

OLGA POPOVIĆ-OBRAĐOVIĆ

# THE PARLIAMETARY SYSTEM IN SERBIA 1903–1914



HELSINKI COMMITTEE FOR  
HUMAN RIGHTS IN SERBIA

## ABOUT THE BOOK

Parliamentarism never became deeply rooted in Serbia, not because there wasn't enough time for this to happen, but because of the insurmountable contradictions which were built into its historical and political foundations: inseparable from liberalism, that is, from the modern state, parliamentarism was incompatible with the idea of a national state and strong imperial nationalism. From this standpoint, the historical-legal study by Olga Popović-Obradović was a book painfully up to date with the times in which it was written and first published – the 1990s. However it is no less up to date today, when its English edition is being published.

– *LATINKA PEROVIĆ, Historian*

Professor Popović-Obradović's monograph demonstrates all the weaknesses of Serbia's democracy before the First World War. Her close reading of parliamentary principles and procedures, of the role of parties in and out of government, of the dynastic and monarchical order, of ministerial responsibility, and so on, highlights the realities of a small power with great ambitions and a lopsided understanding of its priorities. After reading this work it becomes crystal clear what obstacles stood in the path of democratic South Slav unification, and of peace and stability in this part of Europe.

– *IVO BANAC, Yale University Bradford Durfee Professor of History*

Olga Popović-Obradović offers a fundamental re-examination of the view that the period that opened with a brutal change of dynasties and ended with the outbreak of the First World War represented the 'golden period' of Serbian democracy. The author's talent, knowledge and scholarly approach make her work a monumental historical achievement. It is an essential point of reference for any study of Serbian political history, especially that of the first two decades of the twentieth century.

– *RATKO MARKOVIĆ, University of Belgrade Professor of Public Law*

OLGA POPOVIĆ-OBRADOVIĆ

**THE PARLIAMENTARY  
SYSTEM IN SERBIA  
1903–1914**

TRANSLATED BY BRANKA MAGAŠ

Olga Popović-Obradović

**THE PARLIAMENTARY SYSTEM IN SERBIA 1903–1914**

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## LATINKA PEROVIĆ

### PREFACE TO THE SECOND EDITION IN SERBIAN

This second edition of *The Parliamentary System in Serbia 1903–1914*, is not a simple tribute to its author, Olga Popović Obradović (1954–2007), professor at the University of Belgrade Faculty of Law, who left this world too early. The reasons for the second edition are somewhat different, and they were already present during the author's life.

Olga Popović Obradović showed an interest in the first period of parliamentarism in Serbia very early in her career, while working on her *master* studies; it was an interest she pursued throughout her scientific career. Her entire research was focused on the core of *parliamentarism*, with the goal of reaching a profound and thorough explanation of this core. As a result, the scientific work of Olga Popović Obradović may be considered a comprehensive whole.

The first longer scientific paper written by Olga Popović Obradović was her master thesis *Stojan Protić and the Constitutional Solution of the National Question in the Kingdom of SHS (Yugoslavia)*, which was already on the trail of this interest. Protić, the key theoretician of Serbian parliamentarism, was analysed, in the light of the challenges that the new state framework presented to him. This moving of the boundary of the research forward in time was, however, only the preparation, if not a warning, that we should return to the beginnings of the parliamentary system in Serbia, to the period in which political priorities were established, along with the concepts of state and democracy, concepts that had a decisive influence on the fate of the new state framework. Olga Popović Obradović dedicated an entire decade of her research (1985–1995) to this period.

Based on the most comprehensive approach up to that time, using the *Stenographic Record of Proceedings of the National Assembly* (covering 80 months of the work of the Assembly and stretching over about 25 thousand pages) as the key source of information, this research carried out by Olga Popović Obradović resulted in her doctoral thesis, which she defended *summa cum laude* at the University of Belgrade Faculty of Law in 1996. A somewhat revised doctoral thesis was published in 1998, under the title *The Parliamentary System in Serbia 1903–1914*, by the *Official Gazette of the Socialist Republic of Yugoslavia*, a publicly owned company.

With her research, Olga Popović Obradović confirmed a well-known truth: important works of art and science can be born even in the hardest of times, which the 1990s in Serbia certainly were. However, while the creator has the luxury of withdrawing into his or her work and resisting the temptations of the times, the fate of his or her work, once separated from the creator, depends on those times.

With a print run of 500, the work of Olga Popović Obradović did not even reach every important library in Belgrade. Although it appeared at the crossroads between one-party and multiparty systems, at the time when formal parliamentary democracy was being established, her book remained unnoticed by the broader public. Even amongst the scientific public, there was little resonance. Not until later, did it become unavoidable for two historians: Andrei Šemjakin in his doctoral thesis *Ideology of Nikola Pašić (1868–1891)*, which was published in Russian, and Dubravka Stojanović, also in her doctoral thesis, which was published under the name *Serbia and Democracy* (2004). What caused the marginalization of a book that was fundamental in the original meaning of the word? Was it the times in which it appeared or the *a priori* standpoint on the origins of parliamentarism established in national historiography, a standpoint that this book questioned, or maybe, the causal relationship between the two? After the new edition of the book *The Parliamentary System in Serbia 1903–1914*, we may be a step closer to answering these questions.

In any case, the scientific results offered in this book are of the sort that objectively changes the state of affairs in science. Such a cornerstone position in Serbian historiography belongs to Olga Popović Obradović for three reasons. First of all, this is the first individual and comprehensive study of the first period of parliamentarism in Serbia, within the scope of its duration of eleven years. Furthermore, for the first time, the research was conducted on two levels: at the level of the norm (theoretical model) and at the level of practice (historical, political and legal premises). From the standpoint of realistic history, this method was also proven to be the most successful in the study of all other institutions established in Serbia and modelled on Western European institutions. The essence is that the norm arrives on an unprepared foundation: it influences the form, but at the same time masks the practice. The implementation of this method enabled a precise deduction of both the limitations and the accomplishments of parliamentarism in Serbia at the beginning of the twentieth century.

Older historians who were contemporaries of the May 29, 1903 overthrow of the dynasty and the resulting establishment of the parliamentary system (Jaša Prodanović, Stojan Novaković, Živan Živanović and Milan Vladislavljević), did not write about these events. They were not sufficiently distanced from them to be able to fully understand their meaning and grasp their consequences. Slobodan Jovanović, who was the greatest expert among them on the issues of constitutionality in Serbia, and outlived not only the Kingdom of Serbia, but also the Kingdom of Yugoslavia, never returned to these events as a historian. Apparently, the reason was not only the lack of historical distance, but also the fact that in that short period of parliamentarism, the national idea was prevalent. Putting the focus on national liberation and unification as the main goal also relativized both the way in which parliamentarism was established and the way in which it was practiced.

Later historians (Milivoje Pavlović, Milorad Ekmečić, Dragoljub Živojinović, Milan St. Protić and Alex Dragnich) shared the views of the real victors of the May coup, the radicals and the newly-established

Karadorđević dynasty, even more strongly than their predecessors. In the few cases in which they tackled the topic of the first period of parliamentarism in Serbia in their research, they remained on its normative level, which enabled them to perceive this period as the “golden age” of democracy in Serbia.

The end of the Yugoslav state and the end of the Communist movement added new strength to the interpretation of the beginnings of parliamentarism in Serbia. The “golden age” became an important instrument of Serbian nationalism at the end of the twentieth century, which it used to delegitimize both the state and the system. The creation of the Yugoslav state in 1918, followed by its restoration in 1945 as a party state, under the dictatorship of the Communist Party, were interpreted as violent severance from the “golden age”. This interpretation served as the basis for the perception of the twentieth century as a historically wasted period. Olga Popović Obradović was the first to detect the controversial character of parliamentarism in Serbia between 1903 and 1914 in her research, both on the level of norm and on the level of practice.

Normatively, the Constitution of 1888, from which the Constitution of 1903 took the majority of provisions, already followed the liberal constitutional model. The English constitutional model dating from the late 17<sup>th</sup> and the early 18<sup>th</sup> century, was transferred into French constitutional practice in 1830, and then into Belgian constitutional practice in 1831, after losing legitimacy in its country of origin. For the majority of constitution writers in nineteenth century Europe, the Belgian constitution served as the model. The same was true for the Balkans. Before it was practically taken over in Serbia by the Constitution of 1888, the same happened in Greece, Romania and Bulgaria.

In reality, and inseparably from liberalism, parliamentarism – “defined as a collection of unwritten rules of the political game derived from the protracted evolution of the English middle class, the central thread and very essence of which derived from the ideology of liberalism” (O. Popović Obradović) – lacked almost any prerequisites in Serbia. A poor farming

country, with a high rate of illiteracy, Serbia had no other tradition than the nationalist one. Not only was there no liberal tradition, but a strong anti-liberal ideology was shaped in the 1860s. For Svetozar Marković, who was the founder of this ideology, liberalism was a Utopian concept.

The first liberal ideas were brought to Serbia by its young people who studied in the West between the 1830s and the 1850s. They were manifested in their demands made in 1858, to strengthen the role of the national assembly. The Constitution of 1858, which resulted from an agreement between the liberals and the regency following the assassination of Prince Mihailo, led to the crystallization of an anti-liberal ideology. Going under the name of socialist, that is, radical, this ideology was closest to Russian populism, which represented a mixture of revised Western European socialist teachings and Slavophilia. Anti-liberal and anti-western in its core, this ideology was formulated within a circle of Serbs who either studied in Russia during the 1860s or maintained very close relations with the numerous Russian revolutionary emigration in western European countries, Switzerland in particular. Each of the ideas that belonged to Russian popular socialism – people's state, people's party, social and national revolution – had its replica within the circle of young Serbs. From this circle emerged not only the founder of the idea of socialism in Serbia, Svetozar Marković, but also the leading political people in Serbia in the long period from the moment Serbia gained its independence until it ceased to exist as an independent state. First and foremost was Nikola Pašić, who was the leader of the People's Radical Party, the first and strongest political party in Serbia for 45 years, a member of parliament for 48 years, and prime minister of the government of the Kingdom of Serbia and the Kingdom of Yugoslavia 25 times.

The decade between the enactment of the Constitution of 1868, the first national constitution, and the gaining of state independence in 1878, passed in ideological profiling of the two orientations: liberal and socialist, that is, radical. After the Berlin Congress, their representatives offered two different answers to the question of the direction the young independent

state should take. These two answers marked the future development of the Serbian state and society, and determined the contents of parliamentarism in Serbia at the beginning of the twentieth century.

Liberals and progressives believed that Serbia, after gaining its independence, should develop on the model of small European states, as a modern state based on the rule of law. During their first rule (1880–1882), progressives started rapid reforms (politics, economy, military, judiciary and education), with the goal of encompassing all these reforms with a new constitution which would introduce the parliamentary system of rule.

However, socialists, radicals, who were also called communists and republicans in the reports filed by western European diplomats from Serbia and in the western European press, believed that the Berlin Congress of 1878 had struck a deadly blow to the idea of national liberation and unification, that is, to the idea of the pan-Serbian state. The leaning towards a greater state was characteristic of all “new” Balkan states. As has already been remarked, “the ‘national ideal’ nourished for decades, was alienating southern Balkan nations from their *true national tasks* – economic, social and cultural modernization of their states” (R. P. Grišina – 2007). Socialists, that is, radicals, perceived the focus on the establishment of the Serbian state after 1878 as a modern state, and the fact that Prince Milan and the progressive government turned for support to Austria–Hungary as a paradigm of the West, as a betrayal of that national ideal. With the experience in the struggle against liberals, which lasted an entire decade, from the Constitution of 1868 until independence in 1878, they were the first in Serbia to become organized as a political party. Strong, and, at the same time, massive in numbers, the People’s Radical Party actually provoked the establishment of the other two parties – the Progressive and the Liberal Party. However, unlike them, the People’s Radical Party practiced both legal and conspiratorial methods of struggle. Opposing, through its MPs in the National Assembly, all reforms attempted by the Progressive Party, the People’s Radical Party articulated a perception of the state as a popular or peasant state. Every attempt to institutionalize the state through



division of power, and especially a socially complex and politically plural society, would jeopardize the popular, that is, Serbian state.

The highest body of the People's Radical Party prepared the draft constitution in secrecy. Through unity of powers, this draft ensured absolute power for the Grand National Assembly. Conspiratorial methods of work were also used in preparing people for resistance, which culminated in the issue of the law on the standing army, and led to the Timok rebellion in 1883. Along with the other reforms, constitutional reform was also blocked. However, at the same time the People's Radical Party was suspended. Only Pašić, as the only main party board member who managed to avoid arrest and trial by a kangaroo court, continued to operate in this limited manoeuvring space. During his six-year exile in Bulgaria and Romania, Nikola Pašić continued to work on bringing down King Milan, as the proponent of western orientation and *eo ipso* enemy of Slavic civilization, of which he believed Russia to be the cornerstone. At the same time, Nikola Pašić definitely articulated his ideology through correspondence with Metropolitan Mihailo, a great Slavophile, who was in exile in Russia, through Slavophilic literature, in which *Russia and Europe*, written by N. J. Danilevski, held an important place, and which he started to translate into Serbian, and finally, through contacts with Slavophile circles in Russia. Radicalism, which was considered a religion even before the Timok rebellion, became a consistent ideological unity: the *people's state*, created by the people – “the jerkin and the sandal”, the *people's self-government*, the *people's party* as the representative of the entirety of the nation, *Russia* as the foreign policy pillar.

The leading representatives of the People's Radical Party, who were sentenced to prison by the kangaroo court after the Timok Rebellion, accepted a compromise with King Milan in order to renew the work of the party. However, despite the fact that they participated in the coalition government with the liberals and later formed a government themselves, they never ceased to work at toppling King Milan. The only reason they did not engage in concrete actions was Russia's reserved stand. Aware of the danger,

King Milan initiated the adoption of a new constitution, in order to save the dynasty. The conditions he set were equal participation of representatives of all three parties in the constitutional committee and the adoption of the constitution in the National Assembly “from cover to cover”. Soon after the Constitution of 1888 was adopted, King Milan abdicated, and Nikola Pašić returned triumphantly to Serbia from exile.

The most prominent people of the People’s Radical Party, first and foremost their leader, believed – having in mind their constitutional draft of 1883 – that the Constitution of 1888 did not meet all of their demands. However, they behaved as though they were the sole creators of this legislative act, marking its adoption as the start of the “new age”. After returning from exile, Nikola Pašić focused on ideological and organizational strengthening of the People’s Radical Party and on reinforcement of his leading position in the party. According to its own understanding, the People’s Radical Party was the sole representative of the socially and nationally homogenous Serbian people. This by itself determined the attitude of the party towards other political parties. Both the Liberal and the Progressive Party were labelled as enemies of the people, and their potential return to power was perceived as a threat to the constitutional accomplishments. Even violence was permitted in the attempt to eliminate them. Terror was in place both before and after the adoption of the Constitution of 1888, and the radical press was the first to call it “great national relief”. Thus practice turned norm into dead letter on paper: the liberal Constitution of 1888 was “doomed to fail” (A. Šemjakin, 1998).

In the elections for the extraordinary national assembly in 1889, the People’s Radical Party won 102 out of 117 mandates, and Nikola Pašić was elected president of the assembly. The new radical government was the product of a national assembly, which was, in effect, one-party. The government was run by the parliamentary club, which was in reality an instrument in the hands of the main board of the People’s Radical Party. The state took on a party character and, as was proved in the years to come, the People’s Radical Party became irremovable. The Constitution of

1888 was emptied of its content even before it was repealed, five years after being adopted.

The last decade of the nineteenth century was marked by permanent constitutional crisis: in 1892, by the power of the crown, the liberals were brought to power; in 1893, King Aleksandar proclaimed himself of age; in 1894, King Milan return to Serbia to continue the struggle against Nikola Pašić, whom he believed to be the main enemy of the dynasty; in 1896, to appease “party passions”, a neutral government was formed; in 1899 an assassination attempt on King Milan took place, and was used as an excuse to put the leader of the People’s Radical Party on trial. Before the court, Nikola Pašić named each particular anti-dynasty individual in his own party.

It seemed that the decade long constitutional crisis had finally ended at the very beginning of the twentieth century. The sudden death of King Milan in 1901, which happened abroad, left King Aleksandar with free hands to look for a solution. An agreement between the progressives and the radicals, as well as pressure from Russia, brought about the decreed constitution of 1901, which was in line with the progressives’ constitutional draft of 1882.

The compromise Nikola Pašić reached with the progressives deepened the rift within the People’s Radical Party, which had originated from his behaviour before the court in 1899. Old radicals were in favour of a compromise with the progressives. As for the young radicals, they were initially an opposition within the party, but later, in 1904, they organized themselves as the Independent Radical Party. This was the beginning of the two-party system in Serbia, but not the end of the monistic political culture, which was profiled by the all-pervading national ideal. In a socially homogenous society, with a fixed national goal: “to avenge Kosovo” and to finalize national liberation and unification, any party, and particularly political pluralism, represented de-concentration, that is, betrayal of “the Serbian votive idea”.

Acceptance of the decreed constitution of 1901 brought about a division within the People’s Radical Party. Since unity was the *alpha* and *omega*

of the national, that is, party state, this core of radicalism, Nikola Pašić was forced to publicly account for his political activity in the period between 1878 and the beginning of the 20<sup>th</sup> century. He did this in one of his most important works (*My Political Confession*, 1902).

Nikola Pašić perceived the constitution as a means in the struggle to achieve a higher goal, the liberation and unification of the Serbian people already mentioned. From that point of view, a less progressive constitution was also acceptable to him, provided that it left “the people in peace to rest, gather new strength, repair and make up for what was lost in the previous battles, and pay more attention to the preparation of Serbia for outside events”. In other words, “the freedom of the entire Serbian nation” was, and remained “a larger and stronger ideal than civil liberties in the Kingdom of Serbia”. In order to be able to focus on achieving the national goal, Serbia was not allowed to dissolve its homogenous substance by internal social and political differentiation. This standpoint was raised to the level of dogma: historical circumstances had no influence on it. As Nikola Pašić said, speaking before the national assembly on March 24, 1908: “the entire history of the Radical Party proves that we are a purely national party... keeping to our tradition, it will remain this way forever” (Nikola Pašić in the National Assembly, 3).

According to its own understanding, the People’s Radical Party was the sole party expressing the interest of the nation as a whole. But in reality as well: with party membership cards, the People’s Radical Party linked together the peasants, who made up nine tenths of the population. Preserving this unity through the party state was a precondition for it to remain in power in the long term. By raising the principle of majority to the level of the absolute, and by means of an isolated system, the People’s Radical Party became the undisputable political ruler. Built on these historical foundations, parliamentarism in Serbia between 1903 and 1914 was, to say the least, a deeply contradictory phenomenon. Its political foundations made it even more so.

The history of the struggle with the Obrenović dynasty, as the main proponents of Western orientation, along with several assassination attempts on King Milan, reached its finale on the night between May 28 and 29, 1903: officers – conspirators - killed the last Obrenović, King Aleksandar, together with Queen Draga. Immediately after the execution, before the national assembly had even gathered, the army proclaimed, or more precisely called out Petar Karađorđević as the new king. However, with its decision on the constitution before electing the new king, the national assembly confirmed that the new regime would indeed be founded on the will of the national assembly.

However, what were the real – short-term and long-term – effects of the overthrow of the dynasty? Until Olga Popović Obradović published her study, these questions remained in the shadow of norm, that is, the Constitution of 1903, which was established in compliance with the form of parliamentary rule.

The overthrow of the dynasty divided the weak Serbian society, but this division was more silent than loud. It worsened the already unfavourable international position of the country. Serbia's reputation suffered irreparable damage: all Europe perceived it as a contagious country (Ja. Višnjikov 2003). Because of the assassination of the royal couple, England severed all diplomatic relations with Serbia, and made their renewal conditional on removal of all conspirators from the army and their punishment. The doors of all European royal courts remained closed to the new king. However, without any doubt, of utmost importance was the fact that the overthrow brought the army into politics through the front door. Immediately after the execution of the last Obrenović, the conspirators were the key political factor, and clearly intended to remain so.

By participating in the composition of the government, the conspirators marginalized the legal bodies of power, and thus challenged constitutionality as a system of limited, public and controlled rule. However the royal court and the government raised their protection to the level of state policy, since the conspirators were practically their guarantee. Three years after the

overthrow, on July 22 1906, addressing the national assembly, Nikola Pašić said the following: “the act committed on May 29 is not a crime, because, if it were a crime, then all battles for freedom in the world would be crimes... This act is considered an act of patriotism...”. And “the danger... from the army”, something the minority opposition MPs warned of, was assessed by Pašić “as totally exaggerated” (Nikola Pašić in the National Assembly, 3).

The movement against the conspirators did not stand a chance. Its leaders were arrested, and later killed in prison, even in the presence of the minister of police. In the parliament, however, there was no strength to investigate this case and reveal the truth. Under strong foreign pressure, the conspirators were removed from the army in 1906. However, in 1911, they founded a secret organization *Unity or Death*, better known as the “Black Hand”. Through the paper *Pijemont*, this organization published its program, with the core idea that: “statehood national egoism comes before and above everything else”.

The strong rise of nationalism, which came especially after the Customs War between Austria-Hungary and Serbia (1906) and the annexation of Bosnia and Herzegovina (1908), contributed to the militarization of the entire society. The short period of parliamentarism in Serbia was marked by wars and preparations for war. The conviction that Serbia was preparing to achieve “the biggest territorial transformation in the Balkans” was not shared only by the military, but also by the representatives of the small intellectual elite. The scientist Jovan Cvijić wrote: “we must be a country ready for war”; Serbia must have “a significant and prepared” army. And, addressing the national assembly on March 31, 1911, Nikola Pašić said that he was willing to push the country to its financial limits in order to prepare the army, that is, to arm it. He added: “We are willing to sacrifice the possible needs, which we have and which the people have, in order to prepare Serbia for the events which are coming. And thus we have acted in the best of faith, acquiring as many arms as we have been told by people qualified to give their opinion on how many arms are needed” (Nikola Pašić in the National Assembly, 3)

Preparing generations “to avenge Kosovo” and to achieve the “Serbian votive idea”, subordinating all needs and interests to these goals, sacrificing people and rejecting any other possibility as treason, objectively strengthened the role of the military. It did not usurp the role of other factors: the king, political parties, intellectuals and the people, but nationalism, as a common value for all, reached its distilled form in the army. Radicals confronted the army circles over primacy in the government, whereas the opposition was willing to cooperate with them for the sake of gaining power.

The parliamentary form was breaking down under the strong charge of nationalism, despite the beginnings of political pluralism and the rising level of knowledge about the institutions of modern democracy, in which the respectable intellectual elite played an immense role. The short period of parliamentarism in Serbia was marked by preparations for war and the wars of 1912 and 1913. In these conditions, the norm was relativized. Addressing the national assembly on August 8, 1913, Nikola Pašić said: “The government wants to work in the spirit of the constitution and according to the constitution but, during war, the government was so occupied, that it could not hold sessions and carry out those duties which the war brought about” (Nikola Pašić in the National Assembly, 3). The same logic was in place after the wars, when borders were to be determined “on the basis of the true sacrifices endured”, and “the cultivation of provinces won” was to begin.

Parliamentarism never became deeply rooted in Serbia, not because there wasn't enough time for this to happen, but because of the insurmountable contradictions which were built into its historical and political foundations: inseparable from liberalism, that is, from the modern state, parliamentarism was incompatible with the idea of a national state and strong imperial nationalism. From this standpoint, the historical-legal study by Olga Popović Obradović was a book painfully up to date with the times in which it was written and first published –the 1990s. However it is no less up to date today, when its second edition is being published.





# INTRODUCTION<sup>1</sup>

In a coup on 29 May 1903,<sup>2</sup> King Alexander, last of the Obrenović dynasty, was murdered in a conspiratorial action undertaken by sections of the Serbian army. A few days later, a somewhat modified version of Serbia's 1888 constitution was resuscitated by decision of the national assembly as the constitution of 1903, and Peter I Karađorđević was elected as the new king. The May Coup ended an era of strong monarchical rule, and brought a great, historic victory to the strongest party in Serbia, the Radical Party. There followed a long period of Radical rule, lasting up to the outbreak of the First World War, during which Serbia acquired its first serious parliamentary experience. The end of the war put an end also to the Kingdom of Serbia's existence as an independent state, so that the period 1903–14 remains the only one in Serbian history during which the institutions of modern constitutionalism functioned continuously for any length of time.

What sort of political regime did Serbia have under Peter I Karađorđević?<sup>3</sup> This is one of those questions from our political history to which the vast majority has a ready answer. Whether it comes from academic or from non-academic circles, there is a conventional answer that, albeit occasionally inflected by a vague sense of doubt, conforms to the image of the period created by the victorious Radicals. This is that the period 1903–14 *represented* an era of fully functioning democracy and

1 The research for this work was aided by the Open Society Institute (OSI), through project CEU/RSS no. 288/94.

2 All dates referring to the subject of this research, other than those indicated on foreign documents, are given in accordance with the Julian calendar used in Serbia up until its entry into Yugoslavia, i.e. until 1 January 1919. The difference between the Julian and the Gregorian calendars was twelve days in the nineteenth and thirteen days in the twentieth century.

3 In June 1914 King Peter transferred his executive powers to Crown Prince Alexander.

parliamentarism; a period when Serbian political life proceeded in accordance with the standards set by modern, democratic European states. The Serbian political regime at the time – those with better historical schooling would add – rested on one of contemporary Europe's most liberal constitutions, which, adopted as early as 1888 and revived in 1903, was the work of the Radical Party and the expression of its ideology.

This image of the political regime of 1903–14 is sustained also by Serbian historiography. 'True constitutionalism', 'modern parliamentary state' (Milivoje Popović);<sup>4</sup> 'European liberal-bourgeois state' (Vasa Čubrilović);<sup>5</sup> 'cult of the parliamentary state' (Milorad Ekmečić);<sup>6</sup> 'constitutionalism and democracy', 'liberal monarchy' (Dragoljub Živojinović);<sup>7</sup> 'the most glorious days in the history of modern Serbia' (Milan St. Protić)<sup>8</sup> – such are the standard judgements on this period to be found in our domestic historiography. 'Political democracy was in rude health before the First World War', insists Alex Dragnić, who claims that in regard to 'constitutional liberalism and the supremacy of parliament' Serbia in 1913–14 was in the vanguard of other European states, excluding only countries like Great Britain.<sup>9</sup> Such authors regularly give the credit for establishing the liberal-democratic regime under the 1903 constitution to the Radical Party and King Peter I's dedication to liberal principles, while some of them also credit the Serbian army (Milivoje Popović, Vasa Čubrilović).

At the same time, our domestic historiography also registers as incontestable certain social and political characteristics of contemporary Serbia standing in theoretical disharmony with the concept of parliamentary

4 Milivoje Popović, *Borbe za parlamentarni režim u Srbiji*, Belgrade 1939, p. 89.

5 Vasa Čubrilović, *Istorija političke misli u Srbiji XIX. veka*, Belgrade 1982, pp 282–3.

6 Milorad Ekmečić, *Ratni ciljevi Srbije 1914*, Belgrade 1973, p. 28.

7 Dragoljub Živojinović, *Kralj Petar I Karađorđević*, 2 vols, Belgrade 1988–90; vol.2., p.115.

8 Milan St. Protić, *Radikali u Srbiji, Ideje i pokret 1881–1903*, Belgrade 1990, p.17.

9 Alex Dragnić, *The Development of Parliamentary Government in Serbia*, East European Monographs, no. XLIV, New York 1978, p.106.

democracy and of the liberal state in general. These include above all the great poverty and lack of education, society's agrarian character, and the absence of a middle class, on the one hand; on the other, the political role of the army. The above-mentioned views on the liberal-democratic character of the regime under the 1903 constitution are nevertheless not modified in the light of these facts, so that Serbia appears as an unusual case of a country in which the institutions of the modern European state thrived despite the absence of the preconditions whose existence political and constitutional theory holds to be indispensable to them.

In short, the dominant contemporary historical thought treats the political regime of 1903–14 as a 'golden age' of Serbian democracy. Backed by the historiography, this image has remained largely unchallenged and, as such, lends important support to belief in the authentically democratic nature of the Serbian state idea and its liberal European orientation.

To what extent is this image scientifically founded, if at all? What is the nature and scope of historical research into this period, in the sphere of constitutionalism and the practical existence of political institutions?

The most serious synthetic history of Serbian constitutionalism was written by Slobodan Jovanović. The subject of analysis of his multi-volume opus is limited, however, to the period that in fact ends with the murder of the last Obrenović: i.e. with the accession of Peter I Karađorđević to the throne. Like Jovanović, other older historians of Serbian constitutionalism like Jaša Prodanović, Stojan Novaković, Živan Živanović and Milan Vladisavljević, as is true for Serbian political history in general, end their studies with the rule of Alexander Obrenović. Jovanović himself, prompted by events, continued to the end of his life sporadically to provide thoughtful and very interesting comments on this period; but for the most part these deal with specific segments, and in addition have the character of concisely formulated impressions of a contemporary, rather than of judgments based on a systematic analysis and original documents. His assessments can nevertheless be treated as relevant data in their own right, since they are not constrained by the above-mentioned schema, owing

largely to the manner in which Jovanović generally viewed Serbia's modern political and legal institutions. As a true expert not only in the legal but also the socio-political substance of these institutions, Jovanović in his large opus examines, explains and evaluates them as a historian, always from the aspect of their practical functioning. This is what makes his contribution to Serbian historiography exceptional to this day. He brought the same quality of thought to the judgements he expressed on issues of the parliamentary regime of 1903–14, which did not figure in his historiographical works, as to the period of his own research.

More recent works of history, those written during the last few decades, do not pass this period by. Carried away, however, by the importance that Serbia's foreign policy had in 1903–1914 for its national, for Balkan and even for European history (the question of the annexation of Bosnia-Herzegovina in 1908, the Balkan Wars, the First World War and Serbia's role in its outbreak, as well as Serbia's efforts to assume the role of a Piedmont in South Slav unification), they concentrate largely on issues that are related in one way or another to the process of national and state emancipation and unification. There exist also, in addition, significant scholarly works on Serbian economic history, while during the last decade there have been efforts to view Serbian society in that period from the standpoint of the modernisation process in a wider rather than a purely economic sense. Nevertheless, real work remains to be done in this regard. Finally, there are valuable scholarly findings on the political role of the army, but they are few in number and deal not with the problem as a whole, but only with specific, limited segments of Serbian political life at the time.

As for the political regime of 1903–14 itself, this has been so much neglected by scholars that one may justly say that it does not exist as a subject of historical appraisal. Overwhelmingly traditionalist in terms of both issues considered and approach, Serbian historiography has as a rule shown very little interest in the development of the country's modern political and state institutions. It deals with them only rarely, and when it does pay attention to them, it concentrates by and large on recording

their emergence and (or) their form and structure at the normative level, without examining the way in which the institutions worked in practice. What is most important here, however, is that the recent works, like those of older date, always halt at 1903. Judgements are passed on the regime established after the dynastic change, but the regime itself is not explored. None of its basic institutions – parliament, the government, the crown and their inter-relationship; political parties, elections and the electoral system, the party system – are treated by historians as being worthy of research. The same is true also for the whole complex of issues forming the extra-institutional aspect of the parliamentary regime: such as democracy, i.e. the prevailing concept of democracy; political freedoms as practised; the press and public opinion; political culture; and the dominant social ideology in general. Nor have key questions of the regime's own normative basis been clarified. In short, the institutions of Serbian constitutionalism after 1903 taken as a whole – at both normative and practical levels – have remained bereft of researchers and analysts.<sup>10</sup>

This stubborn avoidance of the problem of constitutionality in Serbia, during the period which from the standpoint of the functioning of institutions is most interesting and in a scientific sense certainly most relevant, speaks volumes about how deeply rooted are traditionalist views in Serbian history; and about an inertia that, by shackling the development of critical thought, surrenders the interpretation of important phenomena in our past – even those of very recent date – to the domain of myths and prejudices.

10 There are only two books that concentrate on Serbian parliamentary institutions: Milivoje Popović's *Borbe za parlamentarni režim u Srbiji*, published in 1938; and Alex Dragnich's *The Development of Parliamentary Government in Serbia*, published in 1974. Both monographs begin with the First Serbian Uprising and end with the period of King Peter's rule – with the latter, however, being paid only scant attention: in Dragnich's book: just 9 out of 120 pages of text. Both books in fact deal mainly with the pre-history of the 1903–1914 period. Both authors give only a summary survey of the functioning of institutions, one that is not based on documents and that is marred by occasional important factual errors. Both authors remain faithful to the stereotypes in their conclusions.

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As a subject of research, the Serbian parliamentary regime in 1903–14 poses a problem at two basic levels. The first involves parliamentary institutions and their functioning; the second their effects at the level of political modernisation in a broader social sense. This latter presupposes the following question: to what extent did the introduction of liberal-democratic institutions, and their continued existence during those eleven years, influence the transformation of political culture in the direction of a strengthening of the principle of liberal and pluralist democracy in the widest sense, especially in regard to respect for political freedoms, and more generally the degree of political tolerance and respect for minority rights? In a word, did the introduction of institutions of a modern state mean also the establishment of a modern political regime?

This work aims to analyse the Serbian parliamentary regime at both these levels. Its basic aim is to reconstruct and examine the practical functioning of the fundamental institutions – king, government and parliament – and their mutual relationship. Legally speaking, it is concerned with the central question of any parliamentary system: that of ministerial responsibility. Ministerial responsibility is analysed here, however, not solely as an expression of the actual relationship between the constitutional organs of government – crown and parliament – but also in relation to the existing party system, which for its part was largely conditioned by the electoral system. The classical institutional framework of a parliamentary regime – namely head of state, government and parliament – is consequently widened here to include also the electoral and party systems: in other words, questions that by their very nature demand that research be extended also to an extra-institutional level. As a result, analysis of the interaction – and of relations in general – between the institutional and extra-institutional levels acquired a more prominent place, or more precisely became the essence of this work's methodological approach. Thus, for example, special attention is paid to the influence that the functioning of parliamentary institutions had upon the relationship between the political parties: and to

the influence exerted in turn by the latter upon those institutions. Furthermore, since electoral freedom represented one of the key political problems of Serbian parliamentary life, with manifold significant repercussions for the functioning and articulation of the system, this question too finds its due place in the present work. Considerable attention is paid also to contemporary understanding of the majority principle, and more generally to the relationship between majority and minority. Directly linked as it is to the understanding of democracy, this question is analysed not only at the level of how institutions functioned, but also as an essential element of the ideological and programmatic profile of political parties.

Finally, an important place is given to the positions and judgements of political parties and relevant political personalities, concerning all the issues and problems that confronted the national assembly and the government, as the regime's basic institutions, during those eleven years. Their positions and judgements are treated as important historical data, not just because they contributed vitally to shaping the system, but for two additional reasons as well. First, because they bring into focus most clearly the central issues of parliamentary practice. Secondly, because in themselves they represent reliable testimony to the level of political culture and consciousness of contemporary political actors – to which end they are often presented in their original form, since in themselves they tell the reader far more than any interpretation of them would.

The nature of the subject under research – that is to say, the close relationship between, if not interpenetration of, individual problems – posed a far from easy question as to how the work should be structured. Without chronology, it is impossible to explain any of the questions raised – the institutions themselves, their mutual relationship, or the influence of these institutions and inter-party relations upon one another. Analysis of all these issues is possible and justified only as a process. At the same time, a purely chronological approach to the subject would crucially reduce the possibility of clarifying individual problems that are clearly distinct in the theoretical and historico-political senses. This is why a combined approach

is adopted here, dealing primarily with problems and secondarily with chronology. In order to avoid the repetitions that this approach risks, especially in regard to the above-mentioned interconnections between the issues considered, the reader is often directed to the relevant sections of the book. This is the purpose likewise of the addenda, which contain a chronological record of governments, parliamentary sessions and elections.

The book is made up of three distinct elements. The first of these, which is also the shortest, has in a sense the character of an introduction, because it is given over to theoretical and methodological questions. It has two aims. The first is to try to define the essence of the parliamentary regime as a form of representative government, which is impossible to do outside the process of its political evolution – a fact that is important for understanding the basic limitations of Serbian parliamentarism in 1903–14. Particular attention is paid to the concept of English parliamentarism, not only for theoretical but also and even more for practical reasons imposed by research into Serbian parliamentarism, given that the main protagonists of Serbian parliamentary practice – those who decisively shaped it – referred regularly and almost exclusively to the English model. The second aim of this part is to define more closely, and to establish theoretically, a method for analysing the Serbian parliamentary regime, by reviewing the basic theoretical assumptions of parliamentary government, legal as well as socio-political, derived from the parliamentary experience of Western states.

