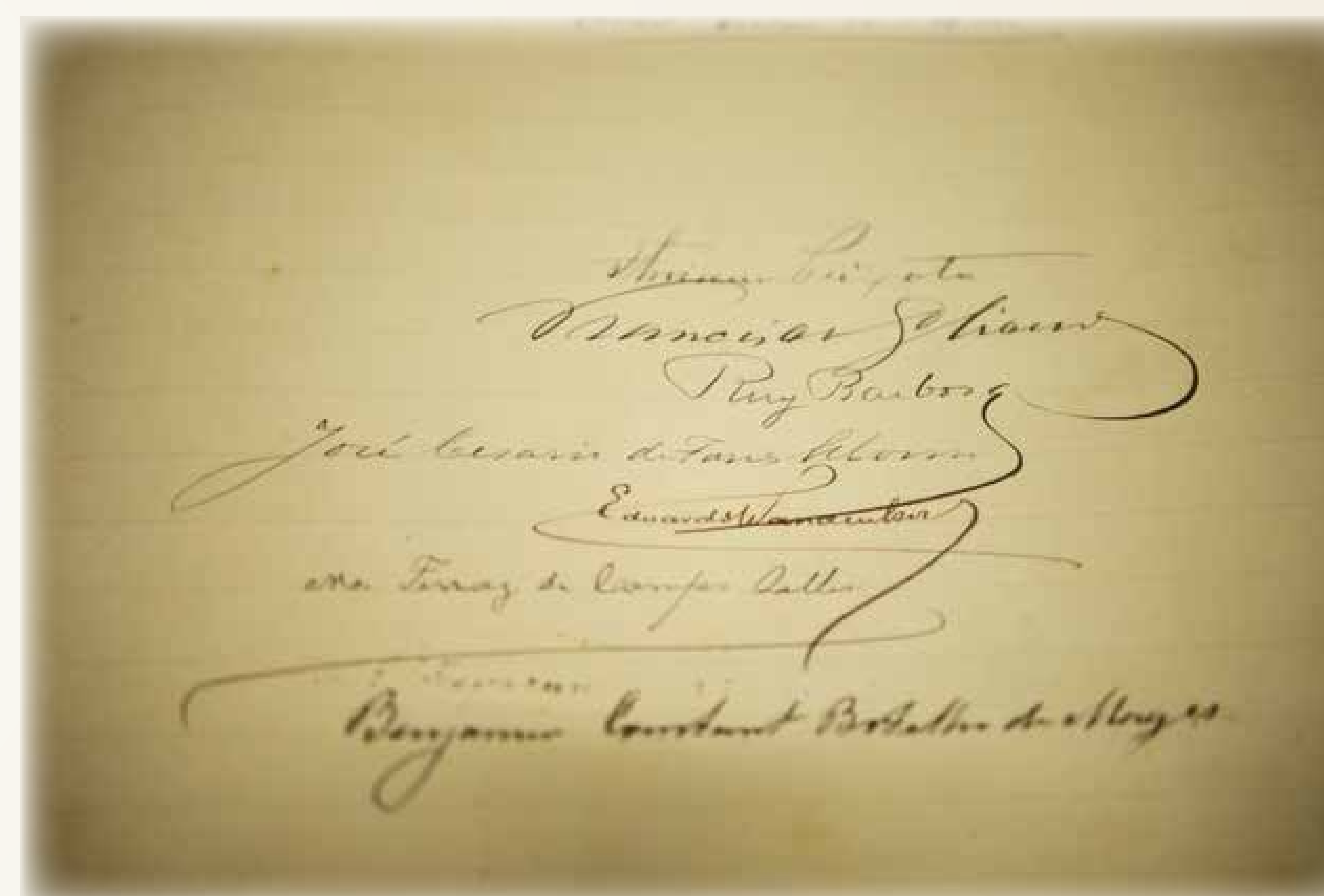
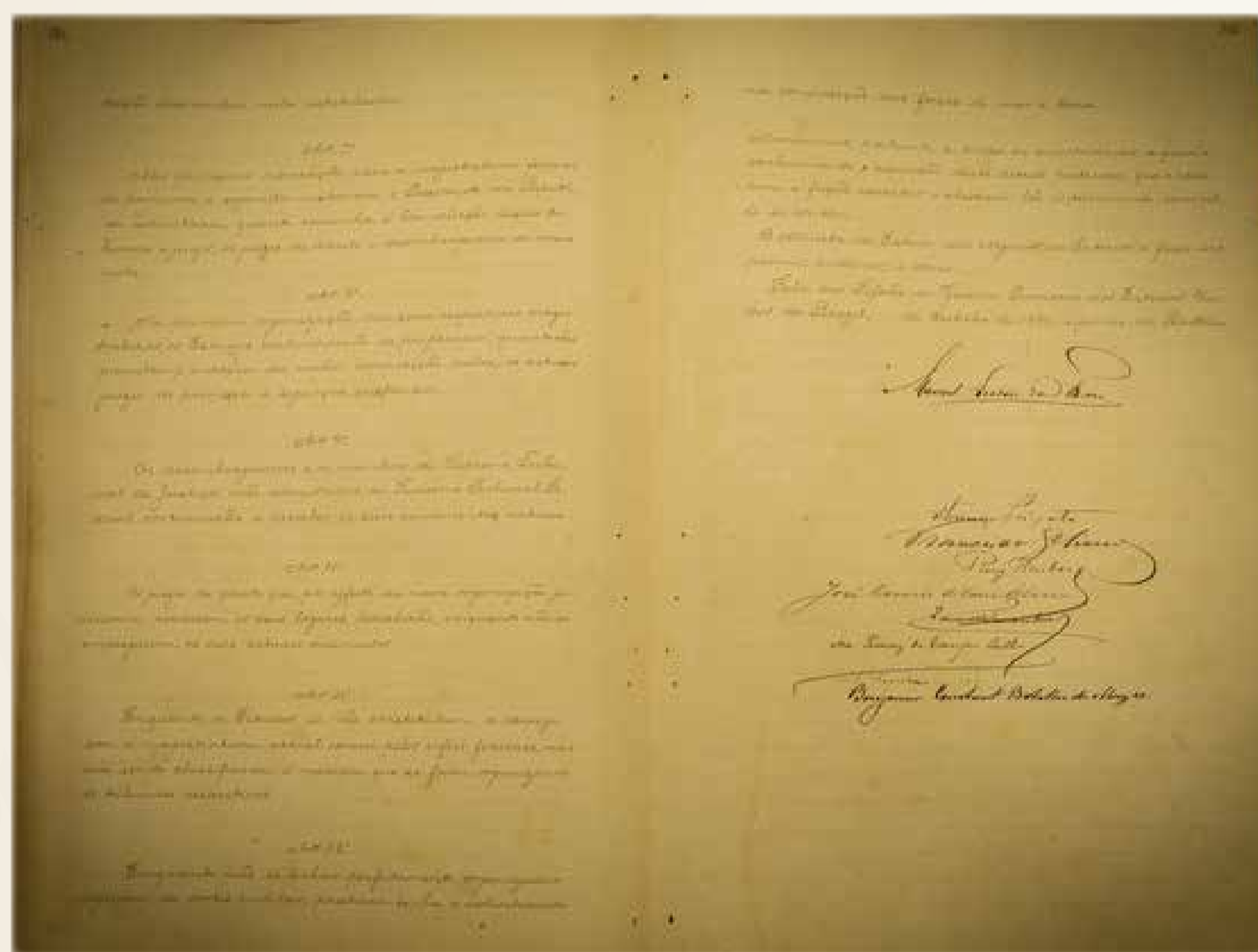