The main content of the book is divided into two parts. Part One deals with a group of questions that need to be clarified in order to make intelligible the functioning of parliamentary institutions in Serbia, i.e. the features they acquired during eleven years of practice. This group of questions is defined as ‘the foundations’ of Serbian parliamentarism. They include historical, political and legal foundations. The first aim is to show the (non-) acceptance in Serbia before 1903 of the idea of parliamentary government as a primarily liberal concept of the state, and help to explain the problems and contradictions that appeared once institutions became a



component part of practice. Within the framework of political foundations, attention is focussed only on those facts which emerged clearly during the actual constitution of the new order, and which – remaining constant – crucially defined the character of the political regime throughout the period under investigation. Other political circumstances which appeared successively over time are taken into consideration subsequently; but it is necessary to stress here that, in accordance with the basic approach to the subject, these are considered only summarily, especially if they are well covered in the existing literature. Finally, with respect to analysis of the regime's legal foundations – i.e. to the normative solutions – it was necessary to abandon the initial idea of integrating them with the parts that deal with the functioning of the institutions in practice; for it turned out that there exist serious dilemmas and controversies regarding their interpretation, which demanded a polemical approach to the analysis, hence also treatment of them as a separate and distinct whole. The main emphasis here is on two crucial aspects related to the articulation of the system in practice: the question of the constitutional relationship between legislative and executive powers, and the question of the electoral system.

Following this, Part Two is of central importance in that it deals with parliamentary practice. It is itself divided into two sections. The first of these deals with elections and the structuring of the party system, and the second with the issue of ministerial responsibility.

The parliamentary system refers, unless otherwise stated, to the number and relative strength of the parties in parliament, as opposed to in the electoral body. This is because the functioning of institutions is treated as the central question, making the individual parties' parliamentary strength more relevant than their strength outside parliament. The structuring of the party system is in this sense viewed as a result of the given electoral system, i.e. of the manner in which votes cast translated into parliamentary seats. The results of the electoral system are also tabulated. Internal periodisation is determined in relation to the years – or rather the elections – that marked the end of one and the beginning of a new phase in

the process of formation of the parliamentary system. In parallel with an analysis of the structuring of the party system under the influence of the electoral system, an analysis is also made of the process of political pluralisation of Serbian society. More precisely, the question is posed of the relationship between party pluralism and political pluralism in Serbia at the time.

Finally, ministerial responsibility itself is given relatively most space. Periodisation is established with reference to the place and role of the king in the functioning of the system: with reference, in other words, to the question of the government's position in relation to parliament on the one hand and to the king on the other. In the treatment of ministerial responsibility, considerable attention is paid in the first instance to the problem of autonomy of institutions, especially in relation to the army as an extra-constitutional factor of government; and secondly to how the majority principle was understood, given the importance and the role that the opposition has, or should have, in a parliamentary system.

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The material used in the research is of wide nature. It includes the *Stenographic Record of Proceedings of the National Assembly* [henceforth *Parliamentary Proceedings*]; legal documents, beginning with constitutional and juridical texts and decrees; electoral statistics; the press, especially the party press; and other publications, above all journals, in which the relevant political players aired their views, whether on issues of principle or on everyday political questions; and finally archival materials.

These sources were of differing importance for the writing of this book. In this regard, and for various reasons, by far the most important has been the *Parliamentary Proceedings*. This is because they cannot be compared to any other available historical material in terms of the precision and reliability of the data they contain. By contrast with other historical sources, moreover, they cover the whole period 1903–14, which is of special significance given the absence in the historiography of any basic factual

reconstruction of the whole period. The data contained in the available literature are insufficient and often unreliable, so that those wishing to study institutional history are forced to undertake the lengthy and burdensome task of collecting the elementary historical information indispensable for an understanding of the institutions. What is most significant, however, is that the *Parliamentary Proceedings*, by the very nature of things, represent the only fully reliable – and often the only available – source of information. It was thus possible, for example, to resolve the question of the party membership of numerous deputies only by a careful reading of their speeches, insofar as they actually intervened in the debates; or alternatively through their declarations when voting, which is less reliable, given the party-political heterogeneity of the opposition.

Thanks to the intensive parliamentary life, the contents of the *Parliamentary Proceedings* are so comprehensive that there is hardly a major historical question on which they do not offer abundant and priceless information. It is thus all the more surprising that this source has hitherto been neglected by historians.<sup>11</sup> For the *Parliamentary Proceedings* reflect the whole – and not just the parliamentary – history of the period. A picture of the condition of society, on the one hand, and of state policy on the other – at all levels, from the economic and social to the narrowly political sense and the cultural – may be clearly discerned in the legislative projects, the numerous interpolations and questions, and even more in the ensuing parliamentary debate, which was usually both lengthy and free. Especially interesting are the debates that took place in the early years, when apart from the party leaders the ordinary, usually peasant deputies too would speak – far more than was the case in later years. . Parliamentary debates at the same time offer important and convincing evidence of the ideology and programmes of political parties, as well as of social consciousness, political mentality, degree

11 An important step in highlighting the significance of this source was the recent publication of Nikola Pašić's parliamentary speeches. See Latinka Perović, Đorđe Stanković and Dubravka Stojanović (eds.), *Nikola Pašić u narodnoj skupštini*, volumes 1–4, Belgrade 1997.

of culture, and mutual tolerance: in short, of those phenomena which are of long duration in any given society, and which as such define its historical identity. The *Parliamentary Proceedings* undoubtedly represent the most relevant historical source for the study of such phenomena.

As for their reliability, it is worth stressing that deputies' complaints regarding the authenticity of the record were relatively few, and practically negligible in substance. On the other hand, the *Parliamentary Proceedings* were not published at a regular pace. At times one had to wait half a year or longer, while at other times – as in the middle of the period concerned – far less, only about a month. During the last years they were published with a delay of several months. One should say, finally, that the protocols published in the official journal *Srpske novine* are also very reliable, since the assembly would approve them at its very first session after their publication, always taking into account eventual complaints. As for newspaper reports on the work of parliamentary sessions, they are often inaccurate and unreliable, which caused much protest in the Serbian parliament, and even the occasional banning from attendance of certain reporters.

Mastery of the *Parliamentary Proceedings* took a great deal of time and effort. They represent nearly eighty months of parliamentary activity, inscribed on over 25,000 large-format pages. Moreover, the multi-layered subject of research, on the one hand, and the nature of the sources, on the other, did not allow selective reading. Finally, it was not simple to access the whole: no archive or library contains the whole set, while their actual condition is often pitiful. This testifies to the lack of interest on the part of historians, both in this priceless source and in the problem of the development of Serbian democratic institutions, the investigation of which is inconceivable without the *Parliamentary Proceedings*. The last preserved recorded session took place on 10 March 1914. The explanation offered by the historian Vojislav Vučković in his article 'Serbia's internal crisis and the First World War' is as follows: the proceedings of the parliamentary sessions held after the indicated date were destroyed in the war that followed before they could be published.

THEORETICAL AND  
METHODOLOGICAL  
FRAMEWORK

## PARLIAMENTARISM AS A CONCEPT

The parliamentary system belongs to the order of those political regimes of a representative character whose essential legal nature is hard to define normatively.<sup>12</sup> Based on a specific type of separation of powers, defined in theory as ‘soft separation’ or ‘cooperation’ between legislature and executive, parliamentarism represents a type of representative government in which there exist differences – even contradictions – between the nominal and the real relationship between constitutional bodies. According to the letter of the constitution, the legislature or parliament<sup>13</sup> and the legally non-responsible head of state share legislative and budgetary powers equally, while executive power belongs solely to the head of state. The parliamentary regime assumes, however, that in the long run the head of state will exercise restraint in the free use of his constitutional prerogatives, even though their normative existence – just like the legislative and budgetary powers of parliament – precisely forms a legal premise of this regime.<sup>14</sup> In this sense and this alone, parliamentarism appears as a negation of

12 This refers solely to the type of representative government identified as parliamentarism in the constitutional practice of the European states before the First World War.

13 Parliament or legislature refers here only to the representative body. The eventual existence of a second chamber will not be considered.

14 Some writers, bearing in mind the evolution of the parliamentary system in the direction of complete marginalisation of the head of state, are inclined to subsume under this type of regime also the system of government in which there is no head of state. See, for example, R. Capitant, ‘Régimes parlementaires’, *Mélanges Carré de Malberg*, Paris 1933, pp. 51–2.

constitutional norms, so that in this regard one may describe it – as most theoreticians do – as *res facti non iuris*.<sup>15</sup>

If parliamentarism is thus legally established only through constitutional practice, the question arises of how to establish whether a system in which the legal powers – the head of state on the one hand, the legislative body on the other – function correctly from a constitutional point of view is or is not of a parliamentary nature. In other words, how to define the relationship that these two constitutional factors should have in a parliamentary system? If the head of the state surrenders his wide constitutional prerogatives, how is one to ensure that parliament as the other constitutional factor does not become the sole governing body in the state, thus negating the very principle of separation of powers? What, indeed, constitutes the essence of parliamentarism, and how is it to be legally defined? In the nineteenth century, and especially in the first decades of the twentieth, these questions were permanently on the agenda of constitutional science, causing much conflict between the greatest theoreticians of modern constitutionalism. They all agreed that the essential legal element, the mechanism without which there is no parliamentarism, was the political accountability of ministers to parliament, i.e. responsible government – an institution as a rule unknown in the constitutions under which this regime emerged. What, concretely, does this responsibility mean? How is it manifested and realised? What is its scope on the one hand, and, on the other, in what relationship do ministers stand with regard to the head of state? These are questions that traditional constitutional science treated as fundamental, and to which it did not provide a unique answer, thereby leaving open the very question of the legal essence of this regime.

The legal cause of this great disharmony lay in the circumstance that parliamentarism, as the ideal model of representative government in the

15 Some writers go so far as to judge this difference between constitutional norms and parliamentary system as a contradiction. The parliamentary system is 'in evident contradiction with the formally legal position of constitutional factors' and 'evolves more *via facti*...'. Milan Vladislavjević, *Razvoj ustavnosti u Srbiji*, Belgrade 1938, pp. 61–2.

nineteenth and twentieth centuries, was the product of a lengthy evolution of British political institutions, which took place over centuries and in social and political conditions which were specific to that country, not just at the normative level but equally in constitutional practice. Although the first constitutional monarchy, normatively defined already at the start of the eighteenth century,<sup>16</sup> Britain remained at the same time the only country whose modern constitutionalism in its essential forms – those identifying this constitutionalism with parliamentarism – is contained not in a written constitution but in constitutional customs. For centuries ‘the formal system of English government has hardly altered in any way ... in regard to the formation of new institutions, we have hardly moved from the law of royal succession [the Act of Settlement]’. ‘No positive law creates our system of representation. No law has acknowledged [the] cabinet. Responsible government does not exist...’ – that is how Sidney Low interpreted the essence of English constitutionalism. The political system in England is ‘a

16 The British constitutional monarchy acquired its final form between 1688 and 1701, when the Bill of Rights and the Act of Settlement placed the royal prerogatives within a legal framework. The king was denied the right to suspend laws, while all taxation, including the civil list and the financing of the army, was subject to the approval of parliament. The rule that the military budget was approved for only one year obliged the king to convene parliament regularly. It was also established that ministers as royal officials could not be freed from individual accountability to parliament for infringing the law (impeachment) by reference to the crown and its non-responsibility. Sir William R. Anson, *The Law and Custom of Constitution*, Oxford 1907, vol.2, part 1, pp 33–5. The provision on ministerial responsibility was of the greatest significance for the subsequent emergence of the institution of political accountability. It made up for the lack of an express provision that each royal act had to contain the signature of the minister who had advised, or approved the decision of, the crown. This last provision was in fact made part of the Act of Settlement, but was subsequently suspended. Alpheus Todd, *Le gouvernement parlementaire en Angleterre*, Paris 1900, vol.1, p. 87. In this way the institution of counter-signature, which is obeyed in practice, was removed from law. A. V. Dicey, *Introduction to the Law of the Constitution*, London 1945, pp. 325–6; John P. Mackintosh, *The British Cabinet*, London 1962, p.44; Sidni Lo, *Engleski parlamentarizam*, Belgrade 1929 [Sidney Low, *The government of England*, London 1904], p. 20.

set of conventions which have allowed institutions to deviate so as to serve quite different aims... We live under a system of tacit consensus.<sup>17</sup> In this manner – and within a legal framework in which the king, enjoying the right to initiate laws and the right of veto, shared legislative and budgetary powers equally with parliament; had the right to dissolve the representative body, i.e. the House of Commons (the right of dissolution); and was in addition sovereign head of the whole executive, which assumed his freedom to appoint and replace ministers – a parliamentary system was built up during the eighteenth century, whose original meaning and legal essence lay in the fact that the king was limited in the execution of his own constitutional prerogatives by the will of parliament. This was the result of a long evolution of the relationship between king and parliament, which gradually resolved the rivalry between the legitimate powers of these two constitutional factors in favour of parliament.

The principle of evolution was thus built into the very concept of parliament. But it in turn was crucially determined by the given social and political context, which ensured that the system would continue to acquire new features and new forms. During the nineteenth century it underwent such deep, fundamental changes in the country of its birth that it actually lost its original meaning and, moreover, through constant evolution, acquired essentially different forms. This is why one cannot speak of the British political system as a single type of parliamentarism, despite the fact that the formal constitutional framework, as well as the institutions created through constitutional practice during the eighteenth century and at the start of the nineteenth, have remained unchanged.

Parliamentarism did not remain limited to Britain. During the first decades of the nineteenth century, British political institutions spread to the European continent. The process of their reception, which crucially marked the nineteenth century, was based on written constitutions

17 Sidney Low, *op.cit.*, pp 6, 10–12. For constitutional customs or conventions as an integral part of the British constitution, see Miodrag Jovičić, *Veliki ustavni sistemi – Elementi za jedno uporedno ustavno pravo*, Belgrade 1984, pp.15–16.



adopted by continental European states which incorporated the institutions and mechanisms that had been devised in Britain prior to the eighteenth century – that is, in accordance with the model of British constitutional monarchy. In a large number of European states, albeit in different social and political conditions, political regimes were constructed within this constitutional framework that were pivoted upon ministerial accountability to parliament, but which in regard to their legal features differed to a lesser or greater extent from British parliamentarism, in any of its historical forms. This kind of political regime displayed the full extent of its elasticity, hence its ability to elude any firm and precise theoretical definition, when it stepped outside the framework of monarchy and became the constitutional reality of a republic – as in France after 1875.

# I FORMS OF PARLIAMENTARY GOVERNMENT

## 1. Britain

### A. CLASSICAL OR DUALIST PARLIAMENTARISM

In Britain, once the process of constitutional monarchy's formation was complete, the basic institutions and mechanisms of the parliamentary system started to be built by way of constitutional custom. The evolution of a constitutional into a parliamentary monarchy had begun. A key role in this process was played by the evolution of the nature and importance of the ministerial function: i.e. that factor of the political system which constitutional monarchy, as formed at the start of the eighteenth century, does not recognise as a separate governmental organ. The question of ministers' position in relation to the king, on the one hand, and on the other hand in relation to parliament, with which they dealt only in the king's name – in other words, the competition between king and parliament for actual control over ministers – became the central practical issue for the British constitutional monarchy in the eighteenth century. In Britain, as in all other countries that adopted the British form of constitutional monarchy, it was this question that decided the future of the parliamentary regime. It came down to this: will ministers, as individuals who perform in the king's name all functions of his power, remain what the constitution says they are – organs of the crown; or will parliament, relying on its right to reject proposed legislation, and in extreme cases by recourse to the ultimate weapon of voting down the budget, force the king in his choice of ministers to obey the political will of parliament, thereby turning ministers into political persons responsible to it? In other words, will ministerial responsibility to parliament remain confined to cases of infringement of

the law, as the letter of the constitution prescribes; or will it be transformed into political responsibility, thus turning parliament into a body which, in addition to legal supervision, exercises also political supervision over the work of the executive? The answer to this question depended directly on the real relationship of forces between the constitutional powers: king and parliament. The appearance of accountable government as the criterion of parliamentary government was thus left to political evolution.

It is widely accepted that the institution of ministerial responsibility to parliament became an integral part of British constitutionalism in the last decades of the eighteenth century, at a time when a British public opinion was beginning to emerge over the issue of relations with the secessionist American colonies. Ministers, who for much of the eighteenth century had basically been trying to gain the greatest possible degree of political autonomy from the king, were now confronted with yet another rival – a politically engaged parliament. Several consecutive collapses of entire cabinets, in other words ministerial changeovers provoked by a loss of parliamentary majority, showed that ‘royal confidence alone was not enough to keep a cabinet functioning’, and that the appointment of ministers, although remaining a matter for the crown, had come to depend upon the will of parliament.<sup>18</sup> The executive’s response was to activate promptly the right of dissolution, which until then had been used almost exclusively at the end of the prescribed seven-year mandate.<sup>19</sup> The crown prerogative now acquired a new character, which assumed the right of the king to dissolve a disobedient parliament in order to try to gain support for his policy, meaning for the ministers of his own choice, in a newly elected parliament. The right of dissolution consequently became a prerogative of the crown, which it used to protect itself from the potential supremacy of parliament not only in the legislative or budgetary spheres, but also in controlling the work of the executive. The moment that parliament’s constitutional prerogatives – its legislative and budgetary powers – became

18 Dragoljub Popović, *Stvaranje moderne države*, Belgrade 1994, pp 119–22.

19 J. P. Mackintosh, *op.cit.*, p. 125.

transformed in practice into an ability to decide the fate of a government, dissolution became an instrument wielded by a king intent on securing his exclusive right to choose ministers. Who would form the government would in the last instance be decided through elections. The political nature of the ministerial function thereby became unquestionable, and the right of dissolution became a mechanism used to ensure a balance of power between crown and parliament, by way of the dual responsibility of ministers – to the king and to parliament.

With the advent of ministers' political responsibility to parliament, on the one hand, and with activation of the right of dissolution on the other, a form of parliamentary system emerged at the end of the eighteenth century within British constitutional practice which would subsequently be termed classical by constitutional theorists. Within it, a broad balance was achieved between king and parliament in the sphere of legislative as well as executive power, realised by ministers being politically responsible to both king and parliament. This dual political responsibility of ministers represents the basic legal feature of classical parliamentarism, which is why it is often also called dualist.<sup>20</sup>

The dualist nature of ministerial responsibility presupposes the possibility of conflict between king and parliament, since the government can fall both in parliament and at the court. In the event of conflict, a third and final political arbiter in the very functioning of the regime appears: the electorate. Thus dissolution and the general elections it assumes become a legal factor of special importance within classical parliamentarism, in view of the fact that they can at any moment be called upon to decide the

20 André Hauriou and Lucien Sfez, *Institutions politiques et droit constitutionnel*, Paris 1972, p. 124. Earlier Serbian writers used the terms monarchical and republican in place of dualist and monist. Slobodan Jovanović, review of V.M. Guetzevitch, 'Parlementarisme sous la Convention nationale', *Arhiv za pravne i društvene nauke*, 34/136, p.290; 'Les origines du régime parlementaire', *Revue d'histoire politique et constitutionnelle*, 1, 1937 by the same author; Milan Vladislavjević, *Parlamentarizam po odredbama ustava*, Belgrade 1936.

government's fate. It is necessary to stress here, however, that in this type of regime it is the king who decides on dissolution, given that, having the right to appoint ministers, he can always choose a government that will not refuse to obey him in an intended act. So the king can use dissolution not only to provide a minority government with a new parliamentary majority, but also to dismiss a government that has a majority.

The transformation of dissolution into one mechanism for solving the question of government underscored the representative principle as the fundamental political precept of the regime, placing on the agenda the issue of parliament's representativeness, and within that in particular the problem of electoral freedom. Given that in Britain the medieval electoral system, which had made the House of Commons quite unrepresentative,<sup>21</sup> remained in force until 1832, British institutions at the end of the eighteenth century were brought into discord with the actual social and political context. A government responsible to parliament as a representative body had come into being without the representative character of that body having been secured. Or, in other words, governmental accountability to parliament had not yet become accountability to public opinion.<sup>22</sup> Classical parliamentarism as a form of government, as defined at the end of the eighteenth century, did nevertheless imply not just a new balance of power between the traditional constitutional factors – parliament and king – but also recognition of a new quality of the representative principle that lay at the basis of this regime. The economic and political liberalism of the British eighteenth century had done its work: the modern era demanded that the aristocratic understanding of the representative principle be

21 D. Popović, *Stvaranje moderne države*, p. 123.

22 Government responsible to a parliamentary majority, irrespective of whether that majority is representative or not, is known in theory as responsible government; it differs from government responsible to a representative parliamentary majority, in which case it is called responsive government – a government oriented to the electorate. Giovanni Sartori, *Parties and Party Systems. A Framework for Analysis*, vol.1, Cambridge University Press, Cambridge 1976, pp. 19–21.

replaced by a democratic one. For a political public had already come into existence, but the legally recognised electors did not express its political will, but rather that of a class that was clearly in political decline. Elections could no longer be limited to sending to the legislature representatives of the privileged class in order to agree the level of taxation, but had to become an instrument for ensuring the participation of a wider, politically mature public opinion in decisions on all crucial political questions. Once the electorate was left to resolve the political conflict between king and parliament, the judgement of public opinion became transformed formally into an exceptionally important part of the system; but retention of a medieval electoral system prevented its expression and rendered the very system meaningless. The political institutions did not as before rest upon a compromise between the true political factors, since one of them – modern public opinion – was kept out of play. This dissonance in Britain between socio-political reality and constitutional system could not last long; it was brought to a close with the parliamentary reform of 1832, which gave British parliamentarism its representative character in the modern sense of the word.

## **B. MONIST PARLIAMENTARISM**

Extension of voting rights and ensuring electoral freedom did not just involve democratisation of the British political system, but also changed practically overnight the system itself in its most important legal aspects. Activation of the right of dissolution, which at first glance expressed the power of the crown, testified in reality to its growing weakness, and underlined too that the existing electoral system had become untenable. Maintaining the power of the crown with the aid of a politically apathetic electorate, at a time when public opinion had become politically articulate, meant that this role (of the crown) had lost its historical meaning. Therefore, once electoral reform had brought true representatives of public opinion into parliament, the latter was transformed into a political body *par excellence*, over which the king found himself unable to exert further

control. The same change occurred in the relationship between crown and ministers, given that their responsibility to parliament acquired the character of responsibility to the representatives of public opinion.<sup>23</sup>

As soon as the British parliament acquired the character of a modern representative body, it immediately became clear that the legitimacy of its power had won a historic victory over that of the crown. For it proved to be the case, as noted by Redslob, that harmony – or a balance of power – between the two constitutional factors in Britain at that time was possible only with a parliament whose structure would be strictly controlled by the crown through its influence on elections.<sup>24</sup> When the possibility of this control was removed and parliament became a politically autonomous body, the principle of balance between the two constitutional factors had to be abandoned. Dominance now passed to parliament, with the result that the British parliamentary system departed from the classical model soon after the latter's emergence. In the light of this fact, one might view the period of rule of classical, dualist parliamentarism as a formative phase of British parliamentarism, since the latter was defined as the modern form of a representative regime only after the king had been removed from political life. If, however, the dualist regime is treated as the prehistory of the type of regime understood as British parliamentarism, then the model of parliamentary government defined in British constitutional practice at the end of the eighteenth century and in the first decades of the nineteenth is of great significance for the history of European constitutionalism, since as we shall see it became the dominant form in which British political institutions were to be adopted on the continent in the course of the nineteenth century .

The immediate legal consequence of the new relationship of forces between the constitutional organs of government was that the crown abandoned the use of its own constitutional prerogatives. The most important

23 Sartori indeed links the transformation of responsible into responsive government to the electoral reform of 1832. Sartori, *op.cit.*, pp. 20–21.

24 Robert Redslob, *Le régime parlementaire*, Paris 1924, pp.12–14, 37.

of these, the right to appoint and dismiss ministers, was de facto transferred to parliament. A constitutional custom was namely established that, regardless of the inclination of the crown, ministers had to derive from the parliamentary majority, which could decide their fate at any moment. Having lost de facto the right to appoint and recall ministers, the king was bereft of all remaining prerogatives too, given that in view of his irresponsibility he had to have the agreement of the relevant minister for every act. Hence, the parliamentary game was played out nearly exclusively between parliament and government,<sup>25</sup> and this defined a new type of parliamentary system: one in which the constitutional prerogatives of the king as head of state are wielded by a government that is politically responsible only to parliament.<sup>26</sup>

Taking ministerial responsibility as the criterion, this type of government – in which ministers are responsible solely to parliament – is often called monist in constitutional theory.<sup>27</sup> In this system, the outlines of separation of powers are even fainter than in the classical dualist parliamentarism, because with the political neutralisation or marginalisation of the head of state, the legislature assumes full control over the executive. Thus Bagehot went so far as to argue that British parliamentarism rests not on a separation but on a ‘fusion’ of legislative and executive powers.<sup>28</sup>

25 Having in mind British parliamentary practice in the mid 19<sup>th</sup> century, Bagehot concluded that parliamentary government was possible even without the existence of a hereditary monarch. Walter Bagehot, *The English Constitution*, London 1913, p.253.

26 Analysing the British constitution, i.e. parliamentary government in the form in which it functioned in the mid 19<sup>th</sup> century, Bagehot concluded that dismissal of a government enjoying majority support in parliament – to which the king was undoubtedly formally entitled – would nevertheless amount to a ‘coup d’état’ that would terrify the British public as much as ‘a volcanic eruption from Primrose Hill’. Bagehot, *op.cit.*, p. 240.

27 Bagehot called the type of parliamentary regime in which the king plays no role in the formation and work of the cabinet ‘the unroyal form of parliamentary government’. Bagehot, *op.cit.*, p. 219.

28 *Ibid.*, p. 11. On Bagehot’s approach to balance, or to separation of powers in general, as the theoretical model for explaining parliamentary government,



The new political regime assumed also a change in the nature of the basic institutions of government. As before, the changes manifested themselves most visibly at the level of the executive. The first significant innovation was that the principle of collective ministerial responsibility became binding. This was due to several factors. The first was the removal of the king from politics, which acquired its most important expression in the crown's non-interference in the composition of the government. But the decisive factor in the emergence of collective responsibility, sufficient in itself, was the political pluralisation of public opinion. For this sowed the seeds of modern political parties as basically political organisations, which made the individual political responsibility of ministers insufficient, since parliament, composed of representatives of public opinion, increasingly posed the question of the executive's responsibility for general policy. Furthermore, modernisation of the state led to a multiplication of political issues and matters of state administration in general, rendering parliament incapable of competently discussing each of them individually. In view of this all, collective responsibility on the part of ministers became an indispensable component of parliamentary rule. To be sure, it did not as such automatically exclude the simultaneous existence of individual political responsibility – but only as an additional rule. In the British case, however, the principle of collective responsibility became almost absolute, since it was encouraged by another political fact specific to that country. This was the traditional dichotomy of the British political mentality, which led naturally to politically homogeneous cabinets. The majority-based electoral system that forms an integral part of the British constitutional order additionally strengthened this dichotomy,<sup>29</sup> making homogenous governments the rule in British parliamentary life.<sup>30</sup> For these reasons, according to

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see Lidija Basta, *Anglosaksonski konstitucionalizam u teoriji i praksi*, doctoral dissertation, University of Belgrade 1982, pp 274–9.

29 On electoral laws as an integral part of the British system, see M. Jovičić, *Veliki ustavni sistemi*, p.15.

30 Throughout the nineteenth century coalition governments were considered a deviation, acceptable in Gladstone's view only in conditions of state necessity.

Sidney Low, no other rule in the British parliamentary system was 'better established or more openly admitted than this': in defending their policies to parliament, ministers were always united and mutually supportive, while those who distanced themselves from any governmental measure lost their place in the cabinet, either by their own decision or by the will of the prime minister.<sup>31</sup>

The same reasons that conditioned application of the principle of collective responsibility, as described above, gave rise simultaneously to one of the most striking features of British parliamentarism: separation and elevation of the prime minister's role as personification of the unity of the state administration and its current policy. As for his appointment, this is automatic: the king always appoints to this post the leader of the parliamentary majority.<sup>32</sup> Finally, the fall or resignation of the prime minister, or even the head of one of the more important departments of state – especially the treasury, the home office or the foreign office – entails the collective resignation of the entire government.<sup>33</sup>

These institutions or rules of the parliamentary regime, which acquired their final form in the fourth decade of the nineteenth century, although not included in the written rules of the British constitution, became the essence of British parliamentarism and provided some of the basic elements of modern British constitutionalism.<sup>34</sup> But although they remained unchanged throughout the nineteenth century and even after that, it is nevertheless impossible to speak of British parliamentarism after 1832 as a single political system. For during the nineteenth century British constitutional practice gave form to two sub-types of monist parliamentarism, which differ from each other in regard to the inter-relationship between the two basic institutions of this regime – parliament and government. The turning point came with the electoral reform of 1867, which

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D. Butler, ed., *Coalitions in British Politics*, London 1978, pp. 4–23.

31 Low, *op.cit.*, p.150.

32 J.P.Mackintosh, *op.cit.*, p.112. See also W. Bagehot, *op.cit.*, p. 12.

33 Bagehot, *ibid.*, pp. 176–7.

34 A. Todd, *op.cit.*, pp. 2–5.

significantly enlarged the electoral body and brought great changes to party-political life. In short, before this electoral reform the gravitational centre of political decision-making was parliament, thereafter it became the government.

**i. Parliamentarism as supremacy of the representative body: parliament's 'golden age'**

During the first period, often described as the British parliament's 'golden age', political parties were loose groupings kept together more by their members' political inclinations than by firm, disciplined organisation. Political individualism in the literal sense was the dominant principle of political articulation; and parliamentary candidates, though identified with parties, were elected primarily on the basis of their own political position, as representatives of their electoral constituencies or, more rarely, abstractly as liberals or conservatives. They consequently retained a large measure of political autonomy also in parliament, so that the government could not always rely on a disciplined majority of the same group of deputies. In order to maintain the confidence of parliament, therefore, the government was obliged to cooperate with it, which made parliament's control of its work effective in the true sense of the word. The standing orders whereby parliament autonomously regulated its internal organisation and method of operation gave its members [MPs] almost limitless freedom to discuss and to question the government's responsibility,<sup>35</sup> of which they readily availed themselves. All in all it was, as Mackintosh notes, 'the golden age of the private MP'.<sup>36</sup>

This relationship between parliament and government manifested itself most clearly in the manner in which governmental crises were resolved, and accordingly in the place and significance of parliamentary dissolution within the political system. The possibility of manipulating the electoral body belonged to the past, while the ascendancy of politically

35 W.R. Anson, *op.cit.*, vol.1, pp. 264–5.

36 J.P. Mackintosh, *op.cit.*, p.92.

individualised voters combined with the absence of strong, disciplined parties inhibited direct political influencing of voters. As a result, a government whose majority was questioned in parliament could not be confident that it would regain its majority by dissolving parliament, just as the parliamentary opposition, for the same reason, could not be sure that dissolution would resolve the issue in its favour. This led both parliament and government to resolve majority problems in close cooperation, which is why governmental crises were often solved either by parliament finding in its own ranks a substitute for the current government's lost initial majority, or by the government that had lost its majority resigning, leaving parliament to form a new one. Dissolutions caused by a loss of confidence in parliament were rare in this period: governments were made and unmade in parliament, which made this body the supreme arbiter in the state.<sup>37</sup> In a regime of this nature, therefore, dissolution cannot be taken as a prerogative of the executive of special significance for the legal essence of the regime, in contrast to classical parliamentarism where it served to maintain the balance of power between king and parliament.

This does not mean, however, that the importance of dissolution in the British parliamentarism of this period had disappeared, or that it had even diminished in importance. While inessential for defining the legal substance of the regime – given that its use did not serve to solve the problem of the governmental majority – this prerogative of the executive played a great role in defining the political character of British parliamentarism in this period. The government resorted to dissolution only when confronted with some new political issue of such importance that it brought into question the legitimacy of the existing parliament to decide upon it. As a result, though an institution of representative democracy, dissolution used in this way and with this aim in practice played the role of a referendum and became, in Couzinet's words, 'a homage to the electorate'.<sup>38</sup>

37 R. Redslob, *op.cit.*, pp 33–5; Mackintosh, *op.cit.*, pp. 88–90.

38 Paul Couzinet, 'La dissolution des assemblées politiques et la démocratie parlementaire', *Revue du droit public de la science politique en France et*

**ii. The cabinet system: ministerial responsibility  
to parliament as a form**

The end of the 1870s saw the opening of a new phase in the evolution of British parliamentarism. A new, significant enlargement of the electorate and further expansion of the state administration underlined even more the importance of parties for the political identification of citizens.<sup>39</sup> Individual political interests were increasingly articulated through party programmes, which gave political parties a new role in the functioning of the political system. They became relatively autonomous political institutions, which not only reflected but also shaped and directed public opinion. In response to this their internal organisation changed, becoming stronger and more hierarchical, and finally they took over the task of selecting and promoting candidates, which until then had been left to the voters themselves.<sup>40</sup>

This last development indirectly influenced a change in the MP's role within the governmental system, hence also the importance of parliament as an institution. Since he in fact owed his mandate not to the electors in his constituency, but to the party which promoted his candidacy, the MP also owed political loyalty to his party organisation; this turned him into a disciplined member either of the governmental majority or of the parliamentary minority. Both the formulation and the implementation of policy came under the government's full control, while the basic function of the MP was no longer to control and influence, but to support or oppose the cabinet's policy. Since the emergence of the parliamentary system at the end of the eighteenth century, the role of the legislature in controlling the executive had never been smaller, or the power of the executive greater. Freely disposing of the prerogatives of a constitutional monarch in both legislative and executive branches of government, with a parliament whose

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à *l'étranger*, vol.50, année XL, Paris 1933, p. 554. On dissolution as a referendum, see also S. Low, *op.cit.*, pp. 112–13.

39 With the electoral law of 1867 the number of voters grew by 88%, and by another 67% with the electoral reform of 1885. J.P. Mackintosh, *op.cit.*, p. 161.

40 Mackintosh, *op.cit.*, p.187.

control had become purely formal, the government became the only true bearer of state power. Thanks to the complete passivity of the legislative body in controlling the work of the executive, in other words thanks to the complete dominance of government (cabinet) over parliament, this type of parliamentarism is often called 'the cabinet system', a name lacking the qualifying term 'parliamentary'.<sup>41</sup>

The meaning of the fundamental principle of the parliamentary regime – the political responsibility of ministers to parliament – thus changed fundamentally. This was reflected most visibly, and certainly most importantly, in the domain of the essence of ministerial responsibility itself – the question of forming a government. Parliament – which had initially decided this together, or more accurately by compromise, with the king, and later quite autonomously – was in the new type of British parliamentary regime ascribed a purely passive role. The choice of a government, just like the choice of an MP, was decided in a competition between parties, the outcome of which was decided by the electorate. The choice was thus accompanied by an automatism, arising from the above-mentioned traditional political dichotomy, that totally eliminated any possible influence of the constitutional factors: parliament and king. Thanks to the electoral system, the dichotomy developed into a strict and resilient two-party system, which some authors consider to be a basic principle of modern British constitutionalism.<sup>42</sup> By voting for one or other party, at the time of general elections voters were in practice electing a government, as a result of which British parliamentarism became an electoral (one-) party government.

Losing any role in forming a government meant also losing any role in its fall. Given that the government was a direct rather than indirect product of a general election, it was natural that its survival too should be linked to the electorate's mood. The legitimacy and true source of the

41 *Ibid*, p.162.

42 'The whole constitution, from the election process to the parliamentary procedure, assumes a two-party system; by assuming it, it tries also to preserve it.' W. Ivor Jennings, *Parliament*, Cambridge 1939, pp. 504–5.

executive's power no longer rested on the will of the elected representatives, but directly upon the will of the electorate. The fall of a government in parliament consequently became an exception,<sup>43</sup> while dissolution and resignation after early elections became the rule. A no confidence vote by a parliamentary majority naturally did not altogether disappear, which continued to guarantee the cabinet system a parliamentary form; but the result of a loss of confidence no longer led to the government's fall, but to parliament's dissolution and the calling of early elections, which then decided the government's fate. In this way dissolution acquired the character of a basic legal form of the cabinet system, because it became a regular means for initiating and solving the question of governmental responsibility. 'The government is changed not by parliamentary means, but by appeal to the people', wrote Jovanović.<sup>44</sup> This was a logical consequence of the fact that loss of a parliamentary majority was not an expression of parliament's autonomous policy, but of changes that had taken place outside it, in inner-party and inter-party relations, i.e. indirectly as a result of changing public mood.

This highlights the key social and economic premises of the cabinet system, as last in the series of historical forms of parliamentary government. It is a matter of the nature of political parties, or more broadly of the nature and degree of maturity of public opinion. The cabinet system poses in this regard two seemingly contradictory demands. Without one of these it is impossible to implement it institutionally, i.e. formally, while without the other it turns into a negation of its liberal-democratic essence and the greatest threat to the very idea of constitutionalism. For whereas

43 A frequently cited exception is the fall of Balfour's government in 1905. The Conservative majority, which supported Balfour's cabinet, was called into question, and Balfour, albeit without his ministers' unanimous consent, decided to submit his resignation. The new, minority government then dissolved parliament. The extent to which a government's fall in parliament had become exceptional is testified to by the fact that Balfour's action is frequently called unconstitutional. See, for example, W. R. Anson, *op.cit.*, vol.2, p. 133; J.P. Mackintosh, *op.cit.*, p. 194.

44 Slobodan Jovanović, *Engleski parlamentarizam*, Belgrade 1902, p. 31.

at the level of the functioning of the regime's institutions – parliament and government – the cabinet system presupposes an absolute party discipline on the part of MPs, its political essence on the other hand assumes a politically mature and autonomous public opinion and flexible political parties. The absence of these conditions naturally represents a handicap for any representative regime of whatsoever form; but the burden of its absence is potentially greatest in the cabinet system, given the absence of serious institutional control over the state administration.

The 'soft' separation of powers upon which the parliamentary regime is constitutionally based has in fact, thanks to its relativism, permitted an evolution of this principle in the direction of an ever stronger negation of its very essence – a negation inherent in the mutual limitation of the constitutional organs of government. In this system, the principle of separation of powers is practically erased. One sole organ, otherwise unknown in the constitution as an organ of power – the government – performs all functions of the state taken as a whole (with the exception naturally of justice), without being simultaneously subject to effective control by any of the formal constitutional bearers of the state.<sup>45</sup> The role once performed by king and parliament together, and later only by parliament, is in the cabinet system assumed by public opinion, which thus becomes an institution of the system. Any real limitation of total state power can be achieved only from that quarter – assuming, of course, that public opinion is mature and able to play this role. If not, the cabinet system would degenerate into a protracted, institutionally uncontrolled, government of the strongest political party in the country. Hence, elastic and in a certain sense loose political

45 Smiljko Sokol describes the cabinet system of government as 'apparent parliamentarism', a regime based on 'unity of power' in the 'functional sense' in that 'the whole of the effective governmental power' is concentrated in the hands of the executive. Smiljko Sokol, *Sustav parlamentarne vlade kao ustavni model i društvena zbilja*, Zbornik Pravnog fakulteta u Zagrebu, 22, 4/1972, p. 432, 439. Of earlier writers, Low shares this opinion: separation of powers 'means in fact a consistent denial of the cabinet system of government'; S. Low, *op. cit.*, p.19.



parties, accompanied by occasional intra – and inter-party re-grouping that represents a substitute for multipartyism, on the one hand, and on the other a mature, politically mobile and fluctuating electoral body free of rigid party division, form the basic premises of the very meaning of this regime.<sup>46</sup> According to Jovanović: ‘In countries without an awakened public opinion, or where public opinion exists but there are no free elections, parliamentarism – however much it is intended to follow the English example – degenerates sooner or later into either personal rule or party oligarchy.’ Indeed, without voters free ‘not just externally, from government pressure’ but also ‘internally’ – i.e. free from ‘party blinkers’ – the cabinet system degenerates inevitably into a ‘party oligarchy’.<sup>47</sup>

Limitation and control of state power cannot exist in the cabinet system without the ruling party’s readiness in certain circumstances to bring down its own government; also, which is of particular importance, without relative autonomy of the electorate in relation to party-based divisions, enabling it to vote for the opposition in new elections. In Britain, following the transition to cabinet government, frequent victory of the opposition was indeed the single most effective brake on transformation of the regime into the dictatorship of a single party, or rather of its cabinet.<sup>48</sup> In this sense, one may say of this type of parliamentary government that the opposition represents practically an institution of the system. According to

46 The direct determination of the British cabinet system by the nature of political parties is in our literature most carefully analysed in S. Jovanović, *Engleski parlamentarizam*. The author points out the ‘flexible’ character of the British parties and underlines the importance of frequent party splits and party regroupment. On the one hand, these relativise the two-party system; on the other, they permit a constant adaptation of party policy to public opinion. According to Jovanović, the British parties are ‘temporary’: ‘Each of them is formed exclusively with reference to existing political issues.’ This is because they conduct a ‘purely principled policy’; when party leaders begin to differ on crucial issues, the parties fragment. In the case of the British political parties, personal conviction stands ‘above considerations owed to party unity’. Pp. 4–6.

47 Introduction to Sidney Low, ‘*Engleski parlamentarizam*’, *op.cit.*

48 Mackintosh, *op.cit.*, pp. 197–8.

Miodrag Jovičić, it is a 'constituent part of the institutional mechanism' of the British political system.<sup>49</sup>

A discrepancy between constitutional practice and the constitutional norm (where such a difference can exist, i.e. on the continent) in this type of system may indeed be called, as Milan Vladisavljević does, a contradiction.<sup>50</sup> Both constitutional organs – king and parliament – are bereft of effective power. At the same time, neither public opinion nor the opposition appears in the constitution.

## 2. Continental Europe

The predominance of individualist political philosophy that came about in Europe after the French Revolution brought in its wake a victory of the principle of separation of powers within the state. It was necessary to limit the until recently absolute power of the monarch, and on the continent this opened up the issue of constitutionalism. The European constitution-makers of the nineteenth century were faced with two historical models of constitutional monarchy: that which had emerged on the continent, in France, and another which came from the British isles. French constitutional monarchy was the outcome of a revolution – embodied in the written act of the highest legal force, the constitution of 1791 – and represented a logical realisation of the abstract maxims to which the Revolution had brought victory. This is why under it the principle of separation of powers was implemented very rigorously, depriving the king as head of the executive of the most important prerogatives of legislative power – the right to initiate laws and the right of absolute veto. In its rejection of 'soft' separation of powers, the French constitutional assembly adopted also the rule that ministers could not be members of parliament.<sup>51</sup> British consti-

49 Miodrag Jovičić, *Veliki ustavni sistemi*, p. 34.

50 See ft. 15 on p. 38.

51 Leon Daguin and Henri Monnier, *Constitutions et les principales lois politiques de la France depuis 1789*, Paris 1932, pp. X – XIII; see also the 1791 constitution, part II-III, section I, article 1, pp. 18–19; section III, article 1, pp. 21–2;

tutional monarchy, on the other hand, was the outcome of a long process of social and political evolution, and was defined in a series of laws whose constitutional force did not derive from the principle of a hierarchy of legal acts, but from the circumstance that they were the fruit of compromise between the true bearers of power. Though deriving from political practice, separation of powers in the British constitution was implemented not as a principle, but as a reflection of the degree of compromise arrived at by the end of the eighteenth century in the real relations of power between king and parliament, between the king and his ministers, and between ministers and parliament. Thus the manner in which the separation of powers was realised in the British constitution in a sense defies the principle that Montesquieu inaugurated theoretically as the supreme principle of the modern state, deriving it precisely from British constitutionalism.<sup>52</sup> At all events, the elastic separation of powers that provided a basis for the British constitutional monarchy involved ceding to the crown not only the totality of executive power, but also part of legislative power.

Compared to the French example – disliked for the very fact that it rested on the assumption of a purely democratic legitimacy of government, affirmed by the institution of a sovereign constitutional assembly – the British formula for limiting the power of the crown was more acceptable to European monarchs raised in the spirit of absolute monarchy. This all the more in that – by contrast with the (for the crown) fatal termination of the constitutional monarchy in 1791 – Britain at the start of the nineteenth century was the site of an ongoing peaceful struggle for supremacy between parliament and king, with for contemporaries an uncertain outcome. As a result, the British constitution, in the form that prevailed up to the start of the eighteenth century, was taken as the basis; and European continental states came to fashion themselves, one after another, as

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section IV, article 2, p.17.

52 On separation of powers in the French constitution of 1791 in comparison to its British equivalent, see Carré de Malberg, *Contribution à la Théorie générale de l'État*, vol.2, Paris 1922, pp. 36–8.

constitutional monarchies on the British model. They took over from the revolutionary legacy the form of written – ‘strong’ – constitutions, but organised the separation of powers in accordance with the British model. By the middle of the nineteenth century, this model had been adopted by a large number of states in western and northern Europe, and in the second half of the century it spread also to the Balkan states.<sup>53</sup>

### **A. THE DUALIST MODEL: ORLÉANIST OR CLASSICAL PARLIAMENTARISM**

The soft separation of powers written into European constitutions crafted on the British model left it up to practice to decide – depending on the real relations of power between the king and the representative body – the political system to be built within that constitutional framework. The period in which the European continental states constituted themselves as constitutional monarchies favoured their evolution in the direction of parliamentarism, because the era of democratisation of political life made the legitimacy of the representative body more or less incontestable. However, in the continental states taken as a whole, the legitimacy also of the power of the crown was recognised more than was true for contemporary Britain. This is why, at a time when the British parliamentary regime became defined solely through the relationship between parliament and government, a type of parliamentarism prevailed in the European monarchies that was, from a legal viewpoint, closest to the system that we have called the formative phase of British parliamentarism: the relationship between king and parliament was more or less balanced, and was expressed by dual ministerial responsibility and by frequent dissolution often decided upon by the king. This type of parliamentarism, dominant in the constitutional

53 Constantin Zilemenos, *Naissance et évolution de la fonction de premier ministre dans le régime parlementaire*, Paris 1976, pp. 222–3; Pierre Lalumière et André Demichel, *Les régimes parlementaires européens*, Paris 1966, p. 242, 260–1. Of the Balkan states, Greece was the first in 1864 to adopt this type of constitution, followed by Romania in 1866, Bulgaria in 1879 and Serbia in 1888.

practice of nineteenth-century continental states, consequently became known as classical.

One of the earliest examples of copying of the British constitutional monarchy on the continent was, from the point of view of establishment of a parliamentary government, discouraging. We are referring to the political regime in France during the period of validity of the Constitutional Charter of 1814.<sup>54</sup> With few exceptions, use of the royal prerogatives was pursued with little regard to the will of parliament, indicating that ministerial responsibility was understood largely as responsibility to the crown. Meanwhile, disregard of the principle of parliamentary government at the time of the Restoration caused another revolution, this time of an expressly liberal nature, which erupted in France in 1830 and ended with the establishment of parliamentarism.<sup>55</sup>

During the eighteen years of its existence, i.e. during the period of the July Monarchy, the French parliamentary system functioned in accordance with the dualist principle. Its constitutional foundation was the Charter of 1830, which while based on the Charter of 1814 removed the latter's divergence from the British constitutional model, and in doing so introduced into France a pretty faithful copy of British constitutional monarchy.<sup>56</sup> The regime established under this constitution, which ended with the revolution of 1848, is known as Orléanist parliamentarism. Because of its scrupulous compliance with the dualist model of ministerial responsibility, which is why it came closest to the corresponding theoretical model,

54 The Charter of 1814 diverged most from the British model of constitutional monarchy in regard to the legislative powers of parliament, which was deprived of the right to initiate laws. Dragoljub Popović, *Ogled o odgovornoj vladi na primeru njenog nastanka u Francuskoj*, Belgrade 1989, p. 17.

55 The abuse – from the parliamentary regime's point of view – of dissolution on the part of the crown, which culminated in 1830, was in Couzinet's view one of the key causes of the revolution. P. Couzinet, *op.cit.*, p. 509. See also D. Popović, *Ogled o odgovornoj vladi*, especially pp. 77–9.

56 The 1830 Charter removed the above-stated difference from the British model by giving parliament the right to initiate laws. D. Popović, *Ogled o odgovornoj vladi*, p. 104.

the term Orléanist parliamentarism is frequently used in constitutional literature to denote not only the political regime of the July Monarchy, but also dualist or classical parliamentarism as such.<sup>57</sup>

Defeated in France, Orléanist parliamentarism – together with the constitutional documents that established it: the charters of 1814 and 1830 – became the model for further adoption of British political institutions on the continent. According to Paul Bastide: 'It is doubtful whether British institutions would have succeeded in conquering a large part of the world without this initial continental relay.'<sup>58</sup> As early as 1831, the French constitutional charters served as a model in drafting the Belgian constitution, which in turn became the most copied constitution in nineteenth-century Europe, important and unavoidable in particular for Balkan constitutionalists in the second half of the century. In Belgium itself, dualist (Orléanist) parliamentarism under this constitution had a long life. The king played a key role in appointing ministers, which hampered separation out of the function of prime minister and thus also consolidation of the principle of collective responsibility.<sup>59</sup> Moreover, dissolution was an important element of the regime and was often left to the free will of the crown. Also important was the fact that a considerable number of Belgian constitutional theorists defended this constitutional practice.<sup>60</sup> Because of its long duration and the regime's internal stability, Belgium was and continues to be cited as a model European parliamentary monarchy, and as the longest practical implementation of the original form of British parliamentarism in modern conditions.

57 Jehan de Malafosse, *Histoire des institutions et des régimes politiques de la Révolution à la IV République*, Paris 1975, pp. XI-X.

58 Quoted in J. de Malafosse, *op.cit.*, p.X.

59 C. Zilemenos, *op.cit.*, p. 123.

60 Raymond Fusilier, *Les monarchies parlementaires, Étude sur les systèmes de gouvernement (Suède, Norvège, Danemark, Belgique, Pay-Bas, Luxembourg)*, Paris 1960, pp. 432–9, 457–8.

## **B. THE MONIST MODEL ON THE CONTINENT: FRENCH PARLIAMENTARISM**

At the close of the nineteenth century, parliamentarism understood as a balance of power between the crown and the representative body – in other words, as a government responsible simultaneously to the head of the state and to the legislature – came to be contested also in the practice of the continental states. The turning-point came when the French constitutional assembly of 1875 opted for a dualist or Orléanist type of parliamentary government, despite the republican nature of the state. With this aim in mind, it adopted a constitution on the model of British constitutional monarchy; but actual practice under this constitution soon took the form of parliamentarism of a monist type. The latter, however, displayed a series of specific features in comparison to the British model, which is why the parliamentarism of the Third Republic is treated as a case *sui generis*, usually termed simply French parliamentarism or parliamentarism ‘à la française’.<sup>61</sup>

The most significant deviation from the British model to be found in the French constitution of 1875 was the fact that the right of dissolution had to have the agreement of the second – also elected – legislative chamber: the senate. Relevant too was the fact that the political responsibility of ministers to parliament was not left to constitutional practice, but was guaranteed by the constitution in both its individual and its collective forms. The French constitution differed in this regard from all previous constitutions of this type.<sup>62</sup>

61 Lalumière and Demichel, *op.cit.*, p.46.

62 See Article 6 of the constitutional law on the organisation of public administration, in F. R. Dareste and P. Dareste, *Les constitutions modernes*, Paris 1883, vol.1, p.10. It is interesting to note that the Bulgarian constitution of 1879 (Article 153) contains a rule on ministerial responsibility practically identical to the French. For the Bulgarian constitution, see the new, fourth edition of *ibid.*, edited by Joseph Delpech and Julien Lafarrière, vol.1, Paris 1928, pp.374–93 and footnote 369 on p. 205.

Whether due mainly to the constitutional solutions themselves, or primarily because of the political situation (this remains subject to dispute), it was only under this constitution that – following the first practical manifestation in 1877 of the president of the republic's dualist interpretation of the constitution – all relevant political subjects distanced themselves openly from the spirit of the 1875 constitution-makers.<sup>63</sup> The president of the republic henceforth behaved largely as a politically neutral head of state, with the difference that in contrast to the British monarch he had to play a part in nomination of the prime minister; for there was no automatism in this regard, given the multiparty system and the absence of a homogeneous majority. As for dissolution itself, it became entrenched in the minds of a substantial part of public opinion as an anti-republican institution – as, indeed, a 'mortal attack on general suffrage'<sup>64</sup> – so that, following the dissolution of 1877, it was not used again until the end of the Third Republic in 1940.

In this way, by removing this important prerogative from the executive taken as a whole, French parliamentarism acquired, in addition to its monist character, another crucial feature: parliament acquired a considerable and unprecedented supremacy over the government, given that its formation and fall were linked exclusively to the will of this body's majority. Not only did the head of state play no role therein, but the government, confronted with an eventual abuse of power on the part of parliament, was unable to seek help from the electorate. In this manner, and contrary

63 A convinced monarchist, the president of the republic, Patrice de Mac-Mahon, dissatisfied with a government that enjoyed the support of the parliamentary majority, decided to dissolve parliament. Rebuffed by the existing government, he appointed a minority one which approved his intended act. Couzinet, *op.cit.*, p.532. There followed a strong political reaction, with the right of dissolution as its first victim. The odium that his action caused was such that no difference was made between the act of dissolution itself, which was in conformity with the constitution, and what had preceded it – dismissal of a majority government. This latter was a kind of '*coup d'état*'. J. De Malafosse, *op.cit.*, pp. 153–4.

64 Couzinet, *op.cit.*, p.511.



to the intention of the constitution's drafters in 1875, French constitutional practice gave rise to a parliamentary regime which least resembled the Orléanist one, while in regard to the relationship between the government and parliament it most resembled English medieval parliamentary practice.<sup>65</sup> The similarity between the two was greatly reduced, however, with the complete absence of dissolution, which is usually referred to as the most important specific feature of French parliamentarism. In relation to its British counterpart, itself celebrated as an example of sovereignty of the elected body, French parliamentarism went much further in subjugating the executive to the legislature, given the absence of the right of dissolution. In addition, for the same reasons but also because of a quite different party-political system, French unlike British parliamentarism never evolved into a cabinet system, nor indeed did it gravitate towards that, retaining forever the supremacy of parliament over the government.

Writers who treat dissolution not as a prerogative of the executive, but as a democratic procedure securing permanent harmony between the mood of the electorate and the composition of parliament, view French parliamentarism as insufficiently democratic, since lacking even a mechanism of direct democracy it leaves the electorate outside the process of political decision-making between regular elections.<sup>66</sup> Such critics link the effective expulsion of dissolution from the political system of the Third Republic to the dominant way in which the principle of popular sovereignty was understood in France during this period: sovereignty was ascribed to the assembly rather than to the people that elects it, which is why dissolution of the assembly by the executive is seen as an attack on the principle of popular sovereignty, hence on democracy itself.<sup>67</sup>

65 Redslob, *op.cit.*, p. 199.

66 Couzinet, *op.cit.*, p. 557.

67 Couzinet considers this concept of popular sovereignty to be part of the Jacobin tradition. P. Couzinet, *op.cit.*, pp. 552–3, 557.

## II THE QUESTION OF LEGAL ESSENCE

Had parliamentarism been confined within the borders of Britain, it is possible that European legal scholars – rather than searching for a definition of the system – would have followed the majority of British writers in seeking to explain parliamentarism by explaining the constant evolution of British constitutionalism. But the establishment of parliamentarism during the nineteenth century became one of the most burning issues in the constitutional practice of European continental states whose constitutional nature, as well as their social and political setting, differed markedly from those prevailing in the system's country of origin. Faithful to its rationalist tradition, continental constitutional science did not resist the challenge of trying to define legally a system that – as a sometimes realised and sometimes merely desired aim – has fatefully marked European, and indeed international, constitutionalism in the modern era.

Where does the centre of government lie – i.e. who defines state policy – in a parliamentary system? Is it a product of coordinated action by king and parliament, as happens in classical or Orléanist parliamentarism? Or is the direction of state policy an expression of the will of the parliamentary majority, which entrusts programmatic formulation and implementation to a government whose fate it itself decides, as was true of Britain in the mid nineteenth century and France after 1875? Or, finally, is the formulation of state policy wholly a matter for a government whose fate is decided at a general election, while the expression of (non-) confidence in parliament is nothing but a mechanism ensuring coordination between government policy and the political mood of public opinion, which is the essence of the cabinet type of parliamentary government practised in Great Britain since the concluding decades of the nineteenth century? Translated onto the theoretical plane, this question in fact becomes one

of the relationship between executive and legislature, i.e. of their organic and functional (non-)separation in the parliamentary system: a question, in short, of the relationship between parliamentarism and the principle of division of powers. The manner in which, *according to the letter* of the constitution, the division between executive and legislative functions is made in parliamentary states points to a soft division of powers as the legal precondition of the system. But where to place the limits of the elasticity of this division *in practice*, in order to prevent parliamentarism from acquiring the features of an assembly-based system in the case of supremacy of parliament over the government; or, on the other hand, from turning into an institutionally unlimited power of the executive in the case of supremacy of the government over parliament? Does inability to establish the precise legal limits of this elasticity prove right the advocates of dualist or Orléanist parliamentarism, who believe that true parliamentary government is impossible without an active role played by the head of state, which automatically assumes the prerogative of dissolution? Or, on the contrary, are those people in the right who do not link the explanation of the essence of parliamentarism at all with the theory of separation of powers, but seek the criterion for this political system elsewhere?

At the level of legal practice, these questions can be reduced to the following. First, are the governmental functions which in parliamentarism belong to the executive (and which include not only executive but also legislative functions) in the hands of the responsible government alone, or also in those of an irresponsible head of state? In other words, is the government politically responsible only to the legislature, or simultaneously also to the head of state? Secondly, what is the content of the government's political responsibility before parliament and how far does it go? And, finally, should the executive have the right of dissolution or not? In other words, is this right essential or not for the existence of a parliamentary system? Following the establishment of parliamentarism in the French Third Republic, in particular, when answering these questions scholars divided into two opposing camps: dualist and monist.

The dualists – who comprise some great names of constitutional science, such as Adh mar Esmain, Maurice Hauriou, L on Duguit, Robert Redslob and others – believe that the very essence of parliamentarism lies in a balance between the executive and the legislature, and that the basic mechanism ensuring this balance is the right of the executive to dissolve the legislature. The dualism of the executive, i.e. the corresponding division of roles between an irresponsible head of state and a responsible government, is according to these writers a precondition of parliamentarism, though for most of them it is not essential whether the head of state is in fact active or passive in the execution of his rights. Under the presumption of protecting the principle of ministers' political responsibility before parliament, the head of state can use his prerogatives; just as he can also practice restraint, but without thereby voiding his right to use them. What is essential for the dualists, what they view as the legal essence of parliamentarism, is the existence of a balance of power between the executive and the legislature (the theory of checks-and-balances), which implies the right of dissolution, while dualism within the executive may be – but need not be – perceived in practice.<sup>68</sup> This position leads logically to the exclusion of French parliamentarism from the category of parliamentary systems.<sup>69</sup> The arguments most frequently used are protection of the principle of division of power, as well as recollection of the original meaning and causes

68 At the political level, the perfect balance is unrealisable, of course: sometimes the executive is dominant – usually when the government enjoys a stable majority – and sometimes the legislature is. According to the dualists, however, the legal equality of these two powers must be the rule, and one should never be subjected to the other in practice. Couzinet, *op.cit.*, p.524.

69 P. Lalumi re and A. Demichel, *op.cit.*, p.23 and Couzinet, *op.cit.*, p. 524. Redslob is most radical in this regard. The government's responsibility before parliament is for him only 'the external form', and the true nature of parliamentarism is the right of dissolution. *Op.cit.*, p. 256. This is why he excludes from the category of parliamentary regimes not only the French (pp. 199–204), but also English parliamentarism in the mid century, which he calls 'defective parliamentarism', because dissolution does not necessarily result in the fall of the government, meaning that parliament dominates the government (pp. 33–5).

of the emergence of parliamentarism. The strongest proof in favour of the dualist doctrine, however, is the right of dissolution wielded by the executive, which with the exception of Norway exists on the normative level in all parliamentary states, and which in France alone was never used.<sup>70</sup>

The monists entertain quite different views on these matters. Fewer in number, in their search for the essence of parliamentarism they take inspiration from British constitutional doctrine, especially that of Bagehot, and their best known and most consistent representative is the French theoretician Raymond Carré de Malberg. They do not care for the theory of division of powers, and reject the view that the principle of balance is inherent in parliamentarism. Although historically created as a division of powers between the monarch and the representative body, with the government playing the role of a mediator, parliamentarism as a modern political system – the monists argue – assumes a government responsible solely to parliament, which indeed is symbolically expressed in the system's very name.<sup>71</sup> The monists are quite consistent in this regard: the head of state can neither influence the composition of the government under normal conditions nor do so by way of dissolution, because dissolution, insofar as it exists, is a matter solely for the responsible government to decide.

Given that the irresponsible head of state is fully neutralised, the executive as a whole comes under the control of parliament, which in this system – the monists argue – ensures the supremacy of the legislature. It is precisely this – the supremacy of the legislature over the executive – that according to this doctrine represents the legal essence of parliamentarism. Taken to its extreme, this position in fact abandons dualism of the executive power, and leads to the conclusion that in a parliamentary system the head of state represents a remnant of the system of division of powers, which represents the origin but not the essence of parliamentarism.

70 Yvon Gouet, *op.cit.*, 'Qu'est ce que le régime parlementaire', *Revue de droit public et de la science politique en France et à l'étranger*, vol. 49, year XXXIX, 1932, p. 225.

71 R. C. de Malberg, *op.cit.*, pp. 81–4.

From the point of view of parliamentarism, the monarch or president of the republic represents only a subsidiary institution, whose ultimate disappearance is a natural outcome of this system's evolution.<sup>72</sup>

As for dissolution, the monists do not view this institution as a crucial element of parliamentarism as a system of government. Though opponents of balance, they nevertheless do not reject it, judging it to be useful in political practice: first, it has a positive effect on the government's stability; secondly, it ensures greater democracy of the system, by having practically the role of a referendum. This last on the assumption, of course, that the right of dissolution be properly applied, which means only in a situation when there exists a clearly formulated, important political issue on which the electorate should pass judgement in early elections. So dissolution is not an expression of the power of the executive over the legislature, but a way of ensuring agreement between parliament and the electorate's mood. The meaning of dissolution, according to de Malberg, is not to strengthen the executive in relation to parliament, but to strengthen the position and role of the electorate. Its true aim is to prevent parliament from imposing a policy on the country that runs contrary to the true mood of the electorate.<sup>73</sup>

According to the dualists, the monist theory is most vulnerable on the question of dissolution. Regardless of the meaning ascribed to it, the right of the executive to dissolve the legislature exists everywhere except in France (and nominally there too), which clearly shows that there is no supremacy of the legislature. By accepting dissolution, the dualists argue, the theory defended by de Malberg and his followers becomes contradictory: it insists that parliamentarism is a monist system, but that it functions in reality as it were dualist.<sup>74</sup>

The doctrine of the legislature's supremacy over the executive, especially when referring to the cabinet system, is indeed difficult to sustain,

72 Capitant, *op.cit.*, p.40.

73 de Malberg, *op.cit.*, pp. 82-3.

74 Gouet, *op.cit.*, pp. 213-14.

unless one excludes the British political system after 1867 from the rank of parliamentary regimes. Not because this system rests on a balance of powers, however, as the dualists argue, but rather the opposite: because it is characterised by full supremacy of the executive over the legislature. For the cabinet system cannot be defended from the position of monist doctrine, given that the legislature is not supreme within it; but neither can it be defended from the position of dualism, because it is not based on a balance between the two powers.<sup>75</sup>

The evident limitations of the aforementioned doctrines in explaining the legal essence of parliamentarism – which leads the advocates of both ultimately into a blind alley, from which the most radical among them try to escape even by denying any authentically parliamentary character to some of the historically most important examples of the parliamentary system – significantly relativises the importance of the theoretical disagreements between dualists and monists, i.e. of their theoretical positions in general. The only convincing and in practice relevant difference between them concerns their understanding of the head of state's role in a parliamentary system, while their dispute over the relationship between the executive and the legislature – in the form of advocacy or negation of the principle of balance in the context of quite different historical solutions – frequently appears strained and fruitless. It is pretty clear that the dualist and monist models represent different historical forms of parliamentarism, the most important difference between them being that in the former case the government has a dual political responsibility – before both parliament and the head of state – whereas in the latter case its responsibility is only to parliament. One can speak of a balance between executive and legislature ultimately only in a parliamentarism in which the head of state plays an active role, i.e. in a dualist or so-called Orléanist parliamentarism. In this sense, the criterion of balance can be useful only for differentiating between a parliamentary system with an active head of state and one in

75 This is why Sokol calls the cabinet system 'seeming parliamentarism'; *op.cit.*, p.31, ft 34.

which he is passive; but not for separating out, within the monist type of parliamentary rule, special forms of the relationship between executive and legislature, where the differences are no less significant than those dividing the monist from the dualist form of parliamentarism. In one of these forms – Britain in mid nineteenth century and France after 1875 – the responsibility of the government before parliament is effective, which makes the legislative body dominant in relation to the executive. In another case – the British cabinet system – the responsibility is only formal, which makes the government in practice the bearer of total state power, leaving parliament politically marginalised. For these reasons, the criterion of balance is insufficient for defining individual types of parliamentarism, since it prevents any differentiation, for example, between the cabinet system and French parliamentarism. If the criterion of balance is linked to the right of dissolution, however, then reality is simply neglected, as is most forcefully testified to by the cabinet system: for the latter's essential characteristics are the presence of dissolution and the absence of balance.

If the principle of balance is insufficient, though not irrelevant, for the purpose of classifying individual types of parliamentary rule, it is practically useless as a criterion of the parliamentary system. This is because it necessarily leads to denying the parliamentary character not only of the political system of the Third Republic, and of the similar one prevailing in nineteenth-century Britain (Redslob), but also that of the cabinet system (Sokol). Thus if one expects the parliamentary system to secure a balance between the executive and the legislature, Britain after 1832 could not be classified as a parliamentary state, while France would be one only during the period of the July Monarchy. It is particularly difficult to accept the position advocated by Redslob, in particular, which identifies the principle of balance between the executive and the legislature with the existence of the right of dissolution (which he treats as the very essence of parliamentarism), thereby equalizing the mutually most divergent types of parliamentary system, such as, for example, the Belgian (i.e. Orléanist) on the one hand and the British after 1867 on the other.



It is for these reasons that the most satisfactory theoretical position seems to be one which builds the principle of evolution into the very definition of parliamentarism, and reduces the legal essence of the system to those aspects that are common to all its historical forms, and that are sufficient to distinguish this model from other models of representative system – and above all from the conventual one. This approach became dominant in post-war constitutional science, French in particular;<sup>76</sup> but the most precise definition of this kind appeared in the inter-war period, at the height of the conflict between dualists and monists. It was formulated with conciliatory intentions by Capitant, who on the issue of the role of the head of state belonged to the monist camp. According to this author, the parliamentary system has two essential features: first, administration of the state is in the hands of the government (*gouvernement de cabinet*), which enjoys certain legislative powers in addition to executive ones; secondly, the government must be politically responsible before parliament.<sup>77</sup> Essentially, this definition identifies parliamentarism with the government's political responsibility before parliament. In Serbian constitutional science, the responsibility of the government before parliament as the legal definition of parliamentarism was adopted by Milan Vladisavljević.<sup>78</sup>

The government as the collective organ that articulates state policy, and that also enjoys the confidence of the representative body, does indeed represent a common feature of all historical forms of parliamentarism, from the dualist or Orléanist one – in which the head of state participates in administration of the state through his influence on the political

76 Boris Mirkine-Guetzévitch, *Les constitutions européennes*, vol.1, Paris 1951, p. 19; P. Lalumière and A. Demichel, *op.cit.*; R. Fusilier, *Les monarchies parlementaires*; Marcel Prelot, introduction to R. Fusilier, *op. cit.*; A. Hauriou and L. Sfez, *op.cit.*; J. de Malafosse, *op.cit.*; P. Bastide (according to J. de Malafosse), *op.cit.*, p. XII.

77 Capitant, *op.cit.*, pp.40, 51.

78 Milan Vladisavljević, *Parlamentarizam po odredbama ustava*, Belgrade 1936. Đorđe Tasić defines parliamentarism in a similar way, as: 'the government that enjoys the confidence of the parliamentary majority'. Đ. Tasić, 'O našem parlamentarizmu', *Arhiv za pravne i društvene nauke*, 17/1928, p. 426.

composition of the government – to all variants of monist parliamentarism, including the cabinet system. For, in the latter variant, shifting the brunt of control over the government from parliament to the political parties, however substantive it might be, remained nevertheless within the bounds of politics, leaving parliament with adequate legal means to exercise as necessary its indubitable right of control over the work of the government.<sup>79</sup>

In addition, a parliamentary regime defined in this way brings out most strongly the difference between this model and the conventual one. For, in the latter, the government ‘neither has its own particular programme, as does a government in a parliamentary regime, do nor can conduct its own specific policy’. ‘In a parliamentary regime, a change of policy demands a change of people’, says Miodrag Jovičić, whereas in a conventual system ‘the same people can conduct different policies’. In short, members of the government in a conventual system are not political personalities, which may explain the fact that in Switzerland, where this

79 In defining parliamentarism as the government's political responsibility before parliament, Vladislavjević drew the conclusion, however, that strictly speaking only the French model fulfilled the criterion of parliamentarism, where due to the absence of dissolution a government that had lost the parliamentary majority was bound to resign promptly. Moreover, ‘monarchist parliamentarism’, in which the government was responsible before both parliament and the head of state – based, therefore, on the balance of power – was in Vladislavjević's view ‘logically untenable’. For when the king imposes ministers on parliament who do not enjoy its confidence, there is no parliamentarism; and if, on the other hand, the king bows before the will of the parliamentary majority, then it is not parliamentarism of the ‘monarchist’ or dualist type. Vladislavjević, *Parlamentarizam po odredbama ustava*, pp. 8, 11, 13–14. This argument displays a double weakness. First, it excludes the possibility of the existence of a political accord between the crown, i.e. the head of state, and parliament. This accord is perhaps difficult to achieve in real political life, but it nevertheless remains a theoretical possibility. Secondly, and more importantly, the principle of the government's responsibility before parliament is safeguarded even when a government left in a minority dissolves parliament, because dissolution is immediately followed by elections and a new parliament that will actually decide the government's fate.

system is in use, the assembly cannot recall a government in the course of its mandate.<sup>80</sup> For the logic of the system is such that it denies the possibility of a conflict between the executive and the legislature.

80 M. Jovičić, *Veliki ustavni sistemi*, pp. 199–200. The Swiss parliament has the right even to quash acts of government that it considers inappropriate. Some constitutional theorists argue that the Swiss system should be defined not as a conventual, but as a directorial, system. The difference would be that in a conventual system there exists a much closer relationship than in a directorial system between the organ performing the executive function and parliament, in the sense that in the former case the executive organ derives from parliament itself, whereas in the latter, directorial system, its members are on the contrary not allowed to be at the same time members of parliament. In the directorial system taken as a whole, the dependence of the executive organ on parliament is not as great as in a conventual system. In this sense, the full unity of government exists only in a conventual system. Ratko Marković, *Izvršna vlast*, Belgrade 1980, pp. 163–70. But the fact remains that in neither of the two systems is the executive organ a political body, so that there cannot be political responsibility before parliament. It is this which differentiates both systems from parliamentary government, which is why we do not differentiate here between conventual and directorial systems.

### III ON THE METHOD OF RESEARCH

Any discussion of the functioning of a political system inevitably introduces into the legal approach the meta-legal element of fact. This is how Mirkine-Guetzévitch expressed the view – by now more or less generally accepted – that it is impossible to analyse a political regime outside of its real social and political context, and by doing so summed up the task of all those studying the practical functioning of political institutions and constitutionalism in a given country.<sup>81</sup> De Tocqueville had expressed the same thought eighty years earlier. ‘In my view’, he wrote in 1850, constitutions like laws may have their own value, but in reality ‘they do not exist independently of the effects they produce in practice’.<sup>82</sup>

This basic methodological stance has multiple significance in the case of research on a parliamentary regime. As shown above, whether a regime may be defined as parliamentary cannot be decided even from a legal-institutional point of view by analysing the text of the constitution. Naturally the constitution must contain the legal assumptions of parliamentary government: above all, an equal division of legislative and budgetary powers between the head of state and parliament; also dualism of the executive, achieved by ministerial counter-signature on all acts initiated by the irresponsible head of state. But a response to the question of whether a particular constitution signifies the existence of a parliamentary regime, and of what type, can be given only through an analysis of constitutional practice, in which the central place is occupied by the position of ministers in relation to the two constitutional organs of power: the head of state and

81 Boris Mirkine-Guetzévitch, ‘L’étude comparative de la technique parlementaire’, *Annales de l’Institut du Droit comparé de l’Université de Paris*, 1, 1934, p.169. See also pp. 170–71.

82 Letter to a friend, quoted in the introduction to Alexis de Tocqueville, *L’ancien régime et la Révolution*, Paris 1985, p.18.

parliament. This in turn means that the parliamentary nature of a political regime may be analysed and judged only as a process, and that the quality of the judgement depends on the length of the period under consideration. This fact contains a key limitation for those studying Serbian parliamentarism, which lasted only eleven years. If ministers were at one time responsible only to the king, and then only to parliament; if governments were at one time politically homogenous and at another based on coalitions; if on some occasions the power of the government was comparable to that of a British cabinet and on others quite ineffectual – and all this in the course of eleven years – then all one can do is talk about tendencies and a process of formation, rather than about this or that type of regime. All conclusions reached in this work with regard to Serbian parliamentarism should be seen in this light.

When speaking about the study of parliamentarism as the modern representative system, it is necessary to include – in addition to the classical institutional framework of king, government and parliament – a study also of the parties, and therewith also the electoral system. For the parliamentarism of this period as a representative system of government – by contrast with the period when it became legally defined – rested on an electorate that articulated its political interests through political parties. The party system, largely determined by the electoral system, assumed in fact the political and institutional framework of a parliamentary regime. For the student of Serbian parliamentarism, the study of this aspect of the system is all the more indispensable in that, thanks to specific historical and political circumstances, the Serbian constitution – contrary to the standards of its adopted constitutional model – by prescribing the system of electoral lists accepted parties in a specific way as political factors of constitutive importance for the political regime. In this regard too, even more than in regard to the relationship between the organs of government, the regime's short duration limits the relevance of the conclusions. A longer time is needed for a party system to be formed under the influence of a given electoral system. This is particularly true for Serbia, which at the start

of the period of constitutional rule found itself *de facto*, if not nominally, under one-party rule.