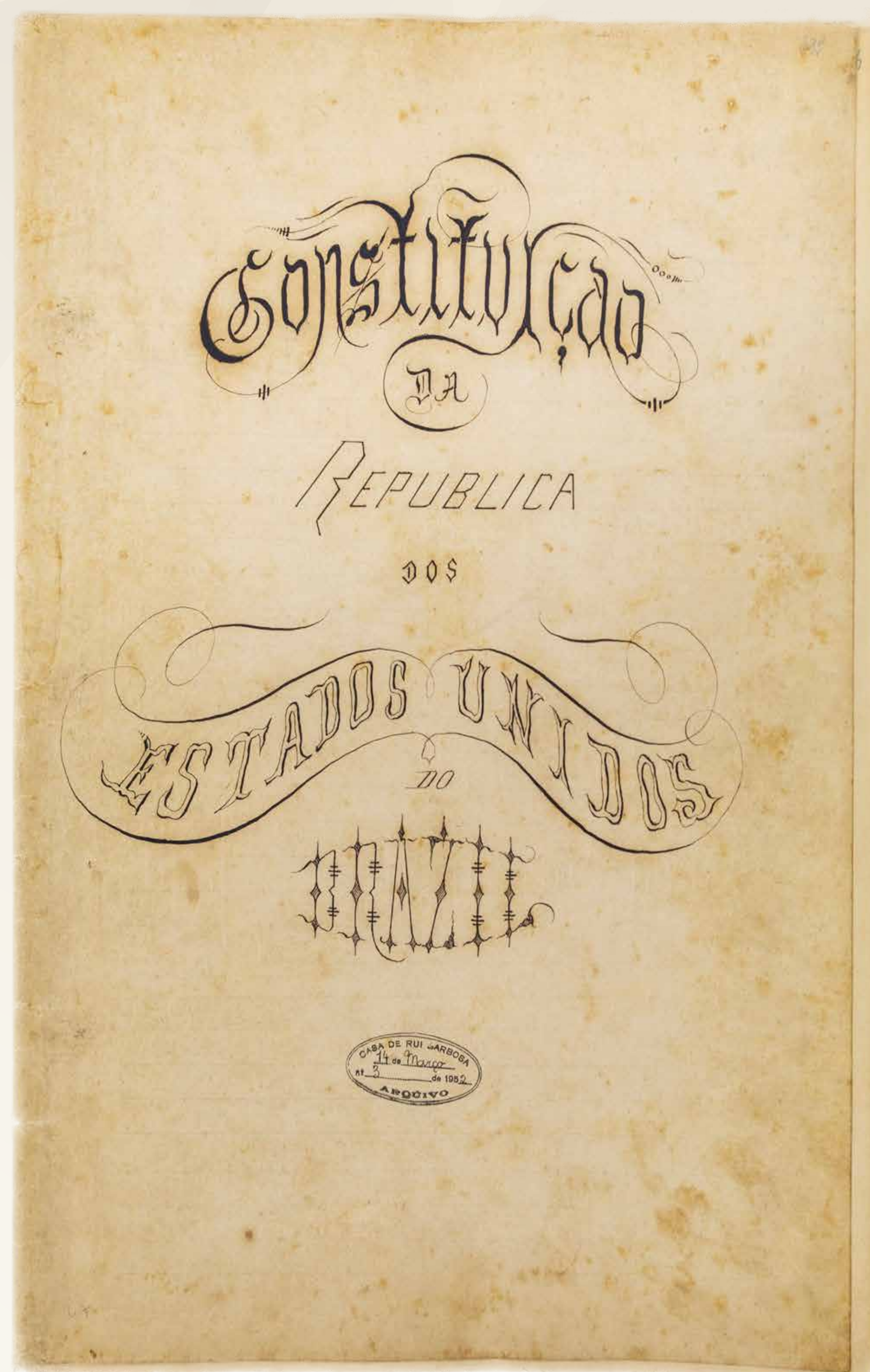
# Rui the jurist