The basic methodological approach to the study of political institutions as defined above imposes additional tasks. It assumes studying the real, practical-political substance of the given institutions, which are in turn decisively determined by the real social and political framework within which the institutions operated. A parliamentary system evolves under the possibly decisive influence of factors such as ideology, or economic and social structure. This setting acts upon the institutions, explains their variations and transformations, according to Capitant.<sup>83</sup> We are dealing here, in fact, with a phenomenon – linked to the history of modern European constitutionalism – known as reception. Every transplantation of an institution from its country of origin assumes its adaptation – and thereby alteration of the model – but carries also the risk of failure. This risk is all the greater, the greater the differences of real social and political context in relation to the country in which the institutions were born. Constitutional theory, especially in its more modern guises, bearing in mind the constitutional experience of countries where the institutions of parliamentary rule were transplanted into a wholly different soil, extends the very definition of parliamentarism to include the social and political context without which, regardless of the legal norms, a regime could not evolve in a parliamentary direction. The list of indispensable preconditions regularly includes, as being most important, a relatively developed capitalist economic and social order, and liberalism as the dominant political philosophy. This essentially sociological approach to parliamentarism can be discerned also among Serbian pre-war authors, especially with respect to Slobodan Jovanović. As he wrote in the 1930s, ‘one cannot achieve a truly representative government, which in western Europe rested on the enlightened bourgeoisie, with uneducated peasant assemblies.’<sup>84</sup>

83 Capitant, *op.cit.*, pp. 56–7.

84 Slobodan Jovanović, *O dvodomnom sistemu*, Belgrade 1932, p.154.

The evolution of a constitutional into a parliamentary monarchy on the European continent was thus conditioned by many factors, among which the relevant relationship of forces between the crown and the representative body was decisive only on one – the political and legal – level of the problem. At the level of society and politics it assumed the existence of a bourgeois or individualistic social order, indispensable for the creation of modern constitutionalism in general. However, as a regime resting upon a subtle and scrupulous respect for certain rules that did not derive directly from a written, constitutional norm, parliamentarism demanded more than that: namely, a high level of political culture, expressed in an authentic respect for political pluralism as an unquestioned principle of political life in the broadest sense. As a system functioning legally on the majority principle, it could not be fitted into just any species of this principle, but indeed stood in conflict with the rationalist understanding of the majority as the expression of a general will that is by definition all-powerful and sacrosanct. Parliamentarism as a responsible government was legally defined before the appearance of the democratic principle, and expressed a liberal political ideology the supreme postulate of which is a circumscribed and controlled government in the interests of freedom of the individual, and which as such excludes value-based judgements of different political options on the basis of whether they command majority or minority support. This is an ideology that assumes political pluralism, which at the level of exercise of power finds its expression in acknowledgement of the minority – i.e. the opposition – as a constitutive factor of the regime. From this point of view parliamentary government, in which the opposition is de facto institutionalised as part of the system, is the most faithful expression of political liberalism. The relationship between parliamentarism and liberalism may be defined in the way that Lidija Basta defines the relationship between constitutionalism and liberalism: what is at stake is ‘legally established self-understood political liberalism.’<sup>85</sup> As for democracy – understood as political equality and, above all, as a broad

85 L. Basta, *op.cit.*, p.318.

(general) suffrage – it arrived subsequently, and from the viewpoint of this political system simply involved an extension of the regime’s social base. As Lalumière and Demichel have stressed, parliamentarism is primarily a liberal and only secondarily a democratic political system.<sup>86</sup> This is why bourgeois society and liberalism as the dominant political ideology are premises of fundamental importance for this regime. The extent of their presence in European states in which constitutional life did not begin until the era of democracy in each case directly determined the success or failure of the creation of a parliamentary system and the extent of its (in-) effectiveness in practice.

In view of these assumptions, one can divide the European states which sought to articulate their constitutional practice in accordance with the British model into two groups. The first group would include those where only the liberal political tradition was contested – due mainly to the persistence of the absolutist order, or a strong influence of revolutionary rationalist ideas – while bourgeois society as an individualistic order was more or less established. This group, taken as a whole, involves states in the west and north of the continent. In all of these, constitutional development was marked by an important role of the crown, which determined the form of parliamentary regime that emerged as dominant. In some of them, alongside a long absolutist tradition, a strong influence of political ideas – and especially of a revolutionary notion of democracy – acted as an impediment to the spontaneous establishment of parliamentarism. The paradigmatic example of this latter is France, which – moving along a winding and thorny path in its establishment of liberal-democratic institutions, from the restoration of 1814 to the introduction of a parliamentary system under the Third Republic in 1875 – experienced the most diverse political reversals, including two revolutions. What is characteristic of all these states, however, is that liberalism as an ideology found fertile soil for its installation even where it had encountered the most serious obstacles, in a developed bourgeois society.

86 Lalumière and Demichel, *op.cit.*, p. 73. See also M. Prelot, *op.cit.*, pp. 15–16.



The second group of European states whose constitutional history in the nineteenth and early twentieth centuries is marked by their attempts to establish a parliamentary regime consists of states which lacked not only a tradition of liberalism, but also conditions for the adoption of such an ideology, because at the moment of its reception they had not developed a bourgeois society. This group includes the Balkan states, which in the second half of the nineteenth century adopted a constitutional model of monarchy on the British model by copying the Belgian constitution.<sup>87</sup> According to Dimitrije Đorđević: 'The nineteenth-century Balkans tried to join Europe by establishing European institutions on its soil.'<sup>88</sup> Sooner or later, more or less successfully, these states created at the institutional level a kind of a parliamentary system. However, due to the absence of the necessary social, political, economic and cultural conditions, this inevitably acquired a very specific content. Apart from the limited development of bourgeois society there, it is necessary to mention also the circumstance that the process of institutionalised Europeanisation of the Balkan states – viewed chronologically – followed closely upon the period of uprisings and wars that had created them in the first place, and coincided with an epoch of ambitious national and expansionist programmes which, given the low level of political evolution, resulted a significant involvement of the army in politics. Not infrequently, acting as an extra-constitutional governmental factor, the army in these countries played a key role in the introduction of the new constitutional order and the subsequent functioning of its institutions.<sup>89</sup>

87 For external influence on Balkan constitutionalists, see Dimitrije Đorđević, *Ogledi iz novije balkanske istorije*, Belgrade 1989, pp 104–30.

88 D. Đorđević, *Ogledi.*, p.55. On the essential differences between Western and Balkans societies, due to which Western influence was there reduced to the form, see also pp. 13–20, 60.

89 Đorđević, *Ogledi*, pp. 66–86. For Greece, see also Zilemenos, *op.cit.*, pp. 145–6. See also Marie-Hélène Coppas, *La formation des systèmes partisans dans les Balkans (étude comparative)*, doctoral dissertation in manuscript, Paris 1991, p.3.

Serbia at the turn of the nineteenth century belongs to this group of states. In the period under consideration, the Kingdom of Serbia was a poor, socially very homogeneous, agrarian country of small peasant plots, with an urban society still in its infancy, the majority of its population being uneducated and illiterate. While in this respect sharing the typical features of the Balkan social milieu, Serbia at the turn of the century – as testified to by comparative statistical data – actually lagged behind other Balkan states.<sup>90</sup> For these reasons, the problem of the reception of modern political institutions – which confronted most European continental states in the nineteenth century – in the Serbian case acquired specific features. It cannot really be compared with the experience of the countries of western Europe.

Consequently, in studying the institutions of the parliamentary regime in Serbia, the most congenial approach appears to be one that retains the logic of Mirkin-Guetzévitch's methodological approach, but goes even further, in the belief that the comparative constitutional method that is usually applied in the study of modern constitutionalism remains meaningful only insofar as it is used for states with broadly similar social and political settings.<sup>91</sup> The analysis can otherwise lead to wrong conclusions

90 In 1905 the proportion of village inhabitants was 87.31% (in Bulgaria in 1900, 80.2%; Romania 82.4%; Greece 66.9%). Dimitrije Đorđević, 'Srpsko društvo 1903–1914.', *Marksistička misao*, 4, 1985, p.126; Holm Sundhaussen, *Historische Statistik Serbiens 1834–1914*, Munich 1989, pp. 102–3. At the end of the century Serbia had only two towns of 10–50,000 inhabitants (Greece had seven; Bulgaria ten, plus one of 50–100,000; Romania 21, two of 50–100,000 and one with over 100,000 inhabitants). Sundhaussen, pp. 105–6. *The New Cambridge Modern History*, vol.12, Cambridge 1960, p. 12, defines as urban only settlements with over 100,000 inhabitants. In Serbia in 1900, 79.7% of the population over the age of 6 was illiterate (in Greece in 1907, 60.8%; in Bulgaria in 1900, 72.1%; in Romania in 1899, 78%). Sundhaussen, pp. 537–8. In Serbia in 1900, 84.23 of the population lived off agriculture. *Statistički godišnjak Kraljevine Srbije*, X, Belgrade 1907, p.123. 54.9% of the land holdings were below 5 hectares. Đorđević, 'Srpsko društvo', pp. 129–30. Only one third of peasant households had an iron plough. *Istorija srpskog naroda*, VI, 1, Belgrade 1983, p.180.

91 Most contemporary authors adopt this approach when judging the usefulness

that would further obfuscate the problem. Comparable in form to their models, liberal state institutions in Serbia elude the comparative approach as soon as they are viewed in real political life. This is why the scientific criterion in studying the life of the adopted constitutional and political institutions can best be met by combining constitutional with historical analysis of these institutions on the national level. This is the approach mainly used in this book. This does not mean, of course, that a comparative approach is totally excluded from the analysis. It is applied in a specific way, however, in that the effects of parliamentary practice are always judged by reference to the model. At the level of the constitutional norm itself, meanwhile, the comparative method is applied directly in the usual manner.

The choice of this methodological approach came from a conviction that, in the case of a state like Serbia where the social and political context is quite different from that prevalent in states where modern political institutions are more or less autochthonous, the true if not only interest in studying its institutions lies in discovering the meaning that these acquire in practice. It is necessary to stress here that a comparative approach in research of this kind would be most fruitful, if the subject of the analysis were states with a similar social and political setting, such as the other Balkan states of the period.<sup>92</sup> A precondition for such an approach, however, is that the work on the national level should have been accomplished. In the case of Serbia and its institutions, such work is just beginning.

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of the comparative method in the analysis of political institutions. See, for example, Sartori, *op.cit.*, pp. 14–15. Sartori relates his definition of pluralism only to the modern parliamentary system in the West. See also Lalumière and Demichel, *op.cit.*, pp. 56–75; Prelot, *op.cit.*, pp. 8, 15–18.

92 This is the approach adopted by M. Coppa in her doctoral thesis. She chose a synthetic comparative approach to one segment of political modernisation in three Balkans states: Serbia, Bulgaria and Greece, namely to the establishment of party systems. She dissociated herself in advance, however, from ‘analytical and systematic investigation’, posing herself the aim of perceiving the basic common trends. Coppa, *op.cit.*, pp. 2, 7.



PART ONE

**THE FOUNDATIONS  
OF PARLIAMENTARISM  
IN SERBIA**



## SECTION ONE

### **Historical Foundations**

# I POLITICAL AND CONSTITUTIONAL PROGRAMMES BEFORE 1883 – FOR AND AGAINST PARLIAMENTARISM

The formal organisation of Serbian political parties at the start of the 1890s was the culmination of a lengthy process of articulation of the basic concepts of the political and state-legal ordering of the young state. The three political parties that determined the history of modern Serbian constitutionalism as an idea and in practice – the Liberals, the Radicals and the Progressives – were already in existence; their formal organisation in 1881 simply marked the start of an open parliamentary, and also extra-parliamentary, conflict between clearly defined and fundamentally different ideological-doctrinal and practical-political projects. This was a conflict between a state project derived from the reception of liberal political principles and institutions, on the one hand, and on the other a concept representing an attempt to bypass and even negate these. The former originated in the ambit of a socially marginal but nevertheless dominant intellectual and political elite formed under the spiritual and political influence of the West, headed at first by the Liberal and later by the Progressive Party. The latter was formulated as an alternative to this, under the direct influence of Svetozar Marković's populist and socialist ideas and by followers of these who succeeded in creating a mass political movement that soon became the largest political party in Serbia: the Radical Party.

## 1. Parliamentarism as the programme of the intellectual and political elite – Influence of Western liberalism

The first liberal political and constitutional ideas emerged in Serbia as early as the middle of the nineteenth century. The relatively large number of translated works of a legal and political nature, in which liberal doctrine occupied an important place, signalled the awakening of an interest in European political institutions. The numerically small Serbian intellectual public was able as early as 1844 to read in its mother tongue Montesquieu's ideas as expounded in his *Spirit of the Laws*, and in the second half of the nineteenth century also other relevant writers on modern European constitutionalism, such as Alexis de Tocqueville, Benjamin Constant, John Stuart Mill, Walter Bagehot, Johann Caspar Bluntschli and Georg Jellinek.<sup>93</sup>

At this time, in the mid 1850s, there appeared also a small group of people whose public activity was inspired by contemporary European ideas on individual and national freedoms. Intellectually formed at European universities, which they attended as state-funded scholars, they returned to their country harbouring great reforming – and soon also practical-political – ambitions. Under the influence of Professor Dimitrije Matić in particular, but also of Đorđe Cenić and Kosta Cukić, the so-called St. Andrew liberal group emerged from a circle of students studying at Belgrade High School, which joined the political battle against the regime of the 'constitutionalists' and greatly contributed to its downfall at the St Andrew Assembly in 1858.<sup>94</sup> Their basic political aim – transfer of power

93 See Gojko Niketić, ed., *Pravna bibliografija članka i knjiga u srpskoj književnosti do kraja 1905. godine*, Belgrade 1907. Montesquieu's work was translated in extracts published between 1844 and 1877 in *Zbirka Razni Polezni i Zabavni predmeta*.

94 On Serbian liberal thought before 1870, see Milan Subotić, *Srčanje slobode*, Gradina-Niš 1992. On Dimitrije Matić's work as a lawyer and philosopher, see Božidar Marković, *Dimitrije Matić, Lik jednog pravnika*, in *Izvori srpskog prava*, SANU, Belgrade 1977. [The assembly of St Andrew, held in Belgrade between 30 November 1858 and 31 January 1859, which included also St Andrew's



from the state council as a bureaucratic body to the assembly, in other words the introduction of representative government – was in the event not realised. But the St Andrew liberals can nevertheless be viewed as the founding fathers of Serbian liberalism, among other things because they determined the main and politically dominant currents of reception of liberal political thought in Serbia.

The founders of Serbian liberalism were influenced in equal measure by liberal ideology and by the revolutionary democracy with which France inspired the European continent. They linked the demand for individual freedoms with the idea of national sovereignty, which they understood as the sovereign power of an assembly elected through general [male] suffrage. By also endorsing the principle of separation of powers and a system of responsible government, the earliest Serbian liberals arrived at the idea of a constitutional order which, albeit not wholly coherent, was undoubtedly both liberal and democratic.<sup>95</sup> The idea of the assembly's sovereign power, founded upon this original liberalism, was to develop strong roots during the process of Serbia's institutional modernisation, remaining unattractive and unacceptable only to the weakest political group, the Progressives. This idea acquired its organised expression in the institution of a grand national assembly with constitution-making powers. According to Slobodan Jovanović, this institution was fashioned on a republican, not a monarchical principle. In 1900 Jovanović wrote in the conclusion of his essay on the grand national assembly: 'If it were to turn out that we cannot after all be without such an assembly, it would mean only that our political life still lacks order, and that in our country constitutional reforms are not reforms but revolutions.'<sup>96</sup> Three years later, following the May Coup,

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Day, passed the law turning the formerly occasional national assembly into a permanent institution.].

95 On the two foremost representatives of St Andrew liberalism – Jevrem Grujić and Vladimir Jovanović – see Subotić, *op.cit.*, pp. 68–94.

96 Slobodan Jovanović, *Velika narodna skupština. Studija o ustavotvornoj vlasti*, Belgrade 1900, pp. 62–8. Jovanović noted that among European kingdoms this institution was found only in Serbia, Bulgaria and Greece.

the idea of the national assembly as the sovereign power was proclaimed the supreme political and constitutional principle.

At the end of the 1870s, the St Andrew liberals turned their attention to the court. That is to say, they tried to influence its policy with the aim of opening a path, in cooperation with it, to the introduction of modern political institutions into Serbia. This naturally led to a drastic moderation of their original doctrinal positions – two of the leading St Andrew ideologues, Vladimir Jovanović and Jevrem Grujić, even accepted ministerial posts – but in return bore its first fruits in practical, political life. Following Prince Michael's assassination in 1868, Serbia in the following year – under a regency headed by the future leader of the Liberal Party, Jovan Ristić – acquired its first constitution, which introduced a representative system and the principle of division of powers. These were only the first steps in this direction, however. Apart from being very restrictive in its recognition of individual political rights and freedoms and their protection, the 1869 constitution gave to the crown a far greater share of legislative and budgetary powers than it did to the assembly. The prince was able to influence even the composition of parliament, because the constitution gave him the right to appoint some of the deputies. But although the legal conditions for parliamentary government were not established, the idea of ministerial responsibility before parliament found a place in this constitution: it contained the institution of ministerial counter-signature, and prescribed that not just the prince but parliament too had the right to charge ministers with violation of the constitution and the law. Ministers in this way became subject also to the authority of parliament, and not exclusively to that of the prince as had previously been the case. Although this authority involved the right to judge only the legality and not the quality of ministers' work, it nevertheless indicated a degree of separation of ministers from the crown. In other words, it was a first step towards establishing a dualism of the executive: in addition to the non-responsible prince, there were now also responsible ministers, even though their responsibility was limited to respecting the laws and the constitution. Constitutional practice

under the regency gradually produced a new – politically defined – type of minister in place of the former bureaucrat.<sup>97</sup> As for the early liberals' ideology, it was visible in the constitution only in the introduction of a wide suffrage (the property census was relatively low), and in acceptance of the institution of a Grand Assembly with constitutional powers – shared, however, with the prince.<sup>98</sup>

This so-called regency constitution, which with a five-year break would remain in force until 1901, became a subject of dispute immediately after its adoption. The most consistent liberal critique, however, came not from the Liberals – they were the last to join the movement for constitutional reform – but from the so-called Young Conservatives, the future Progressives. They imbued the liberal-minded reform movement with a fresh energy that it had lost through identification of the St Andrew liberals with the regency council. When in 1873, at the demand of Prince Milan, they formed a government headed by Jovan Marinović, the Young Conservatives immediately – in addition to taking important steps in the general sphere of economic and social modernisation (aiding industry, introducing the metric system and silver coinage, etc.) – initiated a corresponding reform of the political system. The press law was liberalised and civic rights enlarged, and there were the first attempts to make the principle of ministerial responsibility part of Serbian constitutional practice. Namely, in early January 1874 Marinović asked the assembly for a vote of confidence in his government, which he won – only to resign at the end of the year, after the draft address of the governmental majority had been passed in the assembly by just three votes, on the grounds that an effective government needed a stronger parliamentary majority.<sup>99</sup> This, however, was

97 Slobodan Jovanović, 'Naše ustavno pitanje u XIX. veku', in *Političke i pravne rasprave*, 1, Belgrade 1932, pp. 50–51. See also A. Dragnich, *op.cit.*, pp. 54–5.

98 On the 1869 constitution see Dragan Nikolić, 'Ustav od 1869. godine ('Namesnički ustav')', in *Ustavi Kneževine i Kraljevine Srbije 1835–1903*, Belgrade 1988.

99 Slobodan Jovanović, *Vlada Milana Obrenovića*, Belgrade 1934, vol.1, pp.

more of an expression of personal attachment to the idea of parliamentary government on the part of the small group of Young Conservatives than it was proof of any historical maturity demanding the introduction of a parliamentary system of government; proof more of the existence of a modern political elite in contemporary Serbia than of parliament's strength in relation to the executive. Quite the contrary, in fact: the parliaments of this period were obedient to the government, and Prince Milan's political authority was in the ascendant.<sup>100</sup>

The Young Conservatives not only infused the idea of liberal reforms with fresh energy, but also gave them a new content. Unreservedly pro-Western and intellectually talented, the future Progressives sought to ground the Serbian state and its internal freedoms within the experience and achievements of modern Europe, which they hoped Serbia would one day join.<sup>101</sup> This is why they firmly endorsed the view that Serbia's most urgent task was domestic modernisation, of which strict respect for the law, personal and political freedoms, and responsible government, were inseparable parts. At the same time, their liberal ideology was devoid not only of the idea of democracy understood in the spirit of the French revolutionary tradition, but also of the democratic ideas then current in European liberalism, which by now had – for reasons of both doctrine and Realpolitik – accepted a broad and even universal [male] suffrage, and which understood parliamentarism to be a political system in which the crown was deprived of real political power. Consequently, in the interpretation of the Young Conservatives, parliamentary government did not assume the

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314–31, 334–5; Milivoje Popović, *Poreklo i postanak ustava od 1888.*, Belgrade 1939, pp. 29–37. See also Dragnich, *op.cit.*, p. 54.

100 'The deputies rose whenever Minister Ristić entered the assembly; asking a question was perceived as an act of great personal courage, etc.'. S. Jovanović, 'Naše ustavno pitanje', p.38.

101 Formulating for the first time their programme in the journal *Videlo* of 15.12.1879, the Progressives stressed that they were guided by a 'firm will to join, with our aspirations towards general progress, the ranks of the European nations whose civilisation we greatly respect...'. *Srpska napredna stranka*, Belgrade 1883, p.4.

political dominance or even omnipotence of the assembly, as had been true for the early Liberals; on the contrary, they envisaged an active role of the crown and an enhanced political importance of the upper social layers, to be secured by restricting the suffrage and introducing a second parliamentary chamber. They transformed their ideological position into a concrete political programme in the pages of the journal *Videlo*, which they began to publish as early as 1879,<sup>102</sup> demanding at the same time that the regency constitution be changed accordingly.<sup>103</sup>

In this sense, especially bearing in mind the content of the original Serbian liberalism, the Progressives' political ideology, while consistent with the principles of liberal doctrine, was of a conservative aspect. The Progressives themselves indeed identified their party as conservative, without finding this label inconsistent in any way with their party's name. They were convinced that, given the lack of freedoms and undeveloped division of powers in Serbia, the attribute 'progressive' properly described those who insisted on respect for the law, individual freedoms and division of powers, and who placed these values above political – and especially social – democracy. In short, they were advocates of a political option that sought to adapt the dynamic of Serbia's modernisation to the experience of a Europe where the idea of a free citizen was older than democracy as a system of government and a political regime. The Progressives thus defined their party, even before its formal organisation, in a way that was to

102 The group around *Videlo* included Milan Piročanac, Milutin Garašanin, Čedomilj Mijatović and Stojan Novaković, as well as some 'liberal defectors', the most important of whom were Ljubomir Kaljević and Gligorije Geršić. S. Jovanović, *Vlada Milana Obrenovića*, vol.2, p.291. The political and constitutional programme of the Progressive Party was most clearly formulated by Milan Piročanac. On Piročanac's ideas, see M. Popović, *Poreklo i postanak*, pp. 62–5; and Jaša Prodanović, *Ustavni razvitak i ustavne borbe u Srbiji*, Belgrade 1936, pp. 226–8.

103 The *Videlo* programme and Art. 1 of *Pravila Srpske napredne stranke*, in which the *Videlo* programme appears as the basis of the association, are in *Srpska napredna stranka*, pp. 2–4, 18. See also Stojan Novaković, *Dvadeset godina ustavne politike u Srbiji, 1883 – 1903*, Belgrade 1912, p.17.

last until the very end of its existence: as the party of a tiny liberal-urban intellectual elite, with elements of a conservative political position. Their ideological consistency – which they maintained despite all electoral defeats, and from which they would not deviate even when, as after 1903, they lost for good the support of the crown – made the Progressives into a unique party on the Serbian political stage. This ideological current was without any significant social support, because its activists' basic programmatic demand – restriction of the ruler's power in the interest of protecting individual rights and freedoms, and linked to that the establishment of a responsible government – could be attractive only to the middle class, which in Serbia was in its infancy. Their open and principled reservations regarding the participation of wider social layers in politics, together with their commitment to the capitalist road of development at a time when the Serbian peasantry was being offered a populist-socialist alternative, prevented the Progressives from gaining the sympathy and support of the broad masses.<sup>104</sup> They indeed provoked strong resistance among the latter, which developed over time into hostility and animosity, making the Progressive party highly unpopular.

Nevertheless, in 1880 the Progressives entered Serbian political life through the front door, because their ideology fitted into the vision of rule favoured by Prince (after 1882 King) Milan. In his speech from the throne addressing the new government's tasks, delivered in January 1881, Prince Milan *de facto* presented the Progressive Party's programme, stating explicitly that one of its key tasks would be to change the regency constitution in accordance with the principle of responsible government.<sup>105</sup> This meant that the crown had accepted a constitutional revision based on classic liberal principles of constitutional monarchy, and that nothing seemingly now obstructed the introduction of political freedoms and parliamentary government. The government headed by Milan Piroćanac introduced

104 According to S. Jovanović, the Progressives nurtured a 'revulsion towards the popular masses'. *O dvodomnom sistemu*, p.156.

105 *Srpska napredna stranka*, p. 10.

without delay in that same year a law guaranteeing freedom of the press, meeting and association, which led practically overnight to the formation of political parties. Independence of the courts was also legally established, obligatory primary schooling introduced, the popular army dissolved and conscription into a standing army decreed.<sup>106</sup> Finally, at its sittings in 1881 and 1882, the assembly decided to proceed to revision of the regency constitution. Its decision was confirmed by the prince.<sup>107</sup>

In 1883 the Progressive Party, in expectation of the constitutional reform, produced its own constitutional draft, which fully endorsed all the classic principles of the parliamentary system of government, some of these – such as the principle of autonomy of the representative body – more consistently than in other constitutional drafts, including the constitution of the Kingdom of Serbia. One should point here to the right of parliament to create its own standing orders, as well as to the regular annual recall of parliament as of right, i.e. without recourse to the king. Only the constitutional draft of the Radical Party would likewise accord this right of self-recall to the national assembly, while in regard to the latter's right to freely decide its own standing orders the Progressive Party's constitutional draft of 1883 forms a unique case in Serbian constitutional history. Finally, the Progressives' proposal in regard to constitution-making power too was consistent with the principle of separation and balance of powers: it did not recognise the institution of the grand national assembly, but divided the right of constitution-making between the king and the legislature, with the latter making its decision at joint sessions of the two chambers. The Progressives' draft did, however, also contain an important limitation of the parliamentary principle: the right of the crown, under certain conditions, to extend the old budget for up to one year.<sup>108</sup> As Milan Piroćanac, the conceptual author of this draft, explained, this departure from 'true

106 See *Rezolucija Glavnog zbora Napredne stranke*, Belgrade 1890, pp.2–3.

107 J. Prodanović, *Ustavni razvitak*, p.246. See also Novaković, *op.cit.*, p.18. Novaković believed that, despite Prince Milan's apparent readiness to accept the constitutional reform, he in fact never did so. Novaković, *ibid.*, p.21.

108 For the text of the draft, see J. Prodanović, *Ustavni razvitak*, pp. 254–65.

constitutionalism' was based on the conviction that this was absolutely necessary, given the actual relationship of forces in Serbia at the time.<sup>109</sup> This limitation on the assembly's budgetary powers was to be maintained, in this or a milder form, by all subsequent Serbian constitutions.

The Progressives' "Europeanisation" of Serbia' – as Stojan Novaković described his party's government at the start of the 1880s – concluded the first round of liberal reforms.<sup>110</sup> The ultimate result of this period was the elevation of liberal ideology to the status of an official state policy, the legalisation of political parties and freedom of the press, and a revitalisation of political life in the broadest sense. The liberal reforming activity of the Progressives did not last long, however, because the ruling elite was soon confronted with a powerful political movement whose social and constitutional programme called into question not only the government of the day, but also the dominant order as such. Although of short duration, the Progressive Party's liberal reforming effort represented one of the most significant steps taken in the direction of Serbia's Europeanisation.

## **2. Contesting parliamentarism from the standpoint of a radical democratism of socialist provenance**

Liberalisation of the political regime under the regency constitution created a space for the free activity also of political forces whose social and political ideology did not fit the programme of the ruling elite's liberal reforms. Following the appearance of Svetozar Marković, socialism became a legitimate part of the corpus of oppositional programmes. Emerging within the framework of the liberal association *Ujedinjena Omladina Srpska* (United Serb Youth), as a separate group of pronounced socialist orientation but dissociated from the government, the organisation's younger

109 J. Prodanović, *ibid.*, pp. 226–8. See also M. Popović, *Poreklo i postanak*, pp. 62–6.

110 S. Novaković, *Dvadeset godina ustavne politike*, p.13.



members (including the future leader of the Radical Party, Nikola Pašić) who gathered around Svetozar Marković penetrated the Serbian political space with increasing success, and in the process created a rapidly growing socialist movement.<sup>111</sup> Guided by the basic idea of by-passing capitalism, and convinced that Slav civilisation rejected the separation of state and society characteristic of the Western nations, Marković in his book *Srbija na istoku* [Serbia in the East] and numerous other texts presented a programme for transforming the Serbian state into an ‘organised society’, a ‘popular’ or ‘social state’. The foundations of this state were to be provided by the patriarchal institutions of the Serbian people, especially the *zadruga* [extended family with common ownership of land and cattle] and the *opština* [village community]; and its basic principle of organisation would be self-government. The state, in short, would be a ‘federation of *opštinas*’, and its main aim would be to bring about the people’s material prosperity by abolishing private property and ‘free competition’, and by regulating all social relations.<sup>112</sup>

Considering the problem of political organisation, Marković started from the conviction that the absence of social differentiation in Serbia made political parties redundant, and by extension the parliamentary system, whose functioning rested on difference and permanent strife between a majority and a minority, or rather between their parties. Parliamentary government was the government of a party responsible to a parliamentary majority, which in turn represented the interests of a majority party. In Serbia, however, an assembly elected freely on the basis of general [male] suffrage would represent the people as a politically homogeneous whole, and not parts of it – in other words political parties – so that the

111. On Svetozar Marković’s initial endorsement of St Andrew liberalism, his joint activity with the Liberals within *United Serb Youth*, and his dissension from them, see Latinka Perović, *Srpski socialisti 19. veka*, vol.2, pp. 199–274. Specifically on Marković’s break with the Liberals and his anti-liberal critique of Serbia’s constitutional evolution up to that time, see M. Subotić, *op.cit.*, pp 172–9.

112. On this see Subotić, *op.cit.*, especially pp. 100–104 and 174–5.

responsibility of the government to the representative body had to be absolute, being the same as responsibility to the people as a whole. Marković's understanding of democracy, in other words, rejected the principle of political pluralism, which meant negating the very essence of liberal ideology and constitutional doctrine. The political system imagined by Marković had some similarities with representative government as conceived by the early Serbian liberals, above all in ascribing sovereign power to the national assembly, which *de facto* if not explicitly questioned the monarchical principle.<sup>113</sup> But Marković went much further in this direction, in that he understood the principle of national sovereignty as a principle of absolute popular self-government, which left the assembly in sole possession not only of the highest – i.e. legislative and constitutional powers – but also of executive power. Marković proposed that the government be replaced by a committee elected by parliament and bound by the latter's instructions. This challenged and effectively denied the principle of separation of powers in favour of the principle of their unity, wielded in totality by the assembly.

The heir to Marković's political ideas, carrying on his political struggle, was the Radical Party, whose extensive membership continued to profess loyalty to Marković's programme well into the twentieth century. At the end of the 1880s and the start of the 1890s, the Radical leaders defined their party clearly and unequivocally as a negation of liberal and an affirmation of radical-democratic principles of socialist inspiration.<sup>114</sup> Unlike

113 In his demand for supremacy of the assembly, Marković 'followed in the tradition of the St Andrew assembly', argues S. Jovanović in *Vlada Milana Obrenovića*, vol. 1, p.352.

114 The dominant view to be found in the historical literature written after World War II was that the Radicals had abandoned socialist ideas long before they proceeded to organise themselves into a party. See, for example, Dragoslav Janković, *Političke stranke u Srbiji XIX. veka*, Belgrade 1951, and more recently Milan Protić, *op.cit.* Janković subsequently revised somewhat this assessment of the Radical Party's history in his re-interpretation of the nineteenth-century political parties: see *Rađanje parlamentarne demokratije. Političke stranke u Srbiji XIX. veka*, Belgrade 1997. The opposite position, viewing the Radical Party as an integral component of Serbian socialism in the nineteenth century and as such indispensable to an understanding of it, is expounded with

the Liberal and Progressive parties, for which the main role of the state was to protect individual rights and political freedoms, the Radical Party, as its ideologue Pera Todorović argued, held the view that the basic task of the state was social and economic, in other words to secure ‘popular prosperity’; and that political freedoms were nothing but an instrument for realising this aim. He was explicit in defining the state as primarily a social and economic category: it was necessary to know ‘the difference between the aim and the means.’<sup>115</sup> Freedom and democracy, wrote Laza Paču, one of the party’s theoreticians, stood in conflict with the very essence of bourgeois society, divided into classes. As for Serbia, its society was more or less homogeneous in class terms, presenting favourable conditions for the immediate building of socialism, specifically by way of ‘associated labour.’<sup>116</sup> According to Nikola Pašić, it was precisely the latter which lay at the core of the Radical Party’s programme. ‘The Radical Party’ wanted to prevent the people from ‘copying the errors of Western industrial society, wherein a proletariat and immense wealth are being created, seeking instead to build industry on a collective [*zadruga*] basis.’ It wanted ‘to introduce full self-government ... in place of the bureaucratic order. Instead of capitalist national management ... the establishment of workers’ associations [*zadruga*].’ The basic economic principle was collective [*zadruga*] ownership: economic freedom would best be realised ‘by adopting a collective

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 great authority by Latinka Perović in *Srpski socijalisti 19. veka. Prilog istoriji socijalističke misli*, Belgrade 1995. It is relevant to note here that earlier Serbian authors tended to view the Radical Party at the time of its formal constitution and in the next few years – more precisely up to the Timok rebellion – as a direct continuation of Svetozar Marković’s socialist movement. Thus, for example, M. Vladislavljević sees the party’s programme – which, he argues, was in existence already in the early 1870s – as ‘wholly inspired by Marković’s ideas’. ‘It was more a social and socialist than a political programme’, argues Vladislavljević, who treats the party’s constitutional draft of 1883 as an integral part of that programme. *Razvoj ustavnosti u Srbiji*, pp 56–7.

115 Todorović, speaking at the Radical Party’s main assembly in 1882. L. Perović, *Srpski socijalisti 19. veka. Prilog istoriji socijalističke misli*, pp. 122–3.

116 Laza Paču, *Građansko društvo i njegove društveno-političke partije*, reprint-ed from *Samouprava*, Belgrade 1881, p. 61, pp. 164–6.

[*zadruga*] road, and by giving means for building industry and agriculture not to some individual, but to a *zadruga*.’ – was how Pašić explained the ideological and programmatic positions of the Radical movement which he already then called a party.<sup>117</sup> At the political level, on the other hand, the fundamental principles were national sovereignty or ‘national self-determination’, and ‘complete people’s self-government.’<sup>118</sup> This was the essence of what Pašić called ‘the people’s state’. The people itself would create this state, organised in its own ‘people’s party’, which was the Radical Party. For, according to the Radicals, there existed on the one hand the people, which was the same as the Radical Party, and on the other ‘the proprietors’, personified by the Liberals and Progressives, who wished to be the people’s ‘tutors’. ‘The people have defeated the proprietors’, was how Pašić announced his party’s electoral triumph in 1882, stating that in the coming constitutional reform, in which the party planned to participate with its own programme, the people would finally wrench the government from the hands of ‘the estate of the proprietors.’<sup>119</sup>

The Radicals presented the main outline of their views – dealing far less with economic than with constitutional issues – in their party programme of 1881, elaborating them further in their constitutional draft of 1883.<sup>120</sup> According to Pašić, the Radical Party’s programme contained ‘the main points of the programme written by the late Svetozar Marković.’<sup>121</sup> But

117 Letter from Nikola Pašić to Mišo Dimitrijević in 1867 and letter to Jevrem Marković undated (Marković died in 1878), quoted in Latinka Perović and Andrej Šemajkin, eds, *Nikola P. Pašić . Pisma, članci i govori (1872–1891)*, Belgrade 1995.

118 ‘Politička hronika’, *Rad*, vol.2, Belgrade 1881, in *Nikola P. Pašić*, p.124.

119 Speech delivered to the Radical Party’s main assembly of 26.12.1882, quoted in *Nikola P. Pašić*, pp. 131–5.

120 For the Radical Party’s programme, see Vasilije Krestić and Radoš Ljušić, *Programi i statuti srpskih političkih stranaka do 1918. godine*, Belgrade 1991, pp. 101–6. For the draft of the 1883 constitution, see Archives of SANU, 13680. See also Prodanović, *Ustavni razvitak*, pp. 266–75; and Raša Milošević, *Organizacija sreza na načelu samouprave i izbornog prava. Timočka buna 1883.*, Belgrade 1923.

121 Speech at the party’s main assembly of 1882, in *Nikola P. Pašić*, p. 133. Pašić

as S. Jovanović has noted, the party programme did not include economic collectivism, nor did the latter appear in the constitutional draft, which explicitly guaranteed the right to private property. The Radicals' programme, writes Jovanović, 'departed significantly from Svetozar Marković's earlier programme' in this regard.<sup>122</sup> This conclusion does not hold, however, for the part of the programme dealing with the organisation of government, expounded in some detail in the constitutional draft of 1883.<sup>123</sup>

The Radical Party's constitutional draft adopted popular sovereignty as the supreme organisational principle of government, declaring: 'The Serbian people is sovereign; it is the beginning and end of all government' (Section I).<sup>124</sup> Distributing the draft 'as the greatest party secret' to all district party branches, Nikola Pašić stressed this fact as being of particular importance, and qualified popular sovereignty as the people's 'right of self-determination', in other words its right 'to reject all that does not suit it, and to introduce any institution of its choice'.<sup>125</sup>

This principle, understood in this way, was spelt out most clearly in the prescriptions concerning the Grand Assembly. Elected on the basis of general [male] suffrage and three times larger than the regular one, the Grand Assembly meets as of right every seven years on 1 January, to decide independently upon constitutional reform, and to adopt or modify

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stressed this on numerous other occasions.

122 *Vlada Milana Obrenovića*, vol.3, Belgrade 1934, p. 7. Pašić in fact always spoke of these deviations as having been agreed with Svetozar Marković while he was alive. For it was necessary to adapt the party programme to the needs of everyday policy, or as Pašić explained: 'always to relate our political and economic theories to the daily issues'. Letter to Jevrem Karković, undated, quoted in *Nikola P. Pašić*, pp. 43–4. M. Protić considered the Radical Party's programmatic deviation from Marković's socialism as fundamental. In his view, the party's programme was under the direct and decisive influence of French radicalism. 'The similarities between the political programmes of the Serbian and French Radicals are quite astonishing.', wrote Protić, *op.cit.*, p. 73.

123 See Prodanović, *Ustavni razvitak*, pp. 266–75.

124 The ordering of decrees in this constitutional draft follows the order of the articles, not of the sections.

125 Prodanović, *Ustavni razvitak*, p.266.

the electoral law – and even the standing orders of the ordinary, so-called Small national assembly! In addition to its constitutional and in part also legislative powers, the Grand Assembly functions also as a kind of constitutional court. Its authority, in other words, includes ‘control of the entire legislative work of the Small national assembly carried out since the last meeting of the Grand national assembly’!<sup>126</sup> This went much further than the project of the St Andrew liberals, which left only constitutional powers and resolution of the issue of succession to the Grand Assembly .

The overall organisation of government in the state was likewise regulated in accordance with the principle of popular sovereignty understood in this way. As for the form of rule itself, the Radicals seemingly opted for monarchy more sincerely than had the St Andrew liberals. True, the power of the crown for them too rested solely on the will of the people; but it was not subject to constant questioning by the Grand national assembly, as had been true for the early liberals, because the Radical draft adopted the hereditary, not the elective principle. In this way the principle of sanctity – i.e. non-responsibility – of the crown, hence also of monarchy as a form of rule, was given greater protection than the St Andrew liberals had envisaged, although the constitutional powers of the Grand Assembly naturally also assumed the right to alter the form of rule.<sup>127</sup>

Matters stood differently, however, in regard to the prerogatives of the monarch as head of the executive. For the liberal concept called the monarchy into question as a form of rule, but not the prerogatives of the king as head of the executive. The Radicals did the opposite: they left the monarchy untouched, but rendered the powers of the crown practically non-existent. This is true not only in the domain of constitutional powers, of which the king has none – he swears only to uphold the constitution (Section XV) – and of legislative ones, where he enjoys only the right of

126 See sections III and VI of the draft.

127 The Serbian people ‘by the power of its sovereignty establishes hereditary monarchy under the Obrenović dynasty as the form of rule, and gives itself this constitution’ (Section I).

suspensive veto (section IV), but also in the executive domain. Executive government is almost entirely outside his reach, given that the king has practically no say in the composition and work of the government. This is a matter solely for the assembly, which is purely peasant in character, because state officials do not enjoy a passive voting right (Section III).<sup>128</sup> Ministerial responsibility – which the constitution decrees to be not only penal, but also political – exists only to the assembly, and not also to the king. For the latter does not even have even the right to institute legal proceedings against ministers for failing to observe laws or the constitution – only the assembly has the right to indict ministers (section IX). The king has no military powers either. Apart from the popular army, there is also a professional staff; but only the assembly can mobilise the army, which swears loyalty to the constitution. All in all, the Radical constitutional draft adopted as the fundamental principle of government organisation not division but unity of power, with the national assembly performing significant functions of executive power, and even as indicated above certain functions of (constitutional) judicial power.<sup>129</sup>

The principle of unity of power is actually not implemented in full: in addition to the king's right to suspensive veto, the draft refers also – albeit

128 The draft says nothing about who appoints ministers; it states merely that the king 'dismisses' them 'when they do not enjoy the confidence of the parliamentary majority', which is probably meant to imply that he also appoints them. However, it follows from his constitutional duty to 'dismiss' them as soon as they lose parliament's confidence that the decision on the fate of the government belongs by the letter of the constitution solely to parliament. It is not clear, however, what happens in the event that the king fails to 'dismiss' a minister who has lost parliament's confidence.

129 The draft regulates the principle of the question of the relationship between legislative, 'administrative' and juridical powers in the section dealing with the judiciary. It explicitly mentions the principle of separation only as separation and independence of the judicial from the legislative and administrative spheres, while saying nothing about the mutual relationship between the two latter. 'The legislature and the administration cannot perform the business of the courts, nor can the judges have legislative and administrative powers.' (Section X).

insufficiently clearly and precisely – to elements of parliamentary government. This involves, above all, the decrees regarding the council of ministers, from which it can be deduced that the draft assumes the government to be a collective organ. The draft accordingly mentions also a minister-president, who presides over the ministerial council. Finally, ministerial responsibility is explicitly defined not only as a minister's individual responsibility 'for his acts', but also as his responsibility for 'the direction of policy', which as such can be only collective (Section IX). It is possible to conclude from this that ministers – who, it seems, cannot also be parliamentary deputies<sup>130</sup> – are nevertheless not simple executors of the assembly's political will, but also creators of policy for which they are responsible before the assembly. On this issue, therefore, the Radical draft departs from the conventual model and comes closer to a parliamentary model, since it assumes a government playing an autonomous role in administration of the state.

The draft's further provisions bring this too, however, into question. For the assembly can take ministers to court not only for 'infringement or by-passing of the laws and the constitution', but 'also for a political direction that is harmful to the national interest'. In other words, an assembly dissatisfied with the government's policy can institute criminal proceedings against it.<sup>131</sup> Finally, and most important of all, what hovers over both the government and the assembly is the power of the Grand Assembly ,

130 This is supported by the following provision: 'ministers may attend parliamentary sessions'. Their right to address parliament is limited, however, to their duty to provide parliament with 'necessary information at the request of the deputies' (Section IV). If the draft had envisaged deputies becoming ministers, it would have said this, as is customarily done in the constitutions of parliamentary monarchies. If ministers could be deputies, then their rights in relation to the assembly could not be defined by the term of a right of 'attendance' and the duty to provide information at deputies' request.

131 See Section IX of the draft. An indicted minister appears before a court of eleven, of whom five are elected by parliament, three are presidents of district courts (elected by the district assemblies, Section X), while the remaining three are members of the supreme court of appeal.



which at its regular convocations autonomously reviews the entire legislative business conducted in between these. Thereby the possibility of establishing parliamentary government is not just called into question, but actually nullified, in this constitutional project.

In short, while one might just about say that at the level of relations between the king, the ministers, and the Small assembly as the regular legislative body, the draft wavers between conventual and parliamentary government, the Grand national assembly – as the sovereign power in the true sense of the word – eliminates the principle of separation of powers, and thereby also the legal prerequisites for a parliamentary system of government.<sup>132</sup>

What gives the Radical Party's constitutional programme a revolutionary character, however, is not so much the projected relationship between the king and parliament as constitutional bodies, but rather the relationship between central and local organs of power, or more precisely the degree and nature of the decentralisation of power. Not only is almost the entire public administration handed over to self-governing districts run by elected officials, but the districts are also endowed with legislative powers of their own. These 'district laws' can be annulled only if they conflict with state laws, a matter upon which in the event of a dispute parliament itself in the last instance decides, acting in such circumstances as a constitutional court.<sup>133</sup> The parliamentary deputies are meanwhile themselves elected by the districts, and act under their mandate. It is true, however, that the sphere of authority of district law makers is not specified in the Radical draft, so that theoretically speaking it could be quite limited. Yet the very use of the term 'district law' to describe the acts of district assem-

132 For a different view see Miodrag Jovičić, 'Nacrt ustava Radikalne stranke od 1883. – akt koji je išao ispred svog vremena', *Arhiv za pravne i društvene nauke*, no.3/1993, pp. 487–94. Jovičić argues that the draft does not question the parliamentary nature of government, given that the king is legally bound to dismiss a government that has lost the confidence of parliament (p.488).

133 See Section IX of the draft.

blies, as well as the fact that practically all officials in the state are elected, reminds one strongly of Marković's 'federation of *opštinas*', in which the relationship between the prince and parliament is indeed regulated in a very similar manner. The notion of the state as an association of districts finds expression also in the rule that the mandate of deputies is revocable. The draft does include the principle that deputies represent the whole people and 'not just' their own electoral district; but the provision according to which the majority of voters in a given district can recall their deputy (Section III) in practice annuls this principle of modern representative government. This understanding of the role of parliamentary deputies stands in contradiction to the principle of parliamentary government.

To sum up, the Radical Party's constitutional programme of 1883: first transfers, a large proportion of the state's power to elective district bodies, and at the same time makes the members of the highest representative body into representatives of individual districts rather than of the nation as a whole; secondly regulates the relationship between the legislature and the executive in accordance with the principle of unity of powers; and thirdly establishes a special body with the character of a convention, which, apart from being in exclusive possession of legislative and partial possession also of executive power, also plays the role of a constitutional court. For these reasons it is hard to agree with Slobodan Jovanović's conclusion that the Radical Party's programme was 'not a very revolutionary programme'<sup>134</sup>, and that at the start of the 1880s the Progressives and the Radicals were 'two parties with the same principles but different methods.'<sup>135</sup> As for the Progressives, they published the Radical

134 *Vlada Milana Obrenovića*, vol.3, p.7.

135 Jovanović made this judgment when explaining the short-term support that the Radicals extended to Piroćanac's government, both parties being committed to a final destruction of the Liberal government of many years. According to Jovanović, the difference between the Progressives and the Radicals was that the former behaved 'more opportunistically', and the latter 'more in accord with principles'. So 'the split between the Radicals and the Progressives arose mainly because the Progressives formed a government on their own,

Party's constitutional draft – which at that time was being kept secret – in their paper *Videlo*, and saw it as 'a negation of the state' and the creation of 'a social republic'.<sup>136</sup>

Proclaiming itself a party of 'peasant democracy' and 'close to egalitarianism',<sup>137</sup> the Radical Party managed to identify itself with the people and – as noted by Svetislav Matić – become 'a national credo', 'a religious dogma'.<sup>138</sup> That belief in the Radical Party and its 'people's state' programme did indeed to a large extent remain outside the limits of the political, in the domain of the irrational, was not contested by the Radicals themselves: Radicalism in Serbia became 'a new religion ... which the people unreservedly trusted', just as they 'unreservedly trusted their archpriests', said Jovan Žujović, one of the Radical Party leaders, in 1903.<sup>139</sup> This was also the view of Pera Todorović, who compared popular belief in the Radical Party to the belief of Muslims 'in their paradise'.<sup>140</sup>

The Radical Party organised the Serbian people through the mass enrolment of members and by creating a network of party branches across the whole country; by introducing a policy of 'mass action',<sup>141</sup> it became one of the most important political factors in the country. More than that: by demanding an urgent constitutional reform on the basis of its programme, and by wielding great social energy, it became a threat to the whole social and political order, which expressed itself in dramatic form in the outbreak of the Timok Rebellion of 1883. The regime's response was

without the Radicals', Jovanović commented without further explanation on the fact that the two parties did not fuse at that time, i.e. in 1880–81. *Vlada Milana Obrenovića*, vol.2, pp. 319–320.

136 Prodanović, *Ustavni razvitak*, pp. 253–4.

137 Đorđe Tasić, 'L'histoire constitutionnelle de la Serbie', *Revue d'histoire politique et constitutionnelle*, 1938, p.240.

138 See Evolucionist (Svetislav K. Matić), *Radikalna stranka u Srbiji. Socijalno-političko i filozofsko izlaganje*, Niš 1904, pp. 7, 8, 14, 17, 20–21.

139 See *Srpska radikalna stranka, govor J.M. Žujovića na zboru samostalnih radikala u Jagodini, 10. avgusta 1903.*, Belgrade 1903, p.9.

140 See Latinka Perović, 'Pisma Pere Todorovića I Dragiše Stojanovića kralju Milanu', *Mešovota građa (Miscellanea)*, XX/1990, Belgrade 1990, p.80.

141 Evolucionist, *op.cit.*, p. 18.

to abandon the policy of political liberalisation, which meant abandoning constitutional reform. The prime minister, Milutin Garašanin, stated in 1885 that the Timok Rebellion had shown that constitutional changes would have to be postponed.<sup>142</sup>

142 Popović, *Poreklo i postanak*, p.81. Following the May Coup, the Radicals would be accused, especially by the Liberals, of having by their destructive policy made Obrenović opt for personal rule, and also for having frequently been responsible for blocking social and state development altogether. *Parliamentary proceedings, 1903–1914.*, emergency session of 1912, 7.5.1912, p.98.

## II SEARCH FOR A COMPROMISE – CONSOLIDATION OF THE IDEA OF CONSTITUTIONAL MONARCHY 1883–1903

### 1. Creation of the 1888 constitution and first parliamentary experience 1883–1894

The Timok Rebellion, expressing popular resistance to abolition of the popular army, was proof in equal measure of the Radical Party's enormous political influence and, in view of the efficiency and brutality with which the regime suppressed it, of the strength of the monarchy and the need to seek a compromise with it. The period that followed was one of renewed authority of the power of the crown, which in contrast to the weakened Radicals relied on a strong and loyal standing army, the Progressive and Liberal parties, and the support of Austria-Hungary. Determined to snuff out Radicalism in Serbia, King Milan displayed increasing resistance to liberal constitutional reforms and a growing attachment to personal rule. In these conditions, and in the absence of most of the Radical leaders who – including Pašić as the most extreme among them – had emigrated, the earlier revolutionary spirit weakened among those Radicals who remained in the country and who were sentenced to long-term imprisonment. They became increasingly persuaded that a compromise with the crown was essential. This meant giving up the policy of questioning the entire bourgeois social and state order, and reorienting the great force wielded by the party towards liberalisation of the monarchy and the conquest of power within its institutions. Working on these premises, at the end of 1884 the Radicals began to publish the journal *Odjek*, in which they demanded a

revision of the regency constitution. In articles signed by Stojan Protić, Jovan Đaja and Andra Nikolić, the constitutional issue in Serbia – and modern constitutionalism in general – were approached largely from a classical liberal viewpoint, or as S. Jovanović remarked ‘in the spirit of Western bourgeois liberalism.’<sup>143</sup> In line with the party’s new constitutional policy, Stojan Protić got down to translating modern European constitutions into the Serb language, beginning with that of Belgium.<sup>144</sup> In short, the constitutional conceptions that the Radical Party publicly advocated after the Timok Rebellion were quite close to the programmes of the Liberals and Progressives. As Milivoje Popović accurately noted, the Radicals started to defend ideas ‘which were first advocated and developed by our Liberals’, and after them also by the Progressives, who likewise ‘adhered to the ideas of Western liberalism.’<sup>145</sup> For a historical compromise to be reached, all that was now needed was the king’s consent. The change in this regard came in 1885 when, following Serbia’s defeat by Bulgaria, Milan’s political authority weakened – partly out of a sense of personal insecurity and partly for objective reasons – leading him to reach an agreement on the constitutional issue with the Radicals,<sup>146</sup> and to amnesty them.<sup>147</sup>

143 *Vlada Milana Obrenovića*, vol.3, p.184.

144 See ‘Ustav nekoliko država (Belgije, Grčke, Rumunije, Norveške, Engleske, Švajcarske, Sjedinjenih Ametičkih Država)’ published in *Odjek*, 1884, nos 18–36, republished as a separate pamphlet in the same year. Up to then there had existed only a translation of the Swiss constitution of 1848 made in 1879 by the Radical Kosta Taušanović, who saw the cantonal arrangement as the peak of democracy. See *Švajcarska. Njen ustav, vlada i njena samouprava* by Čenek Hevera, translated by K. S. Taušanović, Belgrade 1879.

145 Popović, *Poreklo i postanak*, pp. 155–6.

146 Stojan Novaković was convinced that King Milan agreed to the constitutional revision largely for personal reasons, since he was planning to seek a divorce. Novaković, *op.cit.*, pp.6, 31, 93. Novaković’s whole work, which has the character of a memoir, is infused with the belief that King Milan’s own political preference was autocracy.

147 The Radicals living in emigration, excluding Pašić, were pardoned only in 1888, Pašić himself in 1889.

Ready for a compromise, the freed Radicals rejected the partnership with the Progressives demanded by the king, and opted instead for cooperation with the Liberals. In view of the planned agreement, the Radicals in 1886 at King Milan's request adopted a resolution at Niš concerning the party's position on the constitutional issue.<sup>148</sup> This resolution could be described as the turning-point in the evolution of the Radical Party's political – i.e. constitutional – programme. With it, the Radical leaders formally adopted the position of the other two parties on the constitutional issue: individual and political freedoms, and a division of legislative powers between king and parliament. The democratic nature of parliamentary government, i.e. universal suffrage, and the administrative division into municipalities [*opštinas*] and districts was all that remained of the original programme. Its essence – the principle of popular sovereignty expressed through the assembly's sovereign power, and self-government as the supreme organisational principle of power in general – was abandoned in favour of constitutionality understood in the spirit of liberal political principles.<sup>149</sup> Pašić, who read about this in the press while in exile, was right to conclude that the Radical Party had in fact adopted a new political programme, and that the reference in the constitutional draft to the programme of the early 1880s was disingenuous. 'Horried' and 'furious', he made his views clear in a letter to his party and personal friend, Raša Milošević: 'You have destroyed the Radical Party's programme', by deleting from it 'its basic principle, abandoning the ground of popular sovereignty and moving to the liberal position that legislative powers be "shared with the king"'. As Pašić noted with great accuracy, this abolished 'the fundamental difference between the Radical and Liberal programmes' as well as 'the principled differences that used to exist between our programme and that of the *Videlo* people.' 'The Radical's Niš programme is radical only in that the Radicals wrote it; but in its content it is purely liberal – it is a

148 Prodanović, *Ustavni razvitak*, pp. 278–9.

149 See Slobodanka Stojčević, 'Ustav od 1888. godine', *Ustavi Kneževine i Kraljevine Srbije 1835–1903.*, Belgrade 1988, p. 117.

Liberal programme. That is the terrible truth,' Pašić concluded, giving an accurate and authentic reading of the Radical Party's essence in relation to the other two parties.<sup>150</sup>

Though deeply dissatisfied with the party's new policy, Pašić nevertheless did not hesitate to accept it as soon as he realised that it was a *fait accompli*. It seems that during his time in emigration he had adopted as his primary political aim, to be pursued at all costs, not the transformation of Serbia into a 'people's state' but a close association with Russia. 'The Serbian people fought for nearly five hundred years against Turkey, [yet] it hates the civilised Germans more than the barbarian Turks,' wrote Pašić in 1884. The Serbian people, in his view, was 'the most unfortunate in the world', because the king, whom he called a 'traitor' far greater than Vuk Branković, had separated it from the Russians in order 'to make the country subservient to the Germans.'<sup>151</sup> By contrast with the Liberal and Progressive parties, the Radical Party did not wish to see Western institutions in Serbia, because the Serbian people 'has so many good and fine institutions and customs that need only to be preserved and improved with those wonderful institutions and customs harboured by the Russian people and other Slav tribes, while taking from the West only technical knowledge and science to be used in the Slavo-Serb spirit', wrote Pašić at the time of the 1887 Liberal-Radical agreement on the constitutional issue. To deter Serbia from tying itself to Austria and Germany, and to reorient it towards the Orthodox East, i.e. Russia, was for him an aim to which all else had to be subordinated, even state independence. Serbia refused to be 'beguiled by the flattering Western culture so full of injustice', he continued. Serbia was 'presented with the future majestic image of a great and mighty Russia, gathering around herself her younger sisters torn from her by a barbarian hand, lining them up and receiving them in her tender maternal embrace', wrote Pašić, expressing the hope that 'the crown of a

150 Letter to Raša Milanović, 1886, in *Nikola P. Pašić*, p.221.

151 Letter to P.A. Kulakovski, 1884, *Nikola P. Pašić*, pp. 157–9.



united Slav empire would soon be placed upon the head of the powerful and just Russian emperor.’<sup>152</sup>

Aware that a pro-Russian, pan-Slav Serbian foreign policy had no chance under King Milan, Pašić for a long while thought that the only way was ‘the revolutionary way’. But when, angry and embittered, he realised that the party leadership newly released from prison lacked ‘the courage, strength and will’ for revolution, and that it was seeking to win power ‘without struggle or bloodshed’, he promptly decided upon a new strategy for the Radical Party.<sup>153</sup> It had to squeeze out the other parties, particularly the Liberals, and win power for itself. Since the king’s confidence was indispensable for this, the party had to appear as ‘moderate’ as possible, which meant that in drafting its constitutional proposal, and specifically ‘in determining the king’s prerogatives, it should not be stingy’, wrote Pašić to Kosta Taušanović in 1887.<sup>154</sup> Aware that this threatened to undermine party unity and popular trust, he advised that, during the debate on the constitutional draft, defending the ‘reactionary measures’ should be left to members of the other parties’. In this new situation, preserving the party and ensuring its internal discipline became the most important task of the leadership, who if they failed would ‘be cursed in the same way that those who quarrelled on the eve of the Kosovo battle were cursed’, warned Pašić in the 1886 letter to Raša Milošević quoted above. As a unified organisation, strong and disciplined, the party would compensate for having abandoned its principles and thus prevent the dissipation of Radical strength in Serbia, reasoned Pašić, who had effectively become reconciled to the idea of a constitutional monarchy and now sought a road to power within it. Although he was not the architect of the policy of compromise, but on the contrary its opponent, once having accepted it as a necessity he promptly became its standard-bearer.

152 Letter to A.I. Zinovjev, 1887, *Nikola P. Pašić*, pp 239–40.

153 Letter to Raša Milošević, 1886, *Nikola P. Pašić*, p. 225.

154 Letter to K. Taušanović, 1887, *ibid.*, p. 259.

Opting for constitutional reform and taking the initiative into his own hands, King Milan made his conditions clear: first, the new constitution could be brought in only as a 'two-way agreement between the king and the people'; secondly, its content had to embody a compromise not just with the crown, but also between all the parties, regardless of their actual strengths.<sup>155</sup> The content of the draft constitution would be decided on through the joint and consensual efforts of equal number of representatives of all the parties, who would form a constitutional council headed by the king himself. Parliament would either accept 'from beginning to end' the proposal formulated in this manner or reject it.<sup>156</sup> Hence, a compromise rather than a decision made by a majority was the king's precondition for agreeing to revision of the regency constitution. While thus eliminating the danger that the Radical Party's huge majority might call into question the consensual character of the constitution, King Milan took one further step designed to underline the liberality of his act. Namely, he took it upon himself to guarantee free elections for the Grand national assembly that was to pass the new constitution.<sup>157</sup> The king had no reason to prevent parliament from being composed largely or almost exclusively of Radical deputies, as seemed most likely. On the contrary, assuming that parliament would adopt the new constitution – the alternative to which was retention of the existing one, passed in 1869 – such a make-up of parliament would only highlight the scope of the concessions made by the Radicals to the king and the other parties.

155 Popović, *Poreklo i postanak*, p. 86.

156 Prodanović, *Ustavno rešenje*, p.300.

157 According to the Radicals' own testimony, these elections were quite free. Responding to a great number of complaints about abuse of the freedom of the elections, he cancelled the elections to be held for commissioners (according to the regency constitution, elections in the countryside were indirect, through commissioners) and ordered new ones to be held, appointing to each electoral constituency three royal commissars: one Radical, one Liberal and one Progressive. Adam Petrović, *Uspomene*, edited by Latinka Perović, Gornji Milanovac 1988, p.125

Having accepted constitutional monarchy as the framework, the Radical Party made political neutralisation of the crown its primary aim in formulating its constitutional programme. The crown, objectively, was the only real barrier to the Radical Party's political supremacy in Serbia. Parliamentarism on the British model was unquestionably most suitable in this regard, and the party leadership adopted as its primary practical and political goal the introduction of this political system. What Serbia needed was a parliamentary monarchy on the monist model, like that realised in Great Britain. In line with its new policy, the Radical Party promoted as its chief theoretician the liberally-minded Milovan Milovanović, who articulated skilfully and at length the essence of the parliamentarism that the Radical Party had accepted. On the eve of the new constitution's promulgation, he published two treatises – *O parlamentarnoj vladi* (On Parliamentary Government) and *Naša ustavna reforma* (Our constitutional reform) – which showed him to be an expert on the representative form of government, and in which he set out the classical liberal position on this issue.<sup>158</sup>

Defining the separation of powers in a parliamentary system as a 'fusion' as well as a 'confusion' between the legislative and executive branches, Milovanović identified parliamentarism with the cabinet system that existed in contemporary Britain. He saw very clearly its basic features: on the one hand, complete neutrality of the crown; on the other – its main specificity – strong one-party government, or as Milovanović graphically expressed it 'dictatorship' of the cabinet. He did not fail to draw attention, however, to the fact that parliamentarism rested on constitutional custom rather than on written law; and to highlight the link between cabinet-type government and the specific social and political situation in Great Britain, stressing in particular the importance of the two-party structure of the British electorate.

158 The treatise *O parlamentarnoj vladi* was his inaugural lecture at the High School. Milovan Đ. Milovanović, *O parlamentarnoj vladi by Dr Milovan Đ. Milovanović, pristupno predavanje at the department of public law of the High School, Belgrade 1888*. See also M. Đ. Milovanović, *Naša ustavna reforma*, reprinted from *Odjek*, Belgrade 1888.

Aware that parliamentarism and democracy were not the same thing, and moreover that adoption of the democratic principle presents a challenge – indeed a threat – to parliamentarism, because of its ‘fatal’ tendency to replace parliamentary by conventual government, Milovanović opted for parliamentarism with the explanation that the latter was the only political system capable of securing political freedoms within a monarchy. Thus adopting a purely liberal position, and giving preference to political freedoms over democracy, he came out also against general suffrage.<sup>159</sup> As a person harbouring such views, Milovanović appeared most suitable for drawing the Radical Party closer to the other two parties and to King Milan, who was intent on playing a major role in determining the content of the new constitution. The extent of Milovanović’s success is testified to by the fact that during the drafting of the constitution he was appointed secretary of the constitutional committee, and that he became also adviser to the king on constitutional matters.<sup>160</sup>

In the British model of parliamentary government, which the Radicals advocated through Milovanović, a key place was held by the majoritarian electoral system. The Radicals, having adopted this system on the occasion of the promulgation of the 1888 constitution, were to defend it firmly throughout the party’s existence. The Radical representatives on the constitutional committee openly rejected arguments about justice and protection for minority rights as being of lesser importance than governmental stability. The main task of the parliamentary system, Gligorije Grešić argued, was to secure a solid majority, not to defend the minority.<sup>161</sup> According to

159 *O parlamentarnoj vladi*, pp. 10–12, 25–6, 32–3. See also Popović, *Poreklo i postanak*, pp 76–80. S. Jovanović writes that up to 1888 Milovanović was close to the Progressives, and that his education was funded by King Milan. Most interestingly, Jovanović argues that Milovanović did not believe in either parliamentarism or democracy, and that he joined the Radicals for opportunistic reasons, convinced that ‘at least for the time being the future belongs to them’. Slobodan Jovanović, ‘Milovan Milovanović’, *Srpski kniževni glasnik*, 51/1937, p. 108.

160 Popović, *Poreklo i postanak*, p. 88.

161 Grešić, like Mihajlo Vujić and Kosta Taušanović, argued in favour of the district

Milovanović, a ministerial cabinet based on coalitions was a 'true absurdity in parliamentary government'.<sup>162</sup> Defence of the system of proportional representation, which in European states was advocated by the left, in the Serbia of 1888 was assumed by King Milan and the other two political parties: the Progressives and the Liberals. While agreeing to a single-chamber parliament, categorically demanded by the Radicals at this time, they saw proportional representation as a way to secure influence for the small parties and, as King Milan said, to prevent 'the majority terrorising the minority'.<sup>163</sup> The system of proportional representation, Stojan Protić said in 1910, was introduced in Serbia 'not by the wish of democrats but by the wish of the king and the minority'.<sup>164</sup> Forced to accept the principle of proportional representation, the Radicals demanded that only the principle of it should be included in the constitution, and that its further elaboration should be left to the legislators. The king and the other parties, however, holding that this issue was a most important one, resolutely rejected this demand and insisted that the constitution should prescribe the distribution of seats in the smallest detail – which indeed was done.<sup>165</sup> As the Radicals would later frequently stress, their acceptance of the proportional electoral system was one of their greatest concessions to the king and the other parties.

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being the electoral unit that would elect one deputy. Apart from the interest of governmental stability, the Radicals' argument against the proportional system was that the system was still new and untested, and also too complicated. Popović, *Poreklo i postanak*, pp. 114–6.

162 *O parlamentarnoj vladi*, p.26. Nevertheless, Milovanović, who played a major role in drafting the 1888 constitution, agreed to a proportional system and, moreover, drafted the 1890 electoral law. S. Jovanović, *Milan Milovanović*, p.110. V. Grol argues, however, that despite writing the electoral law, Milovanović harboured significant reservations towards it, believing it went too far in protecting minority rights. Vojislav Grol, *Pravna misao*

163 Prodanović, *Ustavni razvitak*, p. 297.

164 *Parliamentary proceedings 1909–10.*, 17. 5. 1910, p.3145.

165 Prodanović, *Ustavni razvitak*, pp. 296–9. On the electoral system under the 1888 constitution, see further the section 'Legal foundations'.

In return for a single-chamber legislature, the Radicals had to agree to the institution of so-called qualified deputies, two for each electoral district, whose obligatory election was intended to ensure that, in the absence of a second chamber, the legislature would contain in addition to peasant deputies also the intelligentsia. As a concession to the advocates of a two-chamber parliament, the Radicals also had to agree that the state council would have a legislative role, albeit not a very significant one, in that parliament was bound to hear its views before proceeding to debate any legislative proposal whatsoever – i.e. not just the budget and annual financial bills.

There were no significant differences on constitutional rights and freedoms, except for the Radicals' preference for universal suffrage and that of the Liberals and especially the Progressives for quite restricted voting rights. Agreement was reached by retaining the same property census that had existed under the regency constitution. On the whole, all parties accepted the liberal-democratic standards of the time in regard to the body of individual and political rights and freedoms.

As for the relationship between the constitutional organs of government – the king and parliament – the Radical Party, whose draft had envisaged a crown bereft of all truly important governmental functions, was obliged to agree to the model present in the constitutional drafts of the other two parties. This was the model of a classic constitutional monarchy, albeit with some not insignificant departures in favour of the crown. The most serious infringement of the principle of balance was made in the provision that, in the event of the assembly being dissolved or postponed, the king could order the existing budget to be extended for up to four months; and in the provision that the assembly's standing orders be passed in the form of a law, i.e. with binding royal consent, rather than in the form of an assembly resolution. The king also had the exclusive right to recall or delay sessions of the assembly.<sup>166</sup> Finally, departures from classic

166 On the relationship between the king and the assembly in the 1888 constitution, see in particular the section 'Legal foundations'.

constitutional monarchy included also the institution of the Grand national assembly, which shared constitution-making power with the king.

As Milivoje Popović noted, 'the peasant-based Radical Party won a purely political constitution in which political freedoms and parliamentarism were secured on the model advocated by the liberal ideologues of the 1870s rather than that advocated by the founders of the Radical Party itself.'<sup>167</sup> Viewed as a whole, the final text of the constitutional draft – which, as demanded by the king in return for his agreement to proceed to constitutional reform, could either be adopted unchanged or rejected – was in regard to the organisation of government closest to the Progressive Party's constitutional project. It differed from the latter mostly – one might say essentially – in the provisions which gave it a democratic character and which to an extent resembled the programme of the early liberals: a low electoral threshold and a single-chamber legislature, as well as the existence of specific legislative powers granted jointly to the Grand national assembly and the king. Given the simultaneous right of the king to initiate laws and to impose a veto, this last provision was far removed from the idea of the assembly's sovereign legislative power; it nevertheless signified, if only symbolically, recognition of the principle of popular sovereignty, a principle that the Liberals had introduced into the Serbian constitutional tradition and that the Radicals had taken over and consolidated.<sup>168</sup> The only discernable similarities with the Radical constitutional programme of 1883 may be perceived at this level.<sup>169</sup>

167 *Poreklo i postanak*, pp. 156–7.

168 According to S. Jovanović, the provisions concerning constitutional revision minimised the importance of the king's right of veto. The Grand Assembly is an assembly 'of a higher order' that 'thinks of itself as sovereign', so that the king would not easily contemplate a conflict with it, argues Jovanović. *Velika narodna skupština*, pp. 62–8.

169 For the opposite view, see Protić, *op.cit.*, pp.17, 59, 80, 98. Protić sees the 1888 constitution as 'an expression of the Radicals' basic ideas': 'it is largely written in the spirit of the Radical political programme and is hence rightly viewed as the work of the Radical Party'. According to the author, this constitution 'was the peak of the evolution of the Radical Party's ideology'. Protić, it

The practically unconditional trust of the politically illiterate population – won by many years of propagating the idea of a ‘people’s state’ – permitted the Radical Party to change its constitutional programme without risking any loss of votes. The broad membership did not perceive its leaders’ turn towards liberal political institutions as a substantial evolution on their part, but as the opening up of a possibility that the party’s original social and political aims could be realised from a position of power. Parliamentarism, argues Slobodan Jovanović, was for the Radicals ‘a government by men of the people’ that would create ‘a peasant state, a state which, in contrast to the bureaucratic state, is not an institution of property owners, but appears more like a *zadruga*, within which matters are settled on the basis of mutual agreement.’ The Serbian peasant expected that parliamentarism would create a state which would be one and the same as ‘his own party, and which, having gained power, would seek to please him, the peasant’; a state made up of ‘his own people, something similar to his *zadruga* and his kin.’<sup>170</sup> With this prevailing understanding of constitutional rule and parliamentary government, the mass-based and hierarchically organised Radical Party became, at the time of the constitutional reform at the end of the 1890s, the most significant political agent in transforming Serbia into a constitutional monarchy. The 1888 constitution, which had little in common with the Radical Party’s constitutional programme of 1881 or its constitutional draft of 1883, was adopted by a Grand Assembly in which nearly 500 out of 600 seats were held by the Radical Party.<sup>171</sup>

Following the adoption of the 1888 constitution, King Milan abdicated and left the throne to his under-age son Alexander. The period of the regency was the first – and in the history of the Obrenović dynasty the only

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is true, does not neglect the fact that the constitutional council was made up of representatives of all three parties, as well as King Milan as its chairman; but believing that the content of the constitution reflects the decisive influence of ‘Radical ideas’, he treats this fact as a mere formality.

170 *Vlada Aleksandra Obrenovića*, Belgrade 1934, vol.1., pp. 180, 182.

171 On the constitution and the manner of its adoption, see in addition to M. Popović, *Poreklo i postanak Ustava od 1888.*, also S. Stojčić, *op.cit.*



– period of restrained political activity by the crown, which permitted the introduction of a parliamentary system of government and brought power to the strongest party, the Radicals. Respect for the majority principle lasted only a short time, however: just three and a half years. As early as 1892 the regency offered a mandate to the minority Liberals, and in 1893, following the first coup d'état carried out by King Alexander, there opened a period of constitutional instability, accompanied by an ever-growing element of personal rule. The constitution of 1888 was in operation for only five years before King Alexander's second coup, carried out in 1894, which restored the regency constitution. Personal rule by the king was in practice established in Serbia as early as 1894, and formally after 1897. It would last – with a break of one and a half years, between the imposition of the new constitution in 1901 and the formation of the Cincar-Marković government at the end of 1902 – until the military coup of 1903, when the king was murdered and the Obrenović dynasty extinguished.

The social content, the meaning and the practical-political aim of the 1888 constitution, and the parliamentary regime that the Radical Party expected to be realised under it, as well as the political method of the ruling party, were clearly and precisely defined by the Radical Party's leader Pašić in a series of programmatic speeches that he made during the three years of Radical government, beginning with the one he delivered on his return from emigration in 1889.<sup>172</sup> They display a high degree of ideological-political coherence, and a clear strategic concept for the party. Several basic points stand out. The first is glorification of 'the Serb genius', in which 'the lofty moral features of the Slav character' are most fully developed, with simultaneous support for and encouragement of the Kosovan mythical consciousness. The second point of departure is the view that the Radical Party and its original programme are the contemporary expression of this 'genius', accompanied by an insistence on continuity with Svetozar

172 Speeches delivered in Smederevo on 9.3.1889; at a meeting of the Radical Party's main convention in Niš on 28.5.1889; and at a meeting in Zaječar on 8.9.1891, in *Nikola P. Pašić*, op.cit., pp. 319–336.