In November 1889, he drafted the first decree of the Republic. In the same year, he was appointed by Deodoro da Fonseca, head of the Provisional Government, as Minister and Secretary of the Treasury.

"Building the State's political-legal system, exercising a beneficial influence of cordiality and tolerance towards the losers, acting in defense of the law against arbitration, ensuring the material possibility of life for the new regime, and giving it stability amid the storm by means of incomparable financial management, Rui was in fact the Builder of the Republic, of which Benjamim and Deodoro had been the Founders, and the latter, moreover, the Proclaimer. Without him, it would not have survived, as Pedro II acknowledged in exile." (MANGABEIRA, 1890, p. 13)

The draft of the first republican constitution was prepared, which would be submitted for discussion and approval by the Constituent Assembly chosen through elections, to be inaugurated on November 15, 1890. The project, however, was not approved by the Provisional Government, which instructed Rui Barbosa to review it.

"The draft constitution was, in fact, drawn up by a commission of lawyers [...] However, this project was not sent to the Constituent Assembly. The ministry itself reformulated it during discussions held at Rui Barbosa's home [...] During these talks, after hearing the several ministers, Rui Barbosa wrote [...] and gave it its final shape. So that, in fact, all the articles of the definitive project that was approved by decree and considered the official government contribution to the efforts of constitutionalizing Brazil came out of his pen," (LACOMBE, 1949, pp. 8-9)



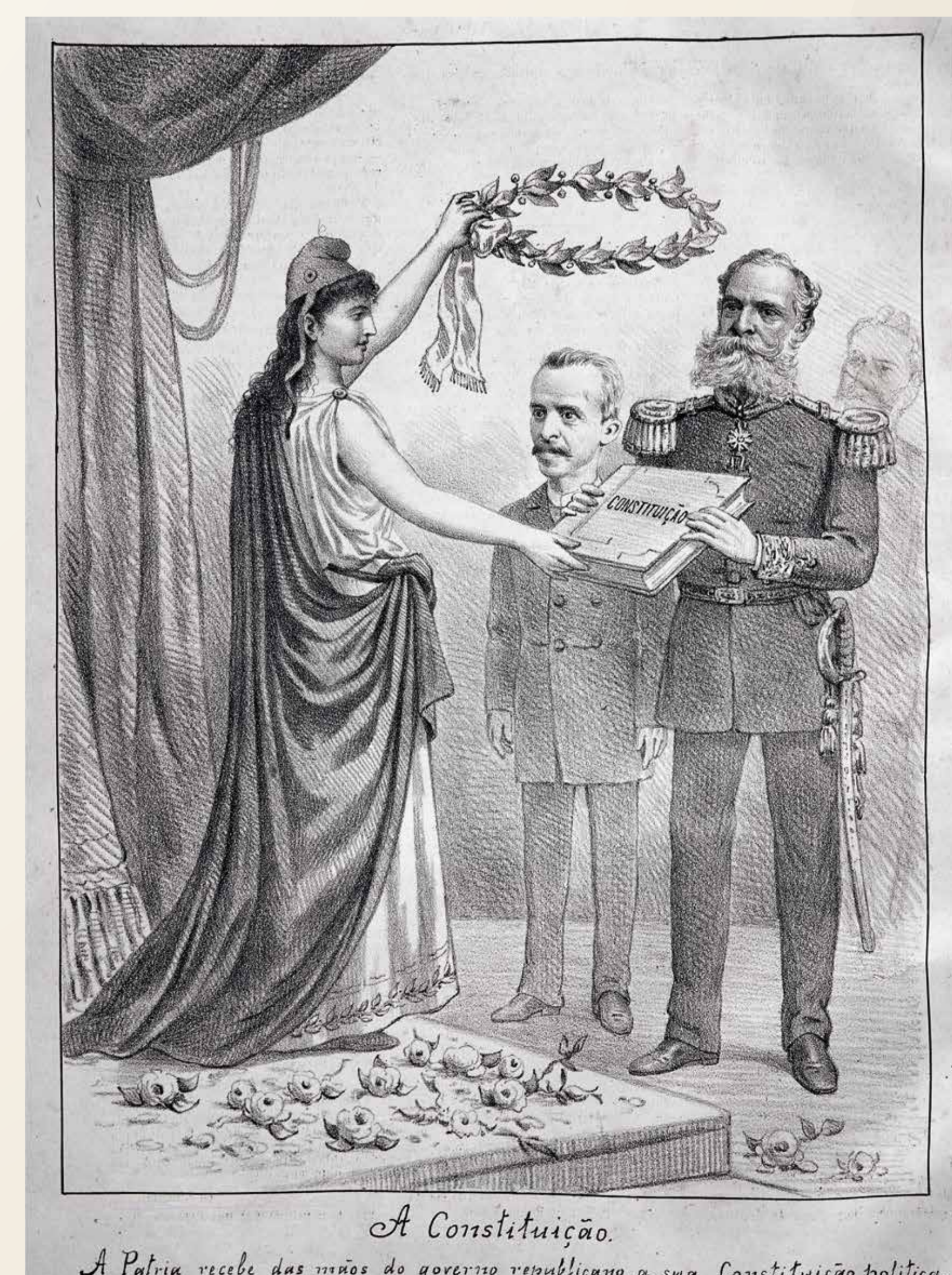
"It was during one of the first meetings; I was reading the articles, and when I got to the 15th – the powers are harmonious and independent of each other – Deodoro straightened his back, took the poncho from over his legs, extended his arm in a gesture of command, and said vehemently "I won't sign this even if the devil compels me." (CHIACCHIO, 1949, p. 20)

One of Rui Barbosa's most significant contributions to the 1891 Constitution was to impart on the newly-established Supreme Federal Court control over the constitutionality of laws and acts of the Legislative and Executive branches. And, as the constitutional project did not include the guarantee of the individual's freedom in situations of violence or coercion due to illegality or abuse of power, Rui added the right to habeas corpus. Thus, it was Rui Barbosa who made the Supreme Court the guardian of the Constitution and, in particular, of the rights and freedoms of individuals.

He acted in 1891 in favor of those persecuted by the Floriano government, who asked for new elections to be held in the country, as predicted by the Constitution of the time. Rui filed a habeas corpus with the Supreme Court, stating that everyone was affected in their rights and freedoms by arbitrary acts.

"You see, honorable judges, the aegis of individual law is broken, all rights vanish, all authorities are subverted, the legislature itself falls apart under the hands of violence; one reality alone remains: the omnipotence of the Executive, which will devour yourselves, if you divest yourselves from your undeniable power in all matters concerning the freedom of the people. Only one guarantee satisfies, only one guarantee protects, only one guarantee is not sophistry: that of habeas corpus in its august simplicity, with its unsalable faculty of access wherever violence by power takes place." (BARBOSA, Rui, 1892, p. 48)

"One cannot be concise when writing and shaking a leg. One cannot be brief, when answering fifty or so typewritten sheets of malicious underutilization smoothed by a hammer, woven by a spinneret, and embellished by whims. One cannot be quick when, with the pain of a great injustice in one's bosom and the weight of a serious responsibility over one's spirit, one has reply to a unanimous judgment drawn up in the most august of the courts, by the most respected and learned of judges." (BARBOSA, Rui, 1917, p. 384)



Rui Barbosa and Marshal Manuel Deodoro da Silva deliver the Constitution to the Republic.