Marković's movement. Finally, the 1888 constitution – that 'magnificent manifestation' marking the start of 'a new era' – is appropriated as the work of the Radical Party,<sup>173</sup> which can bear practical fruit, however, only if the party remains in power and carries out reforms that are 'neither to the left nor to the right of the programme of the Radical Party, but ... united and steadfast on that basis'. This is why the Radical Party, which had waged the 'twenty-year-long struggle' of a martyr 'to introduce parliamentary rule' against the Liberals and the Progressives, could not now permit its opponents to regain power, Pašić warned in 1889, because if 'this new era were entrusted to an opponent party, it would expire in the latter's embrace' and 'all that has been gained would perish'.

This presentation of the political parties, in which the minority ones – the Liberals and the Progressives – become practically enemies, naturally led Pašić to a perception of parliamentary life as an inter-party war demanding constant vigilance, strong organisation, and stern discipline. As a result, and aware of the parliamentary system's inadequacy from the point of view of one party's interest in a lasting hold on government (as Pašić said, the 1888 constitution contained 'much that was adopted at the insistence of the other parties'), he insisted on 'necessary measures' designed to prevent 'this fraudulence' and 'wrong path'. This involved, on the one hand, an 'urgent restoration of the popular army' and, on the other, a strong party organisation with strict discipline of its members. 'All that the Radical Party does, whether good or bad, is our own, the work of all of us, not anyone else's; nor should anyone be allowed 'to act or speak in the name of the party without its permission'; 'what the party decides is

173 The Radicals would never cease to claim the 1888 constitution as their work, while the Liberals and Progressives would constantly remind them of the fact that the 1888 constitution was 'the work of all the parties'. The Radicals 'were for a long time fighting not for freedoms', but only 'for power', one of the Liberals, Mih. Škorić, stated on one such occasion in 1912, and 'caused such chaos and trouble' that the state, in order to fight them, had to jettison 'many important economic laws', because they called upon the Serbian people not to 'execute their civic duty towards the state by paying taxes'. *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p. 98.

obligatory for all party members; those who try to evade or refuse to accept the party's decisions exclude themselves from the party', Pašić stated in 1891. This was absolutely necessary, because 'our opponents do not sleep, they spend day and night undermining the new era's achievements'; 'it is necessary to keep an eye on them ... to be on guard'.

In 1886, following Pašić's return, consolidation of the internal organisation, centralisation and strong inner-party discipline – the decisive importance of which Pašić had already stressed during his time in emigration – became one of the Radical Party's most important practical tasks.<sup>174</sup> This was needed not only in order to help neutralise the opposition and the royal court, but also in order to deal more effectively with internal dissidents, who threatened party unity mainly by insisting on the original socialist programme. Protić presented the party's centralisation and firm discipline of its membership as being demanded by the parliamentary system of government. For the Radical Party to be capable of governing, Protić argued, it was necessary that 'the impulse for the party's work and orientation should be reliably provided from one location and by one person or body'.<sup>175</sup> Protić had no doubt that this 'one person' should be Pašić, whom he viewed as 'the party's natural leader'.<sup>176</sup> Addressing those in the party who questioned this, he reminded them again of the party's origin, stressing that its 'architects' had been Svetozar [Marković] and 'then Velimirović and Pašić', not 'people like Tasić, Katić, etc.'<sup>177</sup>

174 The Radicals entered government for the first time in 1887, together with the Liberals. Soon afterwards they formed a government on their own, which also did not last long. It was only after the adoption of the 1888 constitution that the Radicals gained power for a longer period.

175 'Politička razmišljanja iz istorije naših dana (od jednog novinara)', *Delo*, vol.1, 1894, pp. 158–9.

176 *Ibid.*, pp. 149–50.

177 *Ibid.*, p. 146. Ranko Tajsic and Dimitrije Katic represented a group of peasant deputies who criticised the Radical government from the position of the original Radical Party ideology, asking for a reduction of officials' salaries, taxes, etc. S. Jovanović, *Vlada Aleksandra Obrenovića*, vol.1, p. 171–6.

The victorious Radicals took seriously Pašić's warning that the possibility of a 'new era' and 'popular liberties' might be nullified if, upon the establishment of the parliamentary regime, another party were to form the government, and they worked consistently and systematically to prevent any such possibility. They adopted a policy of sweeping repression, including physical attacks, against their political opponents, which apart from revenge had a clear practical-political aim.<sup>178</sup> For the Radical masses as well as for Pašić, parliamentarism meant winning state power in its totality, and for all time. 'All power should go to the Radicals, leaving non-Radicals in the position of second-class citizens in the state.' The only 'measure of an official's competence' was his political position in the previous regime; 'imprisonment under Milan was more valuable than a university degree' – that was how S. Jovanović described the start of the Radical regime under the 1888 constitution. If the local administrations which, under the new constitution and electoral law, played a decisive role in the organisation and conduct of elections were controlled by the opposition – which happened only rarely – they taken over by force, if necessary with the help of the gendarmerie. 'The whole of the Radical Party was rising in a tidal wave to the level of the ruling class', concluded Jovanović.<sup>179</sup>

It was clear that Radical Party's arrival in power did not signify merely government by the largest party, but seizure of the state as an organisation. In the same way that during the drafting of the constitution the Radical Party, albeit sovereign master of the electorate, had found the proportional system unpalatable, so too now, when it held the vast majority of municipalities, did it find unacceptable the fact that a few might be held by the opposition. The first-past-the-post electoral law – although in the given

178 On the lynching of Progressives in 1889, see S. Jovanović, *Vlada Aleksandra Obrenovića*, vol.1, p. 210–18. According to the author, the lynching was milder than 'the people's fun' that the Radicals had prepared in 1887, during their first brief time in government, when Progressives were publicly humiliated, whipped, impaled, and even roasted alive. *Vlada Milana Obrenovića*, vol.3., pp.392–8.

179 *Ibid.*, pp. 226–8.

conditions a homogeneous government was possible even without it – could theoretically speaking be defended in the name of a homogeneous government, which the Radicals, opting for the British type of parliamentarism, had adopted. But the treatment of every minority as an enemy, and the suppression of all opposition however insignificant it might be, showed that the Radicals saw parliamentarism not just as party-based government, but also as a one-party state. Thus Serbia's first experience of parliamentary rule, under the 1888 constitution, was also its first experience of a one-party state.

It is difficult, at the strictly institutional level, to discuss seriously the parliamentary nature of the political system established under the 1888 constitution, because during its five years of existence the principle of majority government was observed for only three and a half years, which is too short for parliamentary practice to acquire a recognisable form. The authors who deal with this period of Serbian history largely agree that the relationship between parliament and government inclined more towards conventional than towards parliamentary government, since the position of the parliamentary club always prevailed over that held by ministers. According to S. Jovanović, the basic cause of this was poor discipline within the dominant Radical Party. Discipline among its deputies, who formed the vast majority of the parliament, was poor, and unity was often lacking among ministers too, which led to frequent ministerial crises, Jovanović argues.<sup>180</sup> Nevertheless, although it is clear that at this time discipline was seen by the party leaders as a problem, it seems not to have been the only or even the main cause of the frequent ministerial crises and parliament's disobedience towards the government.

To begin with, when judging this short period of parliamentary government, the fact must not be overlooked that the court played a significant

180 S. Jovanović, *Vlada Aleksandra Obrenovića*, vol.1., pp. 184–7; Živojin Perić, *Političke studije*, Belgrade 1908, pp. 97–100; Ilija Pržić, *Poslovnik Narodne Skupštine Kraljevine Srba, Hrvata i Slovenaca sa objašnjenjima iz parlamentarne prakse i zakonskim odredbama*, Belgrade 1924, p.28.

role throughout the period of the constitution's functioning – from 1888 to 1893 through the regency, and in 1893 and 1894 through direct involvement of the king. Although the court accepted rule by the largest party, the Radicals, it took an active role in the formation of the government, thus giving the parliamentary system a dualistic character. Protić rightly stated at the end of 1893 that from the very start the court did all it could to prevent the strongest party from governing, by stubbornly keeping its 'natural leader' Pašić out of all important state positions. Up to 1891 the Radical Party's power was 'diluted' by the fact that the regency resisted Pašić becoming prime minister; and when in 1891 he nevertheless gained that post, this was only for a short time, because in 1892 the Radical government was forced to resign despite its large parliamentary majority.<sup>181</sup> With its composition reflecting the will of the court, therefore, the government during this period – although for most of the time it was drawn from the majority party – did not fully express the will of the parliamentary majority.

This fact is important for understanding the relationship between the assembly and the government, and suggests that the reasons for the Radical deputies' undisciplined behaviour towards the ministers should be sought on the other side. One should also, in this regard, consider Protić's reflections at the time on the relationship between the legislature and the executive, and more generally on parliamentarism as it functioned under the 1884 constitution. For Protić not only did not think that parliament was too independent in relation to the ministers, but on the contrary was deeply dissatisfied with its lack of self-confidence vis-à-vis the government, and directed it to be freer in using its budgetary rights and the right of interpellation. Taking a position opposite to that formulated by Milovanović in the name of the Radical Party on the eve of the new constitution's adoption, Protić insisted that, in a parliamentary state, a proposal by the executive came from the government not from the crown. So the deputies should not shrink from using their right to reject the executive's proposal out of

181. S. Protić, *Politička razmišljanja iz istorije naših dana*, pp. 149–54.

reverence for the ruler.<sup>182</sup> Moreover, according to Protić's understanding of parliamentarism at this time – determined by the great and ever growing power of the crown in real political life – not only should parliament display greater readiness to disagree with the government's policy, but the people as a whole had the duty to support it 'at critical moments.'<sup>183</sup>

However, while advocating the autonomy of parliament as an institution, Protić – like Pašić – did not accept the autonomy of individual deputies from the party's main committee, in other words from its head. As described above, he demanded the party's unconditional obedience to the latter, hence also that of the party's parliamentary deputies. Centralism and the strictest discipline within the party, on the one hand, and on the other dominance of the assembly – i.e. of the parliamentary club – over the government, was thus the parliamentary formula advocated by Protić in conditions of the crown's strong political role. Parliamentarism, in other words, was to be rule by the party leadership, either by way of the government when it followed the party leadership's policy, or by way of an obedient parliament and against the government when the latter was subjected to the will of the crown.

In the light of Protić's positions, and bearing in mind the enormous authority which Pašić enjoyed in the party, governmental instability under the 1888 constitution – setting aside the court's political role – should be ascribed more to party discipline than to indiscipline, as Jovanović does. The fact that Nikola Pašić held the post of assembly speaker<sup>184</sup>, which was made up almost exclusively of Radical deputies, was also of great importance in all this.<sup>185</sup> Pašić showed great skill in disciplining and steering

182 Janus (S. Protić), *Ustavna i društveno-politička pitanja*, vol.1, *Delo*, vol.1, 1894, pp. 60–63.

183 *Ibid.*, vol.2, *Delo*, vol.1, 1894, pp. 304–5. Protić wrote this before the constitution was suspended by the coup.

184 Pašić was the speaker of parliament between 1889 and 1891, when he became prime minister, and again for less than a month in 1893.

185 In the elections of 1889 the Radical Party won 112 out of 117 seats. In the elections held in the following year, they won 100 seats. When, following the royal coup, they once again came to power, they won 126 out of 136 seats in

the assembly;<sup>186</sup> and he used all the measures at his disposal to great effect against those who did not submit to party discipline.<sup>187</sup> Quoting Pašić's contemporaries, Jovanović writes elsewhere that when he was not prime minister, Pašić 'incited parliament' against the government; peace between government and parliament would arise only when he was prime minister.<sup>188</sup> The accuracy of these observations was to be confirmed by parliamentary practice under the constitution of 1903.

The Radical regime could not survive for long under the monarchical government of kings Milan and Alexander. After a break of three and a half years, the court returned – at this time still by way of the regency – to the political scene. The Radical majority government was replaced in 1892 by a Liberal minority one, after which the assembly was dissolved and new elections held, which were won by the Liberal Party. The Radicals would later say that this was the first 'death blow' to the 1888 constitution.<sup>189</sup> Its suspension in 1894 and replacement by the regency constitution was King Alexander's second coup d'état. 'One cannot deny that it was a victory,' wrote Stojan Protić in connection with the suspension of the constitution, 'but the adversary too kept his strength.'<sup>190</sup>

However, the initiators of the 1894 coup blamed the other side for the 'death blow' to the 1884 constitution; in other words, they sought the true cause of the constitution's failure in the character of the rule instituted by the Radicals. During the four years of the duration of the 1888 constitution, argued Svetomir Nikolajević, all its principles and institutions were

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the elections of 1893.

186 See *Nikola Pašić u Narodnoj skupštini*, vol.2.

187 Dragiša Stanojević was not only expelled from the party, but also stripped of immunity in 1891 by decision of the parliamentary majority, and charged with high treason, insulting the king, etc. Ranko Tajšić was expelled from the deputies' club in the same year. *Nikola Pašić u Narodnoj skupštini*, vol.1, pp. 47–8, *Delo*, vol.2, p. 482 and pp. 488–9.

188 S. Jovanović, *Moji savremenici*, Windsor 1962, p.142.

189 Nastas Petrović, *Parliamentary proceedings*, 1905–1906, 15.9. 1905, pp 160–61.

190 Janus, *Ustavna i društveno-politička pitanja*, vol.2, p.304.



destroyed, other than royal authority. In these 'dangerous circumstances', it was the monarch's 'duty' to use his authority to protect 'the foundations of the political structure.' 'In 1894 there was not a single article of the constitution, other than those extinguished in blood on 29 May, that had not been crushed underfoot and dishonoured', Nikolajević insisted, seeking to justify his role in the suspension of the 1888 constitution following the May Coup.<sup>191</sup>

191 *Parliamentary proceedings*, 1905–1906, 11.10. 1905, p. 97. Nikolajević was prime minister in the government under which the constitution was abolished. The Radicals ascribed the idea of suspending the constitution to the Progressive Party politician Andro Đorđević, who was a minister in Nikolajević's government. See also Stanoje Stanojević, *Narodna enciklopedija srpsko-hrvatsko-slovenačka*, Zagreb 1929, vol.1, p. 692. Đorđević himself denied this, however. *Parliamentary proceedings*, emergency session of 1905, 2.8.1905, pp. 44–5.

## 2. Weakening of the radical-Democratic and strengthening of the conservative option 1894–1903

Under the power of the crown, the pressure on the Radical Party was renewed as early as 1892 with the appointment of the minority Liberal government. In order to win power the Radical Party would now have to make additional and more serious concessions, and the first coup by King Alexander – whereby, advised by Milan, he proclaimed himself ahead of time to be of age – showed that it was prepared to do so. With its eyes fixed on power, the Radical Party welcomed the royal coup and was rewarded with government. The demands made upon it, however, became ever larger; but the Radical Party also showed an increased readiness to accommodate. Even the annulment of the 1888 constitution and the return of the previous regency constitution did not make it waver in this. As Novaković noted, when the Radical Party decided to support Đorđe Simić's neutral cabinet, which replaced the Progressive government headed by Stojan Novaković at the end of 1896, it accepted *de facto* the regency constitution.<sup>192</sup> All the more so given that under Novaković's government the question of revising this constitution had been reopened, and Novaković had made a constitutional project in that direction that stood between the Progressives' draft of 1883 and the 1888 constitution: the two-chamber legislature was taken from the former, and the assembly's limited autonomy from the latter, but the legislature was also given wider budgetary powers.<sup>193</sup> The departure of Novaković's government and the arrival of Simić's, following which the assembly was promptly dissolved, signalled the end of any further work on a new constitution.<sup>194</sup>

192 Novaković, *op.cit.*, p. 9.

193 J. Prodanović, *Ustavni razvitak*, pp. 360–73.

194 The Progressive Party would re-establish itself only in 1906. In Jovanović's view, one of the reasons why the Progressive Party leaders decided to dissolve the party was the fear of new persecution and ill-treatment to which

The process of concentrating all power in the hands of the main committee – in other words, in Pašić's hands – continued after the suspension of the 1888 constitution, in parallel with consolidation of the strategy of seeking a compromise with the king.<sup>195</sup> The party leadership had most difficulty with those who hindered unity of the party by continuing to adhere to a populist and socialist programme. Diverging from the original socialist-economic credo, yet not wishing either to give it up altogether, the Radical Party cast about in search of a new identity. Pašić proclaimed loyalty to the old programme; but he also removed from the party those who attacked the policy of compromise in the name of that programme. The party theoreticians found it difficult to take a stance on key economic issues: wavering between acceptance and rejection of the scientific socialism of Marx and Engels, they openly endorsed private property, but without giving up on socialism altogether.<sup>196</sup> In any case, the economic-social problematic was relegated to the background, and primacy was given to strengthening the party organisation, to taking power, and to the foreign, that is, national policy – questions which demanded a compromise and on which, moreover, a compromise seemed possible.

At the end of 1897, however with the return of King Milan and Alexander falling under his influence, personal rule was introduced into Serbia after a decade of party struggles and a parliamentary life of sorts, and the idea of enlightened absolutism was revived. Party-political life was totally

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they would be exposed upon the Radicals' return to power. *Vlada Aleksandra Obrenovića*, vol.2, pp 170–71.

195 *Ibid.*, pp. 165–6.

196 Protić – criticising the 'ministerial socialism' of Vasa Pelagić, who 'does not know that the transformation from the *opština* to private property was natural and inevitable' – refers to the teachings of Marx and Engels on development as conditioned by productive forces and on the inevitability of capitalism, which is necessary for the development of socialism. *Delo*, IV, 1894, pp. 158–61. Vujić, on the other hand, explicitly rejects the teachings of Marx and Engels, as well as 'the perversion of economic individualism, cosmopolitanism and materialism' in general. Private property is not rejected in principle, but it is stressed that it is not eternal, and that it is necessary in particular to restrict 'private property in land'. *Delo*, 10, 1896, pp. 307–20; and 14, p. 565.

suppressed, on the basis that 'we must break with parliamentarism, if we wish to organise the state administration properly'. Serbia's emergence from 'primitivism and poverty' and 'economic progress' were proclaimed tasks of the highest order, the realisation of which was a necessary prior condition for the introduction of individual freedoms.<sup>197</sup>

In accordance with this policy, a third round of measures against the Radical Party was initiated. Milan saw the Radical Party – and Pašić in particular – as the personification of an enemy of the state and the dynasty, for which reason he craved the party's demise as fervently as it did his own. After an unsuccessful attempt on Milan's life (the Ivanjdan [St. John's Day] assassination attempt), ascribed without any evidence to the Radical Party, the Radical leaders – this time including Pašić – found themselves once again in prison. Threatened with the death sentence, Pašić agreed before the summary court to condemn his own party's rebellious activity and to declare that it should be dissolved. This earned him an amnesty, but also a drastic fall in his political authority.<sup>198</sup> As a result, a separate anti-Pašić current of uncompromising radicals began to emerge within the party, mainly from among a younger generation, who acclaimed Ljuba Živaković as their leader, thus initiating the formation of a new Independent Radical party.

King Milan's death in early 1901 reopened the issue of constitutional reform, and encouraged Russia to increase pressure on King Alexander to reach a compromise with the Radicals, and to re-establish proper constitutional rule in the country. The result was the imposition of a new constitution in April 1901, and an agreement between the Radicals and some Progressive politicians to form a joint government, known under the name of the 'fusion'. This agreement was to provide the political foundations for a new constitution.

For the sake of returning to power, the Radical Party thus for the second time approved a coup d'état by Alexander, openly propagating the view that the royal decree was a legitimate path to constitutional reform.

197 S. Jovanović, *Vlada Aleksandra Obrenovića*, vol.2, pp 345–6.

198 S. Jovanović, *Vlada Aleksandra Obrenovića*, vol.2, pp. 345–6.

Constitutionality did not apply when revision was at stake, argued the Radicals. The only thing that mattered was that ‘the actual relationship of social forces be expressed as accurately as possible’, argued the paper *Zakonitost* (Legality), seen as being under Pašić’s control.<sup>199</sup> At the same time Milovanović developed a theory about ‘good’ and ‘bad’ coups d’état.<sup>200</sup> As Andra Đorđević subsequently argued, the Radicals were most responsible for ‘the series of coups’ under the Obrenović. This ‘series’ began with their government of 1 April 1893, but a ‘statesman’ was found in their ranks who, mindful of his party’s interests, ‘divided [coups d’état] into good and bad,’ Đorđević commented in 1905.<sup>201</sup>

The constitution of 1901 was in content closest to Progressive views on the Serbian constitutional issue, i.e. to Piroćanac’s draft of 1883 and Novaković’s similar draft made in 1896. It envisaged a senate, most of whose members would be appointed by the king, as a second chamber of the legislative body alongside the assembly; and in the case of the elected members it envisaged a high property census for both active and passive voting rights. The dualist principle of ministerial responsibility was explicitly included, which obviously assumed the responsibility of ministers for any violation of the law.<sup>202</sup> Furthermore, legislative and budgetary powers were divided between the king and the assembly in accordance with the principle of ‘soft’ division of powers. Yet reservations about parliamentary government were quite clearly expressed. This is visible not only in the provision preventing a minister from being simultaneously a parliamentary deputy, but also in the division of powers between the king and parliament. For the constitution decreed that the king and the assembly

199 *Radikalne pogreške. Ustav, IV., Zakonitost*, no.95/29.12.1900. See also J. Prodanović, *Ustavni razvitak*, p.402; and S. Novaković, *op.cit.*, p. 217. Jovan Avakumović considered the Radicals to be most responsible for the fact that the new constitution was brought in by non-constitutional means. *Memoari Jovana Avakumovića*, ASANU, 9287/IV, p.173.

200 Prodanović, *Ustavni razvitak*, p.400.

201 Parliamentary proceedings, 1905–6, 18.10.1905, p.200.

202 Article 79 of the constitution reads: ‘Ministers are responsible for their acts to the king and parliament.’

should enjoy similar legislative powers, as should the two chambers, but that the rights of the assembly in the budgetary sphere should be fairly limited. Although, as in Novaković's draft, the assembly had primacy over the senate, its budgetary powers taken as a whole were significantly restricted in favour of the executive. First, because parliament in principle could not reject a budgetary bill; secondly and more significantly, because the king had the right to extend the old budget in the event of dissolution or postponement of the assembly. This formula was contained in the 1888 constitution too, but it was of greater weight in the 1901 constitution, according to which the king could prolong the expiring budget for a whole year rather than for four months as before.<sup>203</sup> As for individual rights, they were fully protected; but political rights and freedoms were somewhat reduced in relation to the 1888 constitution, and to a greater extent left to be regulated by the legislators. In regard to the electoral law, the constitution opted for a system of proportional representation, but only in principle, leaving all further related questions to the will of the legislators. Finally, by contrast with the two previous ones, this constitution did not envisage the institution of the Grand national assembly as a separate constitutional power.<sup>204</sup>

The adoption of this Progressive-Radical constitution, as well as the Radical-Progressive regime as a whole, had several implications for the subsequent evolution of constitutional rule in Serbia.<sup>205</sup> First, the wing of the Radical Party that followed Pašić's long-standing policy of compromise

203 Parliament's budgetary powers were smaller in the 1901 constitution than in Novaković's draft, which envisaged any extension of the budget having to have parliament's agreement. They were at the same time greater than in the draft of 1883, which prescribed that in the event of the new budget not being adopted before the end of the budgetary year, the old one was automatically extended for up to one year.

204 On the 1901 constitution, see Jivoïn Péritch, *La nouvelle constitution du Royaume de Serbie (proclamée le 6/19 avril 1901)*, Paris 1903.

205 The draft of the constitution was made by Milovan Milovanović for the Radicals and Pavle Marinković for the Progressives. Mihajlo Vujić and Nikola Stefanović also took part in drafting the text. S. Novaković, *op.cit.*, p. 218.

with the crown accepted the constitutional conception of the Progressive Party. This refers in the first instance to having two chambers, something which occupied a particularly important place in the Progressives' programme, and which for the Radical Party had formerly been absolutely unacceptable. The wing of the party that accepted the compromise – on behalf of which Protić in particular spoke publicly on constitutional issues – now declared that the single-chamber system had been 'discredited', writes Jaša Prodanović.<sup>206</sup> Pašić himself became a senator, one of those who were not elected but appointed by the king. *Dnevnik*, the organ of the 'fusion', owned by Živojin Perić and edited by Stojan Protić, stressed the positive aspects of having two chambers, albeit noting that a better solution would be for the second chamber too to have a democratic character.<sup>207</sup> The decision in favour of a second chamber, which Pašić's Radicals publicly stressed for the first time in defending the 1901 constitution, became their permanent position.<sup>208</sup>

*Dnevnik* at the same time criticised the 1888 constitution, stating – quite erroneously in fact – that it had made the assembly superior to the executive.<sup>209</sup> Linked to this, in 1901 the Radicals also abandoned the institution of the Grand national assembly, which as late as 1889 had for Pašić been 'the only powerful and the only legal authority in Serbia.'<sup>210</sup> Moreover, by approving the coup d'état as an instrument of constitutional change, they repudiated openly and completely the principle of popular sovereignty, and aligned themselves with the only political faction in Ser-

206 J. Prodanović, *Ustavni razvitak*, p. 401.

207 *Dnevnik*, 14.8.1901. The article is not signed, but judging by its advocacy of an elected, democratic character for the second chamber, the writer was a Radical, most likely S. Protić.

208 'I can state that I personally favour the two-chamber system.', was one of Protić's many declarations in favour of two chambers in the period 1903–4. *Parliamentary proceedings*, 1909–1910, 1.3.1910, p. 2205.

209 *Dnevnik*, 15.4.1901. The author writes about parliament's 'tutorship' over the executive.

210 Speech to the Radical Party's main convention, Niš 1889; in *Nikola P. Pašić*, p.325.

bia which questioned this principle – the Progressive Party. Reflecting on the Radical-Progressive agreement of 1901, Pavle Marinković, one of the more active Progressive politicians belonging to the ‘fusion’, pointed ten years later to the great programmatic closeness between the two parties at the time of the decreed constitution’s adoption.<sup>211</sup> This is why this fraction of the Radical Party became known as ‘fusionists’, although there never was a real fusion, i.e. unification of the two parties.<sup>212</sup>

Protić, the long-standing Radical Party theoretician, gave a critical appraisal of the 1901 constitution in the pages of *Delo*. His critique was very positive. He judged the monarch’s prerogatives granted by this constitution as wholly in conformity with the standards of European constitutional monarchies, not excluding even the disposition of budgetary powers. As for the assembly’s financial competencies, Protić’s view at this time was that they should be limited. And while in 1894, also in *Delo*, he expressed the conviction that the 1888 constitution did not guarantee the budgetary powers of the assembly to the right extent by comparison with the case of France, he now judged the French state finances as poor, because ‘parliament is able to increase state spending on its own’. It was necessary to follow ‘the attractive and important’ example of Great Britain, and reserve this right only for the executive, Protić wrote in 1902. This was in fact a defence of the 1901 constitution, in other words a stress on its advantages over the constitution of 1888; for in contrast to the latter, which gave parliament the right to increase parts of the budget, the 1901 constitution reserved this right only for the government, or rather the king.<sup>213</sup>

At the level of political freedoms, Pašić’s Radicals – and the same is true of their Progressive partners – fell far behind the former liberalism of the Progressive Party, displaying deep conservatism in this regard. ‘One

211 *Parliamentary proceedings*, 1911–12, 28.11.1911, p.5.

212 In the above-mentioned speech, Marinković declared himself sorry that Pašić’s Radicals had failed to unite with the Progressive Party at that time.

213 S. Protić, *Ustavna i društveno-politička pitanja*, 1, p.56; S.M.P. (Protić), ‘Zakonodavna inicijativa i državne financije’, *Delo*, 23/1902, pp. 219–21; and \*\*\* (S. Protić), ‘Nekolika ustavna pitanja’, *Delo*, 25/1902, pp. 584–96.



does not ask for great political freedoms; one demands only legal security', stated the programmatic declaration, published in the journal of Pašić's Radicals *Zakonitost* at the very start of the agreement.<sup>214</sup> The Old Radicals' reply to criticism of the constitutional provision that left to legislators the possibility of limiting constitutional rights and freedoms was that these were sufficiently guaranteed by the constitution, because deputies had the right to initiate laws.<sup>215</sup> This conservative turn of the Radical 'fusionists' on the constitutional issue, apart from their attitude to the rights of the crown, was as we shall see final.

Pašić explained his party's new constitutional policy in terms of Serbia's 'mission', its duty to orient its energies towards preparing the earliest possible realisation of 'the national task'. In general, ever since Pašić on his return from emigration had adopted the policy of compromise with the crown, he explained every new concession in regard to political rights and the assembly's powers by Serbia's duty to subordinate unconditionally all questions of its internal development and political organisation to what he claimed to be its 'national task': the liberation of the Serbs outside Serbia, and all-national unification. 'I have always harboured more intense sentiments for the life and fate of the Serb people outside the borders of the Kingdom of Serbia than those which prompted me to work for popular liberties at home. The national freedom of the whole Serb people was for me a greater and stronger ideal than the civic freedoms of the Serbs in the Kingdom had ever been': that was how Pašić described his political credo in 1902, when defending himself before the summary court against

214 Quoted in S. Jovanović, *Vlada Aleksandra Obrenovića*, vol.3, p.252. Freedom of the press was particularly hard hit in practice. On the frequent confiscations of the opposition press, see *Memoari Jovana Avakumovića*, ASANU, 9287/IV, pp. 20–24. Pašić was the most extreme in this attitude to political freedoms. Obeying the king's will, he voted in the senate against the government's draft bill on meetings and associations, which parliament – in which the Radicals were in a majority – had already passed. Jovanović, *ibid.*, pp. 234–5. The rejection of this draft bill meant that the old law remained, according to which police permission was required to set up an association.

215 Prodanović, *Ustavni razvitak*, pp. 401–2.

accusations of 'cowardice' and betrayal of the party, and of having given up the party's programmatic principles by agreeing to 'fusion' and the 1901 constitution.<sup>216</sup> Pašić was to say the same in parliament in 1905, stating that he had 'always subordinated...all issues, including resolution of the constitutional question itself' to 'the idea of impending liberation'. That idea 'led me to politics and to radicalism', he said in 1905, exclaiming: 'set everything aside and solve that on which Serbia's life depends. The voice of Serbdom and of the Serb Piedmont is calling you.'<sup>217</sup>

The joint government with the Progressives, who were a symbol of anti-Radicalism, and acceptance of the senate, perceived as a highly conservative institution, delivered a blow to the unity of the Radical Party from which it would never again recover. Although it remained formally a single party until the end of 1904, after the formation of the 'fusion' it in reality separated into two opposed political factions, divided to a large extent by their attitude towards Pašić. Those who continued to recognise his leadership would henceforth be commonly known as Old Radicals, while those who refused to sign the agreement and left Pašić were called Independents.<sup>218</sup> Abandonment of all the party's basic principles for the sake of power led finally to the outcome that Pašić had feared since 1886. The main responsibility for this lay precisely with himself, who having adopted the policy of compromise went further in that direction than anyone else in his party.

Dissatisfaction with Pašić's 'opportunistic policy' was already present in that part of the Radical Party made up of the younger generation of party members and the majority of party intellectuals.<sup>219</sup> Younger, more

216 Nikola Pašić, *Moja politička ispovest*, Belgrade 1989, p.129.

217 *Parliamentary proceedings*, 1905–6, 14.10.1905, p.153.

218 The name 'fusionists' was most frequently used by the Independents: it signified criticism, condemnation and often also political disqualification of the Old Radicals.

219 Jovan Cvijić, who belonged to that circle, spoke of the dissatisfaction with Pašić's 'opportunistic policy' among younger party intellectuals as early as 1897. Miroslav Hubmajer to N. Pašić, 17/29.9.1897, ASANU, 11657.

rebellious, more principled, and terms of political method more honest, the mutinous Radicals harboured a deep opposition – indeed indignation – towards Pašić’s policy of endless compromise, and especially towards its amoral and often dishonest aspects. Apart from the personal animosity that they developed towards him as leader, their rebellion and separation had also a deeper cause. For the Independent wing was formed by people with strongly left leanings. Some of these – Jovan Skerlić, for example – were initially close to the Socialists, the future Social Democrats,<sup>220</sup> while a large number of leading party members – Jovan Žujović, Jovan Skerlić, Jaša Prodanović, Jovan Cvijić, Milan Grol, Boža Marković – held clear republican views.<sup>221</sup> In practical political terms, however, their left-wing politics did not take the form of advocacy of European socialism or republicanism, but rather of return to the origins of the Radical Party, to a time that had already acquired a saintly halo and entered the world of myths. This was not simply the fruit of romantic idealism, but had also a concrete basis. Self-government and egalitarianism were the only programme to which the broad Radical layers – embracing most of the impoverished and illiterate peasantry – felt close, as their own. For them, the state ideal remained a ‘peasant state’ without bureaucracy or significant social differences, the very idea that had given birth to the party, and in the name of which the people had been encouraged to rebel. When in 1891 Pašić demanded strict party discipline, he found it necessary to stress loyalty to the original programme from which the ruling party would not depart ‘to the left or to the right’. The latest compromises that he had made in the name of the party – accepting the senate; abandoning the struggle for general suffrage, self-government and a popular army; and especially entering into government with ‘the proprietors, the heinous Progressives’<sup>222</sup> – had only too obviously negated those promises, and the mutinous Radicals took this as the reason

220 On this see Skerlić, *Parliamentary proceedings*, 1913–1914, 24.10.1913, p.370.

221 On this see Jovan Žujović, AS, JŽ – 60; *ibid.*, *O republikanizmu u Srbiji*, Belgrade 1923, pp.14–15.

222 ASANU, 12993.

for their separation into an independent wing. They defined the 'fusion' as a betrayal of the fundamental principles of Serb radicalism on the part of a few elderly party leaders, and, identifying themselves as 'the essence of the Radicals',<sup>223</sup> adopted the task, as Jovan Žujović explained, 'of re-radicalising those parts of the party that had lost their radicalism' and thus enabling 'the Radicals to return to their pure source. And the pure source is that first programme of radical democracy', which was the same as 'total popular self-government'.<sup>224</sup> Later, in a programmatic speech delivered in connection with their final separation into a distinct party organisation, the leader of the Independents, Dragutin Pečić, explained in detail the new party's origin, ideological essence, and attitude to the Old Radicals. Their separation, Pečić recalled, was a 'rebellion' against a 'certain number of people who are diverging from the programme of January 1881'. 'Striving for full implementation of the Radical programme, and strict application of our theories and principles, we formed a separate group.' The most important programmatic points for which the Independents would struggle, as identified by Pečić at that time in late 1904, were simplification and reform of the administration 'on the basis of electoral right and rigorous self-government', as well as reform of the army in the spirit of 'the principle of people's self-defence'.<sup>225</sup>

Although they defined their attitude to the original programme as the watershed between their group and that of the Old Radicals, the Independents nevertheless did not have in mind the original Radical conception of the constitutional question. Like the Radical Party of a decade or so earlier, at a time of more or less undisturbed unity, the Independents too stood firmly by the 1888 constitution. Unwavering in their opposition, they started to publish first *Dnevni list* and later also *Odjek*, which under Jaša Prodanović's editorship divided all political groups in Serbia between those

223 Sotir Baltezović, *Parliamentary proceedings 1906–1907*, 25.1.1907, p. 2404.

224 Jovan M. Žujović, *Srpska radikalna stranka, Govor J. M. Žujovića na zboru samostalnih radikala u Jagodini 10 augusta 1903.*, Belgrade 1903, pp. 18, 20, 25.

225 *Parliamentary proceedings, 1904–1905*, 14.12. 1904, pp. 946–7.

which on the constitutional issue stood unreservedly on the position of the 1888 constitution and those which were ready to compromise. Claiming that they were the only true followers of the Radical political option, the Independents built their image – as the Radical Party had previously done – on loyalty simultaneously to the party's original programme and to the 1888 constitution, regardless of the mutual ideological incompatibility between these.<sup>226</sup>

Together with the Independent Radicals, much of the Liberal Party too demanded resurrection of the 1888 constitution. Prominent here was one of its future leaders, Voja Veljković, whose political positions had little in common with the explicitly monarchist and quite undemocratic policy practised for many years by the Liberal Party, but which increasingly resembled the original Serbian liberalism. As the editorialist of the paper *Srpska zastava* (Serb Flag),<sup>227</sup> and as a parliamentary deputy, Veljković 'developed the theory of popular sovereignty and argued that the people was senior to the king.'<sup>228</sup> Distinguishing themselves as free-thinkers and determined opponents of the 1901 constitution, and frequently suffering repression at the hands of a regime that was highly restrictive in regard to political freedoms, the Liberals became a significant oppositional force in this period.

If one excludes individuals politically characterised solely by their loyalty to the court – who though present in all parties were nevertheless relatively few in number<sup>229</sup> – the Serbian political scene after 1901 was divided between two party groups: Radical-Progressive and Independent-Liberal. The main line of divide between the two was the constitutional issue, and more precisely the attitude to the 1888 constitution as opposed to that of 1901. This became quite clear after the fall of the Radical-Progressive regime, when it emerged that the Old Radicals' turnabout on the

226 See Olga Popović-Obradović, 'O ideološkom profilu radikala u Srbiji posle 1903.', *Tokovi istorije*, 1–2/1994.

227 Nikola Stanarević, *Dvadeset godine Liberalne (Nacionalne) stranke, 1902–1922*, ASANU, 14289.

228 Jovanović, *Vlada Aleksandra Obrenovića*, vol.3, pp.220.

229 *Ibid.*, pp 274–6.

constitutional issue had been not merely tactical. For even when, following the re-imposition of personal rule at the end of 1902 in the form of the Cincar-Marković government, the Old Radicals found themselves once again in opposition, in their demand for a return to constitutional rule they did not go back to the 1888 constitution, but continued together with a few Progressives to uphold the constitution of 1901. This fact shows that, although the Independent-Liberal group was very strong and militant, the liberal-democratic option had lost its vigour in favour of a constitutional programme characterised by a mixture of liberal and conservative political principles. It is with these views on the constitutional issue that the Serbian parties were to encounter the coup of May 1903, which by its very nature was substantially to alter the existing relationship of forces.

## SECTION TWO

### **Political Foundations**

# I THE MAY COUP AND THE CONSTRUCTION OF A NEW ORDER – VICTORY OF THE IDEA OF PARLIAMENT’S SOVEREIGN POWER

With the *coup d'état* executed during the night of 28–29 May 1905, in which a conspiratorial group of army officers killed King Alexander Obrenović, Serbia – left without a king – found itself in an extra-constitutional situation. At the suggestion of the party leaders a provisional, so-called revolutionary, government was formed under Jovan Avakumović.<sup>230</sup> Of the political parties, the strongest component in the ‘revolutionary government’ was provided by the Liberals, who apart from prime minister Avakumović also had the ministers of finance and national economy, Vojislav Veljković and Đorđe Genčić respectively. The minister of construction, Colonel Aleksandar Mašin,<sup>231</sup> was also close to the Liberals, while the minister of foreign affairs, Ljubomir Kaljević, had begun his political career as a Liberal, after which he went over to the Progressives, but soon afterwards left them too. He was in fact offered the ministerial post because of his known attachment to the Karađorđević family.<sup>232</sup> Of the Independent Radicals, two of their most prominent members joined the government:

230 *Memoari Jovana Avakumovića*, pp. 47–9.

231 N. Stanarević, *Dvadeset godina Liberalne stranke*, pp. 9–10.

232 Živan Živanović, *Politička istorija Srbije u drugoj polovini devetnaestog veka*, vols. 1–4, Belgrade 1923–5, vol.4, p.356. See also Dragiša Vasić, *Devetsto treća (majski prevrat)*, Belgrade 1925, p.123.

Ljubomir Živković as minister of justice, and Ljubomir Stojanović as minister of education and religious affairs. Of the Old Radicals, only Stojan Protić entered the government, as minister of the interior. The only party not represented in the 'revolutionary government' were the Progressives.<sup>233</sup>

The government's composition reflected the new relationship of political forces in the country created by the coup. True political power at this moment rested with the officer conspirators, backed by much of the army, and the government naturally had to enjoy their confidence.<sup>234</sup> This is why its core was made up of plotters; in other words of politicians, largely belonging to the Liberal Party, who were not just implacable opponents of the previous regime, but also closely associated with the conspiracy. Of the ministers, therefore, Avakumović, Genčić, Mašin and Atanacković were directly involved in the conspiracy,<sup>235</sup> while Živković, the leader of the Independents, 'played a prominent role in the 29 May event', according to their own testimony.<sup>236</sup> Thus at least five of the nine ministers were directly or indirectly involved in the plot.<sup>237</sup> As for the Old Radicals, they were

233 Živanović, *ibid.*, p.356. Stojan Novaković, however, talking about the party membership of this first government, refers to Kaljević as a Progressive. Novaković, *op.cit.*, p.240.

234 According to Novaković, the first government following the coup was in fact put together by the plotters. Novaković, *ibid.*, p. 240. The same is argued by Živanović, *ibid.*, p.355, and Vasić, *ibid.*, pp. 139–40.

235 Avakumović subsequently tried to deny his participation in the conspiracy, especially in his memoirs, but the evidence appears to support it. See Živanović, *ibid.*, p. 356 and Vasić, *ibid.*

236 Živojin Hadžić, *Parliamentary proceedings 1906–1907*, 3.2.1907, p.2690. Vasić, however, describes Živković as someone who knew nothing about the conspiracy. *Ibid.*, p.122.

237 The leaders of the conspiracy, Dragutin Dimitrijević and Ante Antić, kept the list of the plotters in the highest secrecy, so that even the members of the conspiracy had no access to it. The list was burned two months before the coup. Živanović, *ibid.*, pp. 342–6. One of the active plotters, Petar Mišić, charged V. Veljković with having taken part in the conspiracy, but the latter categorically denied this, calling Mišić's claim 'a pure lie'. *Parliamentary proceedings, extraordinary session of 1908, 24.7.*, pp. 585–8, and *Parliamentary proceedings 1905–1906*, 18.10., p. 208.



invited to join the government even though they were seen as a party that had little to do with the conspiracy. 29 May was for the Radical Party 'a real triumph', the Progressive leader Pavle Marinković subsequently stated, because 'the Radicals did not soil their hands or their party.'<sup>238</sup> Given their real power, the attitude taken by the Old Radicals towards the coup was of the greatest importance, and the plotters showed a desire for cooperation. This offer was accepted, and the Old Radicals, as we shall see, sided unconditionally with the perpetrators and their deed, thus winning their confidence.

Albeit created in an illegal, de facto way, the government did not show any tendency to prolong the extra-constitutional state created by the military coup and the king's murder. On the contrary, it quickly proclaimed the resurrection of the 1901 constitution and of the laws valid before King Alexander's coup on 25 March of that year.<sup>239</sup> Soon afterwards, taking upon itself the royal prerogatives, it recalled the national assembly dissolved during the earlier coup.<sup>240</sup> The recall document placed before the assembly

238 *Parliamentary proceedings*, extraordinary session of 1906, 22.7., p. 396. According to Živanović, Protić was surprised when the officers asked him 'just as on 1 April' to join the government. Živanović, *ibid.*, p.356. Živanović mentioned 1 April probably in order to express his doubt in the veracity of Protić's professed surprise, doubtless bearing in mind the participation of the Radicals in the coup of 1 April 1893, when the king, having prematurely declared himself of age, dismissed the Liberal government and invited the Radicals to form a new one.

239 *Zbornik zakona i uredaba u Kraljevini Srbiji*, vol.58:1903, Belgrade 1905, p. 389. According to Avakumović, the provisional government took as one of its priorities the maintenance of law and order, as well as the principle of legality and constitutionality. *Memoari Jovana Avakumovića*, p. 56, 77–9.

240 In the meantime, between the coup of 24 March and the May Coup new elections were held, but only for parliament, while elections for the senate were fixed for 5 June. The 'revolutionary' government did not recognise the parliamentary elections – thus expressing its non-recognition of the preceding coup – and recalled the two chambers in the form that they had before their dissolution, i.e. in accordance with the elections of 1901. *Parliamentary proceedings of the emergency national assembly of 1903. O izboru kralja i donošenju ustava [On election of the king and adoption of the constitution, hereafter O izboru kralja]*, p.11.

and the senate the task of electing a new king and deciding the constitutional issue; at the same time it explained its decision to resurrect the 1901 constitution by its conviction that the new king had to be elected 'by constitutional means and in a constitutional manner'.<sup>241</sup>

The government's action in restoring the 1901 constitution, however, had a largely declaratory role. With regard to the constitutional aspects of the election of a new king by parliament, the 1901 constitution was not of much use, because it did not envisage the possibility of the throne being left without an heir. Stojan Novaković assumes that Avakumović's government was guided, in respect of the election of the new king, by the relevant rulings of the 1888 constitution, which unlike that of 1901 did foresee this possibility. According to the 1888 constitution (Art. 75), in the event of the throne falling vacant, the government assumes the royal powers and convenes the Grand national assembly (an institution that does not appear in the 1901 constitution), which elects a new king.<sup>242</sup>

If Novaković's assumption is correct, then the government's explanation of its decision to resurrect the 1901 constitution does not stand. It is equally possible, it should be noted, that the new government – insofar as it was guided by any constitutional rules – had in mind Art.22 of the 1901 constitution, which deals with the possible absence of persons who, after the king's death and during the minority of the crown prince, could constitutionally act as regents. For the article in question prescribes that in such a situation the cabinet should assume the role of the king in convening the elected body and entrusting it with the task of electing the regents at a joint sitting of both chambers. If one accepts this rather than Novaković's assumption, then the government's explanation does stand, since its action may be understood as filling a legal hole in the constitution.

But if the meaning of the proclamation on restoring the 1901 constitution was controversial in regard to the election of a new king, the same cannot be said of the decision to make the constitutional issue the other

241 *O izboru kralja*, p.11. See also *Zbornik zakona 1903*, pp. 391–2.

242 Novaković, *op.cit.*, pp. 239–41.

important task placed by the government before the national assembly. On the contrary, this was the key question determining the attitude of the government and the political parties to the principle of legality, their understanding of constitutional government, and the concept of sovereignty that they accepted. The choice in favour of constitutional procedure meant also a choice in favour of constitutionality, which in the given case implied the principle of separation of powers; while the extra-constitutional path towards the adoption of a new constitution implied acceptance of the revolutionary principle of sovereignty of the constituent assembly, based in the last instance on the idea of unity of governmental power. By motivating its restoration of the 1901 constitution by its desire for the elected body to perform its work in a constitutional manner, the government was referring not only to the election of a king, but also to the adoption of a new constitution. Moreover, when asking the assembly and the senate to decide on the constitution, it nowhere mentioned the constitutionally prescribed role of the future king in this enterprise. These omissions on the government's part did not have legal consequences, of course, and could not prejudice the procedure for adopting a new constitution. But they could be taken as implying that, in regard to constitutional powers, the government was actually repudiating the principle of constitutionalism, despite the fact that it had previously declared its loyalty to it. The subsequent course of events showed that the government did not have a common and final position, which is why the resolution of this question was postponed until a new political constellation of forces could be clarified.

The government wished to establish, first of all, what attitude the national assembly would take towards the action carried out by the officers on 29 May, as well as its judgement on the decisions the government had itself made in the meantime. The assembly and the senate, in their response to the government's act of opening parliament, unanimously adopted a joint declaration which 'in regard to the event of 29 May, accepts and enthusiastically hails the new order that arose from the event, with one accord and a single voice proclaiming a complete identity of

feelings between the Serbian people and the whole of the Serbian army,' praising the government and approving 'all its acts and deeds.' The political importance of this was all the greater in that the relationship between the parties represented in parliament was directly opposite to that which prevailed in the government. Whereas the government was largely made up of Liberals and Independents, both chambers were dominated by the Old Radicals and to a lesser extent the Progressives. Those who moved the aforementioned declaration were Old Radicals – Nastas Petrović in the assembly and Petar Velimirović in the senate.<sup>243</sup>

Having thus approved the regicide and the return of the 1901 constitution, parliament got down to the tasks that the government had placed before it, changing only their order by placing the constitutional issue before election of the king.

There were two options linked to resolution of the constitutional issue at this moment. One favoured keeping the 1901 constitution, the other restoring the 1888 constitution. The Old Radicals favoured the first option, the Independent Radicals and Liberals the second. The former enjoyed an overwhelming majority in both chambers, but the latter wielded considerable political authority, given the close relationship between their leaders and the plotters. The plotters had in the meantime acquired, by decision of parliament, the halo of national saviours; and despite the fact that they left the government – which in any case was perfectly loyal – and parliament to govern, true political power lay in their hands. In the absence of a king, they proved to be the third and decisive factor in the new regime. It was perfectly clear that at this point in time the real political importance of a party was not determined by its size in the parliament, but by how much it was trusted by the new power, i.e. the conspirators. This is why the Old Radicals, whose credit was very low with the plotters, when confronted with the resolute rejection of the 1901 constitution by the Independents and Liberals, quickly drew back. At a joint conference of 'the two Radical groups' held on the issue of the constitution, most of those present ignored

243 *O izboru kralja*, pp. 6–7, 12–13.

the Old Radical leaders' arguments in favour of the 1901 constitution, and adopted the Independent Radicals' position that the 1888 constitution should be restored.<sup>244</sup> The same thing had happened at a previous meeting of parliament, at which the Old Radicals, Gligoriје Grešić and Lazar Paču in particular, defended the 1901 constitution during the debate on the constitutional issue.<sup>245</sup> As a result, when parliament met on 2 June, it adopted a resolution – without opposition from the Old Radicals – proposed by the leader of the Liberal Party, Stojan Ribarac, which 'restores the constitution of 22.12.1888 ... and all political laws ... with alterations and additions ... that will be made before the elected ruler swears to it.' The resolution was then sent to the senate, which approved it with only one vote against.<sup>246</sup> This was not only a manifestation of the will to restore the constitution of 1888, but also a proclamation de facto of the assembly as the sovereign power in the country: when the country is without a king, the constitution – like all political laws – is made by the constituent assembly, underlining that the views of the future monarch who is about to be elected will carry no weight. So the future king will have to accept the constitution adopted by parliament, or he will not be king.

However, the debate that followed immediately afterwards in the senate showed that the Old Radicals had not as yet given up on the 1901 constitution, and that they were not inclined to recognise parliament's revolutionary character. For two opposing views emerged in the debate on how to interpret the aforementioned resolution. The Old Radicals took the view that the new constitution would acquire force only after the king

244 Jaša Prodanović spoke at this time for the Independent Radicals on the constitutional issue. Jaša Prodanović, *Ustavni razvitak*, p. 414.

245 D. Vasić, *op.cit.*, p. 126. After the Second World War, the Radical paper *Novi život* described Geršić as one of the Old Radical leaders who, at the time of the new constitution's adoption following the May Coup, argued in favour of restoration of the 1888 constitution. *Novi život*, 4/1921, vol.3, *Beleške*, p.94. Judging by the role that Geršić played in adoption of the new constitution as vice-president of the senate, this assertion is false.

246 Ljubomir Kovačević of the Progressive Party voted against. S. Novaković, though a senator, did not attend the session.

had approved it, and that until then the 1901 constitution would remain valid.<sup>247</sup> Those who until quite recently had argued that constitutionalism was not important during a process of constitutional revision, and that to decree a constitution was a legitimate act given that what really mattered was 'that the actual social forces and relations should be accurately expressed', now advocated strict respect for constitutionally prescribed procedure – in other words the need to have royal approval – when adopting a new constitution.<sup>248</sup> 'The constitution ... and all laws ... come into force after they have been amended ... and after the new king signs them,' insisted the vice – president of the senate, Gligoriye Geršić. This position, which Geršić repeated twice, was defended also by other senators from the ranks of the Old Radicals, especially Protić and Pašić. The Radicals were right from a formal legal point of view, because according to the existing – 1901 – constitution, the king and the national assembly shared equally constitutional and legislative powers. But advocacy of this purely formal legal position meant that the resolutions passed by senate and assembly on restoration of the 1888 constitution were irrelevant, and that the question of changing the constitution could not be broached before the new king had assumed the throne and started to act as ruler. So finance minister Veljković promptly intervened to point out that parliament's proposal clearly stated that the king did not confirm the constitution, but merely swore to uphold it; and that Geršić's interpretation meant that the king could even reject the constitutional draft, in which case the 1901 constitution remained in force. Following this intervention, the Radicals withdrew while Geršić, thanking Veljković for his intervention, offered a new interpretation that was quite contrary to his earlier one, insisting that it was

247 'The constitution can be restored only after everything has been completed and approved. This is only a proposal that we proceed to returning the 1888 constitution.', said the president of the senate, the Old Radical Pera Velimirović. *O izboru kralja*, p. 16. Apart from the Old Radicals, the Liberal Stojan Bošković was also in full agreement with Velimirović. *Ibid.*

248 See *Zakonitost*, no.95, 29.12.1900.

not necessary to have the king's approval.<sup>249</sup> A last discreet attempt to delay the final decision on the constitution was made by Pašić, who asked prime minister Avakumović whether he agreed with the finance minister, given that the interior minister Protić held a different view about it. After Avakumović's clear and decisive reply in Veljković's favour, this issue was removed from the agenda and the decision was taken to restore the 1888 constitution without royal sanction.<sup>250</sup>

The Old Radicals, who had hoped by invoking the principle of legality to gain time and neutralise their earlier unwilling declaration in favour of the 1888 constitution, were obliged – in a situation where real power lay outside the law and the constitution – to yield to the political forces of the minority, supported by the extra-constitutional power. They were thus for the second time forced to accept the constitution of 1888, this time, however, not by giving way as they had fifteen years earlier to the crown and the parties that protected its power, but on the contrary by retreating before forces that questioned the very essence of royal power. Živojin Perić, criticising in 1910 the manner in which the 1903 constitution had been adopted, i.e. the fact that the king had not been allowed to take part, was not right to conclude: 'It seems that the Radical Party this time took its revenge upon King Peter for the humiliation that King Milan had inflicted upon it in December 1888, when he had ordered it to vote for the

249 On the following day, 3 June, it was announced that Geršić had resigned as vice-president of the senate. *O izboru kralja*, p.29.

250 On the adoption of the 1903 constitution, see *O izboru kralja*, pp. 7–18. The division within the government on the issue of the new constitution, while real, is not quite clear in all its details, especially regarding the position of the premier, Avakumović. He supported Veljković and not Protić in the senate, thus coming out against the royal sanction. Lj. Stojanović, another minister, insisted, however, that it was 'known' that 'in the revolutionary cabinet the greatest advocates of postponing the constitutional issue ... were prime minister Avakumović and interior minister Stojan Protić.' Stojanović, like the whole of his party, insisted that the decision to change the constitution before the arrival of King Peter was the work of the Independent Radicals. *Parliamentary proceedings*, 1906/1907, 20.6.1907, p. 4445.

constitution in its entirety.<sup>251</sup> Insofar as revenge could be spoken of at all, this remark could apply to only some of the Radicals from 1888, those who in the meantime had left Pašić. For the Independent Radicals did indeed stand unconditionally by the 1888 constitution, and even insisted that the national assembly should resolve the constitutional issue without the king. Wielding considerable political authority, moreover, they to a large extent determined the outcome of the constitutional issue in 1903, and were not exaggerating much when they claimed that the restoration of the 1888 constitution prior to the king's assumption of the throne had been 'an achievement of the Independent Radicals.'<sup>252</sup>

The Old Radicals, for their part, advocated retention of the 1901 constitution, on the grounds of defending the principle of constitutionality, in other words legality. This could not be interpreted as settling accounts with the crown, which is what Perić wrongly attributes to them. On the contrary – with their political authority considerably weakened; somewhat confused by a revolutionary action that had not been of their doing; dissatisfied in many ways with the 1888 constitution; and seeking to gain time – they were effectively protecting the prerogatives of the king who had yet to be elected. The Old Radicals did not hide this, after all, either then or later. In 1903 the Radical Party – as Protić retorted to the aforementioned comment by Perić – favoured retaining the 1901 constitution, which 'we shall change when the king comes, if anything in it needs changing.'<sup>253</sup>

251 *Parliamentary proceedings*, 1909/1910, 18.5.1910, p.3128.

252 Lj. Stojanović, *Parliamentary proceedings*, 1906/1907, 20.6.1907, p. 4445.

253 *Parliamentary proceedings*, 1909/1910, 18.5.1910, p. 3144. One finds in the historiography the inaccurate, or at least imprecise, assertion that the restoration of the 1888 constitution was the work of the Radicals. See, for example, M. Protić, *op.cit.*, pp. 98–9. M. Protić, after stating that the 1888 constitution was itself largely the work of the Radicals, states that 'the Radicals were the most determined and most consistent fighters for its retention, and subsequently for its re-validation'. In the literature and interventions of contemporaries, the term 'Radicals' is regularly used for Old Radicals, not Independent Radicals. (M. Protić's book in any case does not deal with the Independents.) The name is used to denote the Old and the Independent Radicals together usually only in specific contexts, or with a special note, meaning a



The decision to restore the 1888 constitution did not end the constitutional issue, because the actual decision spoke about the need to make 'the most urgent' changes, provided that 'the main constitutional principles' would remain unaltered. A parliamentary committee was elected on the same day to deal with this task, which submitted its report as early as 4 July. Having endorsed it, the assembly passed the report on to the senate, which adopted it unanimously, practically without a debate.<sup>254</sup> This is how the national assembly adopted a new constitution for the Kingdom of Serbia. Interim decrees prescribed that the proclamation of the new constitution would restore the validity also of the most important political laws valid under the 1888 constitution, unless these contradicted the provisions of the new constitution, which meant that they had to be harmonised with the latter before they could be implemented. The laws in question were those on elections, parliamentary standing orders, ministerial responsibility, the press, public meetings and associations. In place of the king, the constitution was approved on 5 June by the government, which thus became – together with the national assembly – the maker of the 1903 constitution.<sup>255</sup>

The national assembly thus accomplished its basic work behaving as a sovereign body with unlimited powers. It did so regardless of the government's proclaimed desire to restore the 1901 constitution in order to secure constitutionalism until the adoption of a new constitution – a desire whose authenticity, as we have seen, was contested – and, more importantly, ignoring the fact that it had merely sanctioned the government's decision to implement the constitution in question. Despite timorous yet clear efforts by the Old Radicals to prevent it from doing so, the national assembly – in contradiction with explicit provisions of the existing constitution – denied

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political group which, irrespective of its internal division, shared some important characteristics. The term Radical or Radical Party is never used, however, to denote the Independents.

254 The Progressive senator Kovačević justified his positive vote on the grounds that 'the whole national assembly voted in favour'. *O izboru kralja*, p.131.

255 S. Jovanović, *Ustavno pravo*, Belgrade 1907, p.3.

the future king the right to sanction either the new constitution or the more important political laws.<sup>256</sup> So, having acknowledged the validity of the 1901 constitution, it formally made itself just one part of the legislature, thus opting for legal continuity and expressing formal loyalty to the principle of constitutionalism; but at the same time, by resolving the constitutional issue without regard to existing constitutional restrictions, it deliberately trampled over that principle and – even if not formally – transformed itself de facto into a revolutionary constituent assembly.<sup>257</sup> By doing so it continued the Serbian tradition – briefly broken by the adoption of the 1888 constitution – of changing the constitution by extra-constitutional means.<sup>258</sup> This, in conjunction with the regicide, gave the coup the character of a revolution,<sup>259</sup> confirming the accuracy of the opinion voiced by Slobodan Jovanović back in 1890 that ‘reforms in our country are not reforms but revolutions’. It was but the latest historical confirmation of the views describing the political

256 The national assembly even wished to make changes to the 1888 constitution before the elected king’s return to the country. This is why it decided, on 3 June, that the departure of the delegation to Geneva, where Peter Karadžorđević was living, should be postponed until 5 June, so that the delegation would be able to show the king the complete text of the constitution. Report of the French envoy of 16.6.1903, Ministère des affaires étrangères, Archives diplomatiques, Paris, Serbie, Nouvelle série, Politique intérieure et question dynastique 1897–1914 (henceforth, MAE-AD), vol.3, no. 40.

257 ‘The constitution [of 1903] was passed by parliament behaving as a sovereign body in the full sense of the word.’ Jovanović, ‘Parliamentarna hronika’, *Arhiv za pravne i društvene nauke*, 18,1920, p.61.

258 J. Prodanović, *Ustavni razvitak*, pp. 429–31; Đorđe Tasić, ‘L’histoire constitutionnelle de la Serbie’, *Revue d’histoire politique et constitutionnelle*, 1/1938, p.242.

259 The May coup is described as a revolution also in legal works. See S. Jovanović, *Ustavno pravo*, p.289, and D.M. Ranković, ‘O pravnoj odgovornosti zaverenika’, *Arhiv za pravne i društvene nauke*, 4/1907, pp. 46–50. Ranković wished to prove the revolutionary character of the coup in order to refute the rare individuals who took the view that the plotters were criminally responsible for committing a murder. According to Ranković, revolution by its very nature assumes ‘full success’, and its executors cannot be punished by a regime of which they are ‘authors’. This is why any charge against the plotters, who had succeeded in ‘bending the existing laws to their will, squeezing them all into their fist’, would be ‘legally impossible and absurd’. See also ft 199 on p.112.

history of the Serbian state in the new century as a history of ‘revolution, not evolution’, and its constitutional development as an absence of constitutionality in the true sense of the word.<sup>260</sup>

The question of the election of the monarch was de facto resolved before parliament met, given that immediately after the murder of Alexander Obrenović the army proclaimed – or more accurately hailed – Peter Karađorđević as Serbia’s new king.<sup>261</sup> The government approved the choice and, as soon as it met on the morning after the coup, discussed whether to put a formal proposal before the national assembly that Peter should be elected the new king, or whether to leave it up to the constituent assembly to decide.<sup>262</sup> Although in its rescript opening the session the government made no proposal in this regard, the national assembly – bearing in mind the clearly expressed will of the army<sup>263</sup> – promptly at a joint sitting of the two chambers elected Peter Karađorđević as the new Serbian ruler, first by acclamation and then by individual vote.<sup>264</sup> Its decision merely confirmed the army’s own choice, thus investing the latter with the legitimacy of popular will.

260 Slobodan Jovanović, *Velika narodna skupština*, p. 68; Ilija Ilić, *Parliamentary proceedings 1910–1911*, 17.1.1911, p. 11; Đ. Tasić, *op.cit.*, pp. 242–4.

261 J. Prodanović, *Ustavni razvitak*, p.414.

262 Report of the French envoy of 11.6.1903, MAE-AD, vol.3, no.17 and 18. The French envoy to Washington identified Peter Karađorđević as the new king of Serbia even before parliament had met. *Ibid.*, no.89.

263 The French envoy to Belgrade reported that at the meeting of parliamentary deputies held before the opening of the parliament a significant number, as many as forty of them, had declared themselves in favour of a republic; but since the military plotters had declared that they would accept only the election of Peter Karađorđević, their opponents did not dare to make their views public, as a result of which Peter was elected king by unanimous vote. MAE-AD, vol.3, 16.12.1903, no.156.

264 The election proceeded as follows. The president of the senate and president of the parliament, Pera Velimirović, announced that the election of a ruler was on the agenda. Soon afterwards, the deputies rose and ‘tumultuously and enthusiastically’ exclaimed: ‘Long live Peter Karađorđević, King of Serbia!’. There followed an individual casting of votes, with all those present voting in favour. *O izboru kralja*, p.25; ‘Protokol prve sednice Narodnog predstavnštva od 2. Juna 1903’, *Zbornik zakona Srbije 1906–1911*, p. 394. The literature wrongly records that only Senator Jovan Žujović abstained. See D. Vasić, *op.cit.*, p. 127; Dimitrije Đorđević, *Carinski*

In this way, as a result of the murder of the last king of the Obrenović dynasty, a new dynasty – that of the Karađorđević – was established in Serbia.<sup>265</sup> This, together with the fact that the king was elected after the decision on the new constitution had been made, as well as the fact that his coronation was made conditional upon his approval of the constitution, meant that the legitimacy of the monarchy and the royal power would derive solely from the will of the national assembly, based upon a constitution that it had adopted quite independently, and upon its own choice of the crowned head who was to rule under that constitution. This constituted a full realisation of the idea of the St Andrew liberals about the assembly's exclusive constitutional power, which in the last instance decides also the form of rule.

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*rat Austro-Ugarske i Srbije 1906–1911*, Belgrade 1962. Žujović, like many other senators (Svetomir Nikolajević, Stojan Novaković, Sava Grujić, Čeda Mijatović, Anta Bogićević, Jevrem Andonović, Svetozar Gvozdić), was absent. *O izboru kralja*, pp. 22–3. As for Žujović, he told Skerlić before parliament met that he would not vote for Peter Karađorđević as king, because of his own republican convictions oflineand, more importantly, because the officers, usurping the right of parliament, had already done so, thus 'compromising' the new king. AS,JŽ-60.

265 Article 57 wrongly states that 'In Serbia rules King Peter I of the Karađorđe dynasty.', argues S. Jovanović. According to Jovanović, Karađorđe could not have established a new dynasty, for the simple reason that no monarchy was established during the First Uprising. Peter's father, Alexander Karađorđević, did not establish a dynasty either, because he failed to establish the right of inheritance in his family. The very fact that he acquired the throne by election, not by right of inheritance, is sufficient to make Peter I and 'no one else' the founder of the dynasty, concludes Slobodan Jovanović. See 'Dva pitanja iz našeg vladalačkog prava. Osnivač dinastije', *Arhiv za pravne i društvene nauke*, 1/1906, pp. 36–42. Different views on this issue were aired in the assembly. Mihailo Polićević, for example, held the same view as S. Jovanović, while Milan Mastić argued that 'the dynasty begins not with King Peter, but with Black George [Karađorđe]'. Both deputies were lawyers by profession. The first was a member of the Independents, the second of the Old Radicals. *Parliamentary proceedings*, 1903–1904, 20.12.1903, p.900.

## II QUESTION OF THE LEGITIMACY OF PETER KARADORDEVIĆ'S ROYAL POWER

The fact that a new king was elected in 1903 represented in itself no novelty in Serbian political history. On the contrary, it simply confirmed that in Serbian monarchism the elective principle prevailed over the hereditary principle.<sup>266</sup> Nor was the act of the coup as such, including the regicide, without roots in the tradition of Serbian monarchism. Both of these – election and violent dynastic change – were only the latest testimony of the absence of any idea of divine or historical right as the source of princely rule's legitimacy in Serbia. For his part, however, Peter Karadžević seems to have understood his right to the crown as one based not just on election, but also on hereditary, historical and even divine right.<sup>267</sup> Few in Serbia took seriously, however, this perception of the nature of royal rule.<sup>268</sup>

266 All the rulers except Michael and Alexander Obrenović came to the throne by way of election. Đ. Tasić, *op.cit.*, pp. 236–7. The elective principle as an important principle of Serbian monarchism is stressed by other writers: Marko Cemović, 'Ustavni vladalac (povodom 'Političkih studija' g. Živojina Perića)', *Delo*, 48/1908, p.345; Nikola Stojanović, *La Serbie d'hier et de demain*, Paris 1917; M. Vladislavljević, 'Développement constitutionnel de la Serbie', *Revue d'histoire politique et constitutionnelle*, 1/1938.

267 Responding to congratulations in telegrams sent to the prime minister and the speaker of parliament, he spoke of the throne as that of 'My glorious forefathers'; thanked parliament for 'joining its voice to that of God and calling upon me in full agreement with Him ' to 'assume the throne of My glorious forefathers by the grace of God and the will of the people'. *Zbornik zakona 1903*, pp. 398–9.

268 The desire to stress the constitution and election as the basis of royal rule was why the very idea of crowning Peter I – this being a religious act – met resistance. It was nevertheless decided to proceed with the coronation, but the explanation that Milan S. Marković offered for this, i.e. that coronation was fitting precisely because it was also a religious act – as 'an endorsement of

Nevertheless, both the elective principle and violent dynastic change acquired a new dimension in the May Coup, which was to have consequences for the effectiveness of royal rule under Peter Karađorđević. As Slobodan Jovanović argues, the elective principle was greatly stressed in 1903, because Peter Karađorđević was elected king as a simple citizen, not as a prince. This is because the Karađorđević dynasty had not existed before 1903, but was established only with the election of Peter I as king, and through the establishment of his family's hereditary rights with the constitution of 1903.<sup>269</sup> As for violent dynastic change in 1903, this involved brutality of such a nature that it could not but have corresponding consequences for the perception of monarchy, strengthening further the belief that the Serbian monarch was not sacred. 'After 29 May, the day when Serbia saw that a ruler (whatever his quality) had been thrown head first through a window, the idea of the monarch's inviolability and dignity is gone for good.' This according to the Progressive leader Pavle Marinković, who further added: 'Even if the monarchy survives in Serbia for another 1,000 years, the ruler will never again be able to regain the former respect.'<sup>270</sup>

There was yet another circumstance that added support to the view that the idea of sanctity of royal rule – insofar as it had ever developed in Serbia – was definitively destroyed with the May Coup. In 1903, royal rule as such was for the first time properly established by will of the representative body, because the 1903 constitution was the first that the national assembly adopted independently, as the sovereign constitutional power. Adopted without royal consent, moreover, at a moment when Serbia was

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one part of the formula that forms the royal title', which says 'by divine will' – was not shared. See M.S. Marković, 'Kraljevo krunisanje', *Glas prava, sudstva i administracije*, 3/1904, p. 801.

269 See ft 173 on p.114. It should be noted, nevertheless, that the senate president P. Velimirović, announcing the election of the new king, stated that: 'Prince Peter A. Karađorđević was elected as king of Serbia with the right of inheritance of the throne in his dynasty.' *Protokol prve sednice narodnog predstavništva od 2.VI.1903.*, in *Zbornik zakona 1903*, p.395.

270 *Parliamentary proceedings, 1907–1908*, 12.2.1908, p.197.

without a king, it was in fact the 1903 constitution that established royal rule. This is why Slobodan Jovanović insisted that Article 40 of the constitution, which prescribed that the king had ‘all the prerogatives of state power’, had been wrongly drafted, since it could be deduced from it that ‘the king is the bearer of state power in its totality, limited by the constitution only in the execution of his individual functions’. As Jovanović explains, this ruling made some sense in the 1888 constitution, because the latter had been ‘proclaimed by King Milan...whose political authority predated all constitutions’. It was quite unacceptable, however, under Peter Karađorđević, given that the 1903 constitution was brought about by revolutionary means, without the king, who ‘was simply asked to swear loyalty to an already finalised constitution’. Since it is clear that the 1903 constitution ‘predates the king, not the king the constitution’, ‘notwithstanding the quoted Article 40, the king enjoys only those powers which the constitution gives him explicitly’, is how Jovanović explains the difference between the legitimacy of the crown under the 1888 constitution and under that of 1903.<sup>271</sup> One might also interpret this to mean that the monarchical principle itself – given that it was conditioned by the decision of the constituent assembly – was called into question by the May Coup. This is supported also by the constitutional rules on revision. For these did not exclude the possibility that the form of government too could be subjected to constitutional revision, and – by contrast with the 1888 constitution, in other words the rule of the Obrenović – under King Peter they reflected the nature of the legitimacy of royal rule.<sup>272</sup> In any case, the fact that the constitution had been brought in by the assembly – in the absence of the king, who was

271 *Ustavno pravo*, pp. 289–90. At the time of adoption of the 1888 constitution, one of the Radical Party’s tribunes and deputies, Dimitrije Katić, proposed that the constitution should include the ruling that ‘all power in the state derives from the people’. According to J. Prodanović, King Milan, greatly offended by this, explained that he considered himself a king not only ‘by will of the people’, but also ‘by divine will’, and that he bestowed the constitution upon the country by his own will. J. Prodanović, *Ustavni razvitak*, p. 289.

272 S. Jovanović, ‘Parlamentarna hronika’, *Arhiv za pravne i društvene nauke*, 18/1920, pp. 51–2.

elected subsequently and whose right to the throne was conditional upon his assent to the constitution – was a circumstance that defined royal rule at the very start of the new regime as secondary, derived from the authority of the representative body.

That Marinković was right to conclude that ‘the idea of the monarchy’s inviolability and dignity is gone for good’ is testified to indirectly also by the fact that, under Peter Karađorđević, a tendency towards open contestation of the monarchical principle was revived. Monarchism did not exist in our country, and ‘most likely it will not be possible to recreate it either’, because in these ‘democratic times’... ‘monarchical sentiment is weakening and ebbing even in ancient, long-standing monarchies’, argued the head of the Serbian Liberals, Voja Veljković, whose views were shared by many.<sup>273</sup> ‘None of us believes that the king derives his powers from God and the heavens... In our understanding, Peter becoming king is no more due to divine right than is Mr Pašić becoming prime minister’, said Veljković, adding that none of the Serbian rulers before King Peter had left the throne in a peaceful, regular manner. ‘Of the rulers and heads of our new state, half were killed and half driven out and forced into exile’, Veljković explained.<sup>274</sup>

Behind Veljković’s radical, direct and open minimising of the Serbian monarchy, there hid a republicanism that the dominant political consciousness in Serbia at that time – despite its unquestioned republican tendencies – did not as yet accept as a legitimate political option. If one excludes the few Socialists, not a single party questioned the principle of monarchy in their programmes or public declarations. Republicanism in Serbia at this time was not a party, but an individual position, and could be found among members of all political parties with the exception of the

273 *Parliamentary proceedings*, 1907–1908, 5.2.1908, pp. 20–21. Practically the same view was voiced by M. Cemović (*op.cit.*, p.345). In the same vein, later, M. Vladislavljević, *Développementet constitutionnel de la Serbie*, p.536.

274 *Parliamentary proceedings*, 1907–1908, 5.2.1908, pp. 20–21.



Progressives, while it was most popular relatively speaking among the Independent Radicals, and to a lesser extent among the Liberals.<sup>275</sup>

These individuals did not openly contest the monarchy in public, but their republicanism was crucial to determine their understanding of the parliamentary system, and especially of the role of the crown within it. Veljković did not differ much in this from the rest, though he belonged among those deputies least restrained in showing their sympathy for the republican idea.

Veljković's positions consequently came under strong criticism from, in particular, the ruling Old Radicals, who were most ardent in their demonstrations of loyalty to the king and the dynasty.<sup>276</sup> 'Cosmopolitanism' and 'republicanism' were labels with which, provoked by Veljković's pronouncements, they denounced the whole Liberal Party.<sup>277</sup> But few sought seriously to refute the essence of their arguments. The only difference between them and those who did not question monarchical rule in Serbia was that the latter, while not denying the facts which Veljković adduced, sought instead to derive from the superficiality of the monarchical principle itself an expression of the specific content that this principle had in the Serbian political tradition. Some stressed the idea that the existence of a strong leader was indispensable in the era of struggle for national liberation which was still ongoing;<sup>278</sup> others believed that Serbian monarchism consisted in an awareness of the need to tame 'undisciplined democracy',

275 Jovan Žujović, himself a republican, listed among the adherents of the republican idea in post-coup Serbia Jovan Skerlić, Jaša Prodanović, Milan Grol, Kosta Kumandija, Jovan Cvijić and Božo Marković. All these politicians were members of the Independent Radical Party. AS, JŽ-60; J.M.Žujović, *O republikanizmu u Srbiji*, Belgrade 1923, pp.14–15. Among the Liberals, those close to the republican idea included, in addition to V. Veljković, S. Ribarac and Đ. Genčić. Vojislav J. Vučković, 'Unutrašnje krize Srbije i prvi svetski rat', *Istorijski časopis*, 14–15/1963–1965, p. 177. In parliament, sympathy for the republican idea could be discerned among many deputies of the Independent Radical and Liberal parties.

276 D. Đorđević, *Carinski rat*, p.37.

277 Nikola Uzunović, *Parliamentary proceedings, 1907–1908*, 5.2.1908, p. 28.

278 M. Cemović, *op.cit.*, p.345. *Delo* was a Radical Party paper.

i.e. the strong propensity towards anarchy;<sup>279</sup> while yet others stressed the need for fatherly protection, which a people brought up in a patriarchal spirit expected from the king.<sup>280</sup> In one way or another, they explained Serbian monarchism as resting upon a sense of rational, practical purpose, from which it naturally followed that the duration of monarchical rule, in other words its survival, depended upon popular trust. Hence, the elective rule, the frequent changes on the throne – ‘our kings at times changed more often than did governments in other states,’ wrote Ljubomir Radovanović – and even the violence against the ruler, were a confirmation in a way that election and popular trust had primacy over the hereditary principle.<sup>281</sup> However, this understanding of royal rule, as devoid of all legitimacy beyond the will of the people, also meant a kind of relativisation of the monarchical principle as such: a proof that this seemingly incontestable principle did not have deep or sturdy roots in the political consciousness of the Serbian people.<sup>282</sup> All this had practical consequences for the functioning of institutions, as will be discussed further on.<sup>283</sup>

279 Thus, for example, the Radical Aleksa Žujović, disagreeing with the republicanism of the Socialist Triša Kaclerović, stated that he himself harboured positive feelings towards a republic, but that in his view this would be fatal for Serbia, because ‘there would be many princes, and there would follow an unprecedented pillage.’ *Parliamentary proceedings*, 1911–1912, pp. 9–10. See also N. Stojanović, *op.cit.*, p. 61.

280 See, for example, Protá Marko Petrović, a Radical, *Parliamentary proceedings*, 1903–1904, 1, p.85.

281 Ljubomir Radovanović, *Narodna skupština i izborni zakon*, Belgrade 1937, p.4.

282 It is worthwhile to refer here to the impression gained by the French envoy to Belgrade about the republican mood in Serbia after the coup. He judged the republican movement to be widespread, and expected it to become a significant political factor in the near future. It was led in the main by young people, drawn largely from the intelligentsia, but their ideas were compatible with the democratic and egalitarian feelings of the great majority of the Serbian population (just as in Bulgaria), which is why he expected this political movement soon to gather a large following. In this context, the appearance of the Socialist Party is also significant, according to the French envoy. MAE-AD, vol.3, 16.2.1903, no. 156.

283 See ‘Status of the king’ in the section ‘Ministerial responsibility’.

The true, doctrinaire monarchists, to be found above all among the Progressives and especially in their extreme conservative wing around Živojin Protić, interpreted differently the 1903 change on the throne. These individuals, relatively few in number, who wished to see the Serbian monarchy freed from ultra-democratic and revolutionary elements, did not see the May Coup as the manifestation of some specific character, i.e. of an absence of monarchical consciousness in general, but rather as a violent, criminal assault on the monarchical principle – uncontested before 1903. In their view, what seriously brought this principle into question in 1903 was the brutal regicide, and the fact that its perpetrators rather than being punished won power and glory. The murder of King Alexander, wrote Živojin Perić, was ‘a destruction *nec plus ultra* of the monarchical principle’, above all because the Radicals, who formed the government in the new regime, did not punish the king’s murderers but, on the contrary, lauded and decorated them.<sup>284</sup> In any case, even the judgments of the Serbian conservatives, though expressed from extreme monarchist positions, did not deny that royal rule was called into question in 1903.

284 *Nedeljni pregled*, no.35/27.9.1909, p.516; no. 45–46/25.12.1909, p.674.

### III THE ARMY AS A FACTOR OF THE NEW REGIME, OR THE 'CONSPIRATORS ISSUE'

Both Peter Karađorđević's royal rule, as being without its own original legitimacy, but also the political regime as a whole were thus supposed to be based exclusively upon the will of a sovereign national assembly. Formally speaking, this was so. In reality, however, it was not parliament but the army led by the plotters that played the key role in Peter Karađorđević becoming the new ruler, in the birth of the new dynasty, and more generally in the emergence of the new order. Although the plotters surrendered power to the institutions – according to some sources not very willingly – immediately after the murders, it was they who in fact decided who the next king would be, and who would form the first government.<sup>285</sup> When forming the government, they were guided not by the party-political make-up of the national assembly, but by the personal loyalty of individuals to the coup. The national assembly, for its part, offered its unreserved support to the putschists' action, and approved every move by the new government. In this way the latter won the trust of both, putschists and parliament alike, as a result of which the new regime gained from the very outset a 'parliamentary form', in which the role of the crown was in reality played by the putschist officers. They played this role, however, not in the way that a politically neutral king might have done, but on the contrary by openly displaying their political will: it was more than clear

285 The French envoy reported that according to some sources the officers, when preparing the coup, had been inclined towards a military dictatorship, but had later changed their minds, probably on the advice of the civilian plotters. Later, at the end of 1903, faced with difficulties in their efforts to gain full control over the king, the sources stated, they threatened that if left without the king's support they would go back to the original plan. MAE-AD, vol.3., No.151, 15.12.1903.

that the government's existence depended far more on the confidence of the putschists than on that of the national assembly. Critics of the new regime would constantly go back to 29 May in order to explain its failures, charging that at the time of its formation the putschists 'had grabbed all power for themselves.'<sup>286</sup>

The perpetrators of the 29 May coup were from the start faced with the threat of a counter-blow by the so-called counter-putschist movement. Immediately after the coup, and on the initiative of Captain Milan Novaković, a section of the officer corps united to demand that the putschist officers be removed from the army, and punished for the bloody crime committed under the oath of loyalty that they had sworn as officers: for 'lawlessness' and 'plain murder'. Acting under the slogan: 'Tunics off, they or us!', the counter-putschists presented fulfilment of their demands as the condition for 'restoration of monarchical authority and lawful government', warning against the putschists' ambition to assume political power in the country, as well as against the possibility that the May Coup might turn into 'the dangerous precedent of a pronunciamiento.'<sup>287</sup>

Outside the army too, among politicians, there were those who saw the coup as a common crime. Expressing simultaneously their political disapproval of the coup and their

moral revulsion against it, these politicians, few in number and almost exclusively from the Progressive Party, were convinced that a regime founded on crime had no future, and demanded that the government dissociate itself from 29 May. 'The Serbian people will be forced to cleanse itself of 29 May before Europe and the civilised world, and to assume the same attitude to morality as is professed by all civilised peoples.' This is what Svetozar Nikolajević declared in the assembly in 1905, the first deputy to attempt – by forcing a debate about it in parliament – to gain legitimacy

286 P. Marinković, *Parliamentary proceedings*, emergency session of 1906, 22.7.1906, pp. 396–7.

287 Declaration by the counter-putschists, *Narodni list*, no.232/27.8.1903. See further D. Vasić, *op.cit.*, pp. 185–93.

for the question: 'Was 29 May a revolution, a heroic deed committed by the army in order to save the Serbian people, or simply a crime whose perpetrators should be punished precisely in order to save the Serbian people and their state?'<sup>288</sup> The putschists' act, Pavle Marinković argued a year later in the same spirit, was from both a lawful, legal viewpoint and a moral viewpoint simply a crime, and also a bad deed from a political viewpoint.' According to Marinković: 'There is no heroism when sixty armed men rush to do in a man treacherously after having dined at his table! ... The day, gentlemen, when we accept the fact that 29 May was a bad deed, that day we shall be on firm ground and return order to the state.'<sup>289</sup>

The most consistent and determined in this view was Živojin Perić, who as late as 1911 was convinced that the *conditio sine qua non* for Serbia's success in Europe was its 'dissociation from the May crime'. Perić, who believed that principles play an important role in international policy, argued: 'Serbia, gentlemen, cannot enjoy success abroad under a regime founded on a crime that infringes all principles, Christian and moral, legal and political.'<sup>290</sup> A tireless opponent of the putschists, at the end of 1903 Perić and his supporters formed the Society for a Legal Solution of the Conspiracy Question, which sought to prove the state's duty to punish the plotters by appealing also to legal arguments.<sup>291</sup>

288 *Parliamentary proceedings*, emergency meeting of 1906, 22.7.1906, pp. 96–7.

289 *Ibid.*, p.396.

290 *Parliamentary proceedings*, 1911–1912, 14.11.1911, pp. 6–7.

291 Perić defended the position that the putschists were criminally responsible for the act of murder also in a special publication. He took as his basic legal argument the view that the putschists were not amnestied by parliament's declaration of 2.6.1903, since according to the 1901 constitution, which applied at the time, only the king had the right of pardon. For Perić did not recognise the 29 May coup as a revolutionary act, on the grounds that both the provisional government and parliament acknowledged the continued validity of the 1901 constitution. The fact that parliament nevertheless behaved as a sovereign constitutional power, which Perić did not contest, was in his view simply an infringement of the constitution on the part of the executive. It would be different, he argued, if that body had declared itself sovereign, as

The various attempts by the counter-putschists to convince political public opinion of their good intentions towards the new ruler, and even towards the order as a whole, did not succeed.<sup>292</sup> On the contrary, for the new government attacking the putschists – who had formed it in the first place – amounted to rehabilitating Obrenović's rule. For this reason, it viewed the opponents of the May Coup and its architects as the greatest threat to its own existence, and the inviolability of the conspiratorial officers and that part of the army which supported them as a guarantee of the new regime and dynasty. The counter-putschists in the army were arrested; the Society for a Legal Solution of the Conspiracy Question was suppressed within a year of its establishment; and one of its leaders, Captain Milan Novaković, was murdered while in police custody during the autumn of 1907.<sup>293</sup>

.....  
 the French convention did in 1792–3. But it did not do that, but instead explicitly recognised the validity of the 1901 constitution. The solutions which, according to Perić, would be legally valid were the following: a trial; or an amnesty, which even according to the 1903 constitution was a royal prerogative; or, finally, a law freeing the plotters from legal responsibility. This last act would be, of course; but the courts – bereft of the capacity to decide on constitutional issues – would nevertheless have to implement it. He himself favoured the first of the proposed solutions. Ž.Perić, *O amnestiji u srpskom krivičnom pravu u vezi s pitanjem o sudskoj odgovornosti zaverenika*, Belgrade 1909, p. 35–41, 55–9. The treatise first appeared in 1907 in French. For a similar view, see Milenko Đ. Popović, 'O pravnoj odgovornosti zaverenika', *Arhiv za pravne i društvene nauke*, 4/1907, pp. 150–53. See also ft 167 on p.103.

292 Interestingly, the French envoy to Belgrade also believed that the counter-putschists' eventual success in the army would raise the king's standing abroad. MAE-AD, vol.3, 18.8.1903.

293 The group of counter-putschists headed by Captain Novaković was arrested and imprisoned as early as September 1903. Having served his full term, Novaković was released after two years, and a month later in October 1905 formed the Society for a Legal Solution of the Conspiracy Question. At the end of August 1907 Novaković was again arrested, 'having been framed by the police', and on 16 September of the same year he was murdered in prison. D. Vasić, *op.cit.*, pp. 197–209. For Novaković's murder, see here 'The age of monism' in the section 'Ministerial Responsibility'.

Instead of treating 29 May as a crime, the first elected parliament identified the coup of 29 May as a revolution, and proclaimed the plotters to be 'true revolutionaries, true apostles of national freedom.'<sup>294</sup> 'The May event made a revolution in our political life just as volcanic manifestations often transform life on earth.' 'Those for whom the motherland is an absolute priority cannot be criminals.' Such was the judgment on 29 May, which in practice had the character of an official position.<sup>295</sup> Some argued that the putschists should not even be called conspirators, moreover, since that diminished their deed: '29 May was not an act of conspiracy, but of revolution, and its perpetrators are not putschists, but revolutionaries.'<sup>296</sup> The view of the coup as a revolution was never abandoned. '29 May is not a revolution, but a crime!', Živojin Perić stated on one occasion in 1910. 'In saying this, Mr Perić shows that he does not know what a revolution is,' replied Protić.<sup>297</sup>

The history of Serbia prior to 29 May 1903 came to be interpreted in accordance with this view. As late as 1919, at a time when former passions had calmed, a clearly embittered Vojislav Marinković asked whether the Radical Party would ever cease 'to divide Serbia into a Serbia of the old regime and a Serbia of the new regime.'<sup>298</sup> The period before 'the revolu-

294 Đorđe Genčić, *Parliamentary proceedings*, 1903–1904, 17.12.1903, vol.1, p. 533. One should stress here that this parliament, apart from the two Radical Parties, contained only the Liberals, while the Progressives, who were to reconstitute themselves as a party only in 1906, were represented only by Stojan Novaković, who did not intervene.

295 Ljubomir Živković, leader of the Independent Radicals at this time, *Parliamentary proceedings*, 1903–1904, 17.12.1903, vol.1, p. 533.

296 See, for example, the Independent Radical deputy Milovan Lazarević in *Parliamentary proceedings*, 1903–1904, 12.10.1905, p.113.

297 *Parliamentary proceedings*, 1909–1910, 18.5.1910, p.3148.

298 *Parliamentary proceedings*, 1910–1911, 11.2.1911, p.19. Both the Liberals and the Progressives protested at the rewriting and suppression of the history before the May coup. Thus, for example, Radomir Filipović complained that 'according to the Radicals' the time before the coup 'did not exist', while Radoslav Ahatanović stated that 'pages from history are being torn out ... and presented as forgeries'. *Ibid.*, 12.1.1911, p.12 and Emergency session of 1912, 11.6.1912, p.34.



tion' was a period of unfreedom, persecution and popular suffering; and the coup was 'a great event', following which 'the Serbian ship arrived at a peaceful, quiet port warmed by the sun of freedom and democracy.'<sup>299</sup> It was necessary to forget the history symbolised by the Obrenović, retaining from it only a memory of the Radicals' heroic resistance. 'Petty souls wish us to forget even the fact that Serbia became an independent kingdom under an Obrenović,' lamented Petar Todorović, on the day when the proclamation of the kingdom was erased from the official calendar.<sup>300</sup> That the Liberals and Progressives had any role in the introduction of liberal ideas and institutions into nineteenth-century Serbia was denied, while the 1888 constitution and even the liberal laws introduced prior to it were presented exclusively as achievements of the Radical Party. That Serbia had a constitution and laws 'which only the most cultured and free states enjoy', a Radical leader, Miloš Trifunović insisted in 1912, 'is due, gentlemen, solely to the Radical Party'. The Radical Party gave the Serbian people 'a liberal constitution ...the right to assembly and association ... freedom of the press and independent courts', added Milan Đurić, rewriting the immediate past in which the Radical Party itself was legalised thanks to the law on freedom of association introduced in 1881 by a Progressive government. 'It would appear that the Radicals believe that there are no living contemporaries in this assembly of the period during which both the 1888 constitution, and the liberal laws on the basis of which we conduct our business here in the national assembly, made their appearance', the Liberal Mihajlo Škorić replied to Trifunović and Đurić.<sup>301</sup>

The atmosphere that prevailed after the bloody destruction of the Obrenović dynasty did indeed have features of a post-revolutionary situation, in which spontaneous actions had full government support. Those marked down as representatives of the old regime, especially during the

299 Milan Đurić, *Parliamentary proceedings*, 1903–1904, 3.10.1903, p.79.

300 *Pera Todorović, Diary*, edited by Latinka Perović, Belgrade 1990, p.419. See also *Nedeljni pregled*, no.7/8.3.1910, p.127.

301 *Parliamentary proceedings*, emergency session of 1912, pp. 80,96,98.

years immediately following the coup, suffered under the majority's exultation, which often took the form of revenge. The first regular assembly convened after the May Coup voted by a huge majority to cancel the pensions of the widows of Jovan Ristić and Milutin Garašanin. When Stojan Novaković appealed to the assembly to reject this proposal to cancel the pensions of the widows of the two statesmen, if only for the sake of the dignity of the legislature and legal continuity, both wings of what was still one Radical Party replied that: 'the late Garašanin, Ristić and Vujović did nothing for this country ... theirs was an evil contribution', which only assemblies 'elected by ... assorted Progressive-Liberal riffraff' could recognise. Their families, they added, should on the contrary return what they had received thus far, 'because those people are wealthy capitalists.'<sup>302</sup> There followed 'uproar and verbal attacks on the few Progressives', during which their leaders were warned that they would be killed if they tried to revive their party, Marinković recalled in the parliament of 1906. Whereupon the reply came from the benches: 'That is how it should be.'<sup>303</sup> And when Svetomir Nikolajević tried to raise the issue of the moral and legal aspects of the May Coup, the deputies tried to stop him by creating a terrible fracas, accompanied by expressions of regret that he 'had not been hung on Terazije.'<sup>304</sup>

Taking the view that the coup amounted to a revolution, the government raised the issue of protection of the plotters to the level of state policy. In addition to persecuting, terrorising and arresting opponents of the coup, the Radical government, made up of two wings but still united, by legal decree transformed the perpetrators of the coup into an institution of the new regime. As suggested to the assembly by interior minister Stojan Protić at the end of 1903, a new law on the press was adopted at the start of 1904 in which, under Article 21, 'incitement against individual

302 S. Novaković, A. Žujović and R. Ninčić, *Parliamentary proceedings*, 1903–1904, 9.1.1904, pp. 1040–48.

303 *Parliamentary proceedings*, emergency session of 1906, 11.6.1906, pp. 150–51.

304 *Parliamentary proceedings*, 1905–1906, 11.10.1905, pp. 118–19.

army officers or the officer class' was qualified as 'a crime and offence.'<sup>305</sup> Protić explained that he had decided to make the proposal after a member of the contra-putschist movement, General Magdalinić, who on his order had been arrested for writings about the plotters, was released from prison, because the court, bearing in mind the existing law on the press, was unable to confirm the ban on the paper imposed by Protić's police. Dissident voices from the majority benches – including that of Jaša Prodanović, who suggested that the courts and education, not the army, needed protection, and that the press law should be 'purged of this scum' – did not cause Protić to waver. Threatening that the whole cabinet would resign unless the assembly passed the bill, the minister declared that by banning writing against 'the officers-perpetrators'... 'we defend and protect the state', promising at the same time that the disputed provision would soon be suspended, 'within a year.'<sup>306</sup> His proposal was adopted. Despite Protić's promise, the law remained in force unchanged throughout the duration of the 1903 constitution. In August 1906, when Protić, once again minister of the interior, proposed amendments to the press law, his argument was that it was necessary to maintain legal protection with 'a tangible penalty' for acts 'linked to the coup d'état of 29 May 1903. Both the interest of the army and the general interest demand this measure, given how some papers write about it', argued Protić. The same motivation for retaining Article 22 was to accompany also the amendments to the press law submitted to the assembly at the end of 1911.<sup>307</sup>

305 *Zbornik zakona i uređaba. Prečišćeno i sistematski uređeno izdanje.*, 1, Belgrade 1913, p.399. This offence carried the penalty of imprisonment for between two months and a year, and a fine of between 300 and 1,000 dinars, cumulatively.

306 *Parliamentary proceedings*, 1903–1904, 31.12., pp.937, 941, 943.

307 *Parliamentary proceedings*, 1911–1912, 5.10. 1911, pp. 171–2. The proposal submitted to the assembly in October 1911 was the same proposal which Protić had drafted in August 1906. It was submitted to parliament in November 1910 for the first time, but failed to make its way onto the agenda. The same thing happened in the 1911 session, after which there were no more attempts to change the press law. *Parliamentary proceedings*, 1910–1911,

This provision, which as its critics claimed introduced ‘thought crime’, meant in practice a ban on all debate about the May Coup.<sup>308</sup> Since, in addition, the legal basis for a restrictive interpretation of the constitutionally guaranteed freedom of the press was rather broad even without this stipulation, seeing that the power to ban (confiscate) a paper was in the first instance – and until a final court verdict – in the hands of the police (Art. 11), the interior ministry dealt successfully and unscrupulously with all papers that publicly questioned the nature of the May 29 coup, and by extension the fate of the putschists.<sup>309</sup> The government was destroying ‘that part of the opposition press which focuses on the issue of the conspirators’, protested the deputies of the minority parties.<sup>310</sup> ‘Such vandalism did not exist on the streets of the Serbian capital even at the time of the summary courts’, exclaimed the Liberal deputy Dimitrije Mašić, following one of the many police raids on a printing press and confiscation of printed issues.<sup>311</sup> The government did not bother to hide its intention to treat counter-conspiracy papers and authors as if they were beyond the law. ‘All music has to end sometime, and the same is true of *Opozicija*’s irrational activity’, replied the defence minister Radomir Putnik to a question about a case of

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10.11.1910, addendum.

308 *Nedeljni pregled*, no.34/1908, p. 562.

309 The most frequent targets were the papers *Narodni list*, *Beogradske novosti*, *Večernje novosti*, *Za otadžbinu* (the organ of the Society for a Legal Solution of the Conspiracy Question), *Opozicija*. See N. Stanković, *Dvadeset godina liberalne stranke*, pp. 21–2. The usual forms of attack on these papers and their owners and editors were police raids, destruction of machinery, confiscation of printed issues. *Parliamentary proceedings*, 1903–1904, 1, 20.1.1904, pp. 1204–5; *ibid.*, pp.1905–6, 19.1.1906, p. 1337; *ibid.*, pp. 1906–7, 25.10.1906, p. 921.

310 *Parliamentary proceedings*, 1906–1907, 25.10. 1907, p.291.

311 *Parliamentary proceedings*, 1903–1904, 1, 15.12.1904, pp.1005–6. According to Mašić, Protić told him privately that he would ‘use all permitted and prohibited means to crush them all in the interest of preserving the existing law and order’.

army officers breaking into the printing press of one of the counter-conspiracy papers and threatening the owner.<sup>312</sup>

The political power of the army, built initially upon its role as guarantor of the new regime, and recognised by both the king and the political parties, in time acquired an additional source: the growing importance of foreign policy. Reflecting the general state and mood of public opinion, which even before the annexation of Bosnia-Herzegovina was getting ready for war, the Serbian national programme became more ambitious and with it the importance of the army grew. Already in 1907 Jovan Cvijić, criticising 'cosmopolitanism' and advocating 'a new Serbian patriotism', wrote: 'The world should know and come to understand that Serbia can manage a much greater unit than its [present] territory. Serbia could be the source of the greatest transformation of the Balkan peninsula ... we must be a country prepared for war.' Serbia had to have 'a sizable and ready army.'<sup>313</sup>

Cvijić's words signalled a more widespread mood, which after 1908 would engulf Serbia as a veritable war psychosis. The army's political ambitions grew naturally in such a situation, and were directed increasingly, more determinedly and more effectively to forging links with all relevant political forces in the country. The individual plotters played the most important role in this. A paramilitary organisation, National Defence, was formed with the task of organising a guerilla for war in Bosnia, which enjoyed the support of – and direct assistance from – all influential party leaders and intellectuals.<sup>314</sup> New journals started to be published

312 *Parliamentary proceedings*, 1904–1905, 1, 5.2.1905, p.141. See also cases cited in *ibid.*, 1905–1906, 2–3, p.1377; *ibid.*, pp. 1906–7, pp. 918928; *ibid.*, 1913–1914, pp. 823–4; *Nedeljni pregled*, no.19/15.7.1910.

313 Jovan Cvijić, 'O nacionalnom radu', *Srpski književni glasnik*, 18.1.3.1907, pp 355–62.

314 See Dimitrije Đorđević, 'The Role of the Military in the Balkans in the Nineteenth Century', *Der Berliner Kongress von 1878, Die Politik der Grossmächte un die Probleme der Modernisierung in Südosteuropa in der zweiten Hälfte des 19. Jahrhunderts*, Wiesbaden 1982, pp.317–37; *Istorija srpskog naroda*, Belgrade 1983, p.169,199. The organisation's members included Ljuba Davidović, Ljuba Jovanović, Velizar Vujović, and among its friends were cited

propagating militarisation as opposed to democracy.<sup>315</sup> Party leaders advocated state subsidies for National Defence, on the grounds that the youth should 'leave the cafés' and 'ready itself for great deeds, so that it might be militarily trained in order to perform its great, historical, national tasks' (Milan Đurić). The Radicals, both Old and Independent, revived the idea of a popular army, because – as Ljuba Davidović argued – 'the army cannot be reduced to those who wear the uniform .... because the army is the people under arms.'<sup>316</sup> In this context, a draft bill was submitted to parliament demanding the introduction of obligatory 'military training in civil schools.'<sup>317</sup> Finally in 1911 the former putschists, headed by Colonel [Dragutin Dimitrijević] Apis, formed the officers' organisation Unity or Death (Black Hand) which, while observing strict secrecy,<sup>318</sup> informed the Serbian people of the values and aims it meant to pursue through its paper *Pijemont* (Piedmont). The paper insisted in its first, programmatic issue of 3.9.1911 that all political parties 'displayed a lack of morality, culture, and patriotism', and that it was necessary to centralise politics 'until the people become educated.'<sup>319</sup> Therefore, 'no secondary considerations, no

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Jovan Cvijić, Sava Urošević, Ljuba Stojanović and others. *ASANU*, 12340. Ljuba Davidović's membership of National Defence is mentioned also in Milan Grol, 'Jovan Jovanović', *Srpski književni glasnik*, no.60/1940, p.271.

315 As, for example, *Naoružani narod* (Armed People).

316 *Parliamentary proceedings*, 1910–1911, 20.4.1911, p. 11; and 14.5.1911, pp. 4–5.

317 *Parliamentary proceedings*, 1911–192, 19.11.1911, p. 114.

318 The Black Hand was mentioned in parliament for the first time at the end of 1911, albeit only in passing, when P. Marinković identified it as one of the 'sicknesses' of 'the army's politics'. *Parliamentary proceedings*, 1911–1912, 28.11.1911, p. 2. The plotter Petar Mišić, who in the meantime had parted ways with his former comrades, asked a question about this on 10.1.1912, stating that 'I now know that it really exists.' *Ibid.*, *addendum*. The question was not answered. In June 1912, following M. Drašković's observation that 'there is a rumour' that a secret military organisation existed, the minister of defence P. Putnik replied that he had 'no reliable knowledge' of it and that 'it too may be an invention'. *Ibid.*, emergency session of 1912, p.11, pp. 40–41.

319 Quoted in Vasa Kazimirović, *Nikola Pašić i njegovo doba 1845–1926*, Belgrade 1990, vol.2, p.152.

sentimentality, first and foremost healthy and state-building national egoism... Being the representative of the monarch and the people, the army is virtuous... Under its hammer are being chiselled the characteristics of the general will – order and obedience, not disorder and revolt’ – this was the alternative advocated by *Pijemont* to the political parties and the constitutional institutions of government.<sup>320</sup> The Socialist Dragiša Lapčević was right when he concluded in 1912 that the Black Hand had placed ‘the destruction of parliamentarism at the top of its agenda.’<sup>321</sup>

The issue of the conspirators undoubtedly belongs among the key factors of the entire political life of the Kingdom of Serbia after 1903. Whether, to what extent and in which way it influenced also the functioning of the parliamentary system is a question that will be dealt with in the analysis of parliamentary practice. The essence of this question lies in the following: ‘Did the constitutional bearers of power – the king and the national assembly – succeed in defending themselves against the army’s political aspirations, thus preventing those who enjoyed their protection as guarantors of the new regime from becoming instead its destroyers?’ The answer to this depended far more on the political parties – on their maturity and readiness to oppose the plotters’ clearly expressed political ambitions – than on the political and personal strength and independence of Peter Karađorđević.

320 This led to the organisation of special societies for struggle against alcoholism (*Trezvenost/Temperance*), as well as many gymnastic societies. *Pijemont*, 22.4.1912 and 29.11.1913.

321 *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, 7.5.1912, p. 87.

## SECTION THREE

### **Legal Foundations**

# I THE 1903 CONSTITUTION AND DIVERGENCE FROM THE MODEL – ASCENDANCY OF THE KING OVER PARLIAMENT

The constitutions of 1903 and 1888 were drafted on the model that emerged in British constitutional practice at the close of the eighteenth century. At a time when this model had lost its legitimacy in its country of origin, having been significantly altered by constitutional custom, it moved onto the constitutional stage of many European states, being present in its purest form in the French constitutional charter of 1830 and the Belgian constitution of 1831. It was the latter that served as a model for the Serbian and other Balkan constitutional drafters of the nineteenth century. Most of its provisions, couched in a similar and sometimes identical manner, were incorporated into Serbia's 1888 constitution. So what was involved was a classic model of constitutional monarchy in which, as described above, the 'soft' division of powers – as the fundamental principle – was organised in such a way that the king and the assembly shared legislative and budgetary powers equally. Executive power, meanwhile, came under the exclusive authority of the head of state, who being non-responsible did not wield it himself, but through ministers whom he freely appointed and dismissed and who, countersigning each act of the head of state, themselves assumed responsibility before the assembly for the legality of the executive's work. In the event of conflict between the king and the assembly as the only bearers



of state power, the king enjoyed the right of dissolution, which presumed the obligation to conduct new, early elections. In short, this represented a model of constitutional monarchy that contained the basic legal premises for the emergence of parliamentary government in practice.

Was the 1903 constitution consistent with this model? In other words, did the provisions regarding the division of state functions, on the one hand, and on the other regarding the legal position of ministers as advisors and organs of the crown, correspond to the model of constitutional monarchy within which – in Great Britain and a large number of European states – a parliamentary regime came to be constituted more or less successfully? If there were divergences, in which direction did they point: towards a strengthening of the parliamentary principle; or, on the contrary, towards weakening the latter in favour of the crown – i.e. the executive – at the expense of the assembly?

According to the constitution of 1903, the king as head of state wielded total executive power, while he shared legislative and budgetary powers with the assembly. The king carried out all his functions through ministers whom he appointed and dismissed by decree, and who like all other state officials came directly under him (Article 131).<sup>322</sup> Since the king was legally and politically non-responsible (Article 40), a minister's countersignature for all his acts was made obligatory (Article 56), while the assembly – and the king too – had the right to take ministers before a special state court for violating the laws or the constitution (Articles 136–7).<sup>323</sup> Under the 1903

322 On the legal status of ministers as officials, see Kosta Kumanudi, *Administrativno pravo*, vol.1, Belgrade 1909, pp.19 ff. In actual practice, the king dismissed one government and appointed another with a single decree, signed by the new prime minister. Interestingly, the use of the decree to appoint ministers, which as a rule is not found in constitutions, is regulated in the Greek constitution of 1864 in a manner that is practically identical to Serbian constitutional practice. For Article 30 of that constitution states that if no minister of the old government agrees to countersign the appointment of the new government, then a decree is signed by the head of the new government. F. R. Dareste and P. Dareste, *Les constitutions modernes*, vol.2, pp. 321–37.

323 The institution of ministerial countersignature was introduced relatively early

constitution, as indeed already under the 1901 constitution (Article 82), this last provision was taken to its logical conclusion, in that the king was explicitly forbidden to halt proceedings initiated against a minister (Article 139), as the king had been allowed to do under the 1888 constitution.<sup>324</sup>

Dualism of executive power was thus realised by way of ministerial countersignature, and with it the executive's responsibility before the representative body: ministers were responsible before the assembly for each and every act of the crown. Their responsibility in this regard, as stated above, carried also an immediate sanction: legal proceedings against the minister – hence automatically also a loss of ministerial position – whereby the king's right to decide freely on the composition of the government was restricted legally too in favour of the assembly.<sup>325</sup>

The above-mentioned sanction – the right of the assembly to take ministers to court – referred, however, only to ministers' penal responsibility,

in Serbia, with the Organisation of the Central State Administration in the Principality of Serbia of 1862; but at that time ministers were responsible for acts of the crown to the state council, rather than to the national assembly. The Organisation of 1862 remained valid – with changes made in 1899 – under the 1903 constitution, with the difference that the role of the state council was taken over by the assembly. See 'Ustrojenije centralne državne uprave u Knjažestvu Srbije', *Prečišćeni zbornik*, pp.113–14.

324 In 1893, when the 1883 constitution was in force, Jovan Avakumović's whole government was taken to court. However, the king used his power of abolition and halted the investigation. Velislav Vulović, 'Odgovornost ministara', *Misao*, 15/1924, p.694. Reacting to this, S. Protić criticised the constitutional provisions on the king's right of abolition in *Delo*, in 1894. According to Protić, 'ministerial responsibility must be real and complete, if the monarch's non-responsibility is to be preserved, which is why every constitution must most precisely establish and clearly guarantee the penal responsibility of ministers. ... Our constitution of 1888 did this to a sufficient extent, in line with all other European states. But practice has shown that what is enough for other, more civilised peoples is not sufficient for Serbia.' This is due to 'the Serbian innovation that the power of amnesty ... can be unilaterally used also for ministers in the form of abolition... so that the principle of ministerial responsibility becomes illusory...'. Janus, 'Ustavna i društveno-politička pitanja', vol.3, *Delo*, 2/1894, pp. 477–81.

325 For ministerial responsibility, see Article 24 of 1891. This article remained valid under the 1903 constitution.

which is not enough for parliamentary government to exist. For the latter assumes not just legal, but also political, responsibility of ministers before the assembly, which means that without the agreement of the assembly – i.e. of its majority – the king cannot appoint ministers who would administer the country in his name in a manner which, albeit lawful, would not be approved by the assembly. What does the 1903 constitution say in this regard? Does it, in which way, and to what extent, sanction the political as well as penal responsibility of ministers before parliament, thus limiting the royal freedom in the choice of ministers by the political will of the assembly?<sup>326</sup>

The reply to this question should be sought first of all in the constitutional rights which the king holds in regard to the assembly: in other words, in the extent of his power over the legislature. Of primary importance here is the relationship between king and assembly legally established in the domain of legislative and budgetary powers. This is because the fullest legislative and budgetary authority of the assembly – and in the final instance merely the latter – represents the only legal guarantee of the political

326 Article 135 of the constitution ruled that ministers are 'responsible to the king and the national assembly for their official acts', which could be interpreted as the lawmakers' declaratory choice in favour of a parliamentary regime not commonly found in classic monarchies of this type. For this interpretation, see Josif Kasanović, *Ministarska odgovornost u srpskom javnom pravu*, Belgrade 1911, *op.cit.*, p.115. But Lazar Marković has pretty successfully cast doubt on the accuracy of this interpretation of the article, showing that it relates to penal responsibility. Marković bases his view on the fact that the constitution contains no further provisions on the political responsibility of ministers, either in general or even to the assembly. At the same time, this provision appears in an article dealing with the legal responsibility of ministers for official acts, and is literally repeated in the law on ministerial responsibility, which is a criminal law par excellence: Lazar Marković, *Da li ministri za dela, učinjena u zvaničnoj dužnosti, mogu bit optuženi redovnim sudovima?*, a reprint from *Arhiv za pravne i društvene nauke*, Belgrade 1912, p. 12. One can quote in Marković's favour also the fact that practically the same provision was present in the 1901 constitution, which cannot be said to have affirmed parliamentary government. Article 79, paragraph 1, of this constitution says: 'Ministers are responsible to the king and the national assembly for their work.'

responsibility of ministers, i.e. of parliamentary government. However, for the possibility of realising the parliamentary principle, other rights that the crown may have in regard to the legislative body are also important, especially those whose recognition encroaches upon the autonomy of parliament in regard to the executive. Finally, the king's role in the functioning of the system is determined not only by his relationship to the assembly, but also by his relationship to the ministers: in other words, on the degree of autonomy that ministers have in regard to the king. On this, the crucial question is whether ministers are responsible for their work collectively or individually, which is linked to the question of the status and role played by the prime minister in regard to this responsibility.

## 1. Relationship in the Legislative and Budgetary Spheres

According to the 1903 constitution, the king and the assembly share legislative and budgetary powers. They have equal powers in regard to lawmaking: both organs have the right of initiative, with the obligatory assent by the assembly to any bill being balanced by the obligatory confirmation of the law by the king, i.e. his right of veto (Articles 43 and 116).<sup>327</sup> This ensures a full balance between the two constitutional organs at the legislative level.

A different situation pertains, however, in the relationship between the king and the assembly regarding budgetary powers. The budget, which is valid for a year, is passed in the form of an annual law; due to the nature of the provisions it contains, however, by contrast with other laws the initiative is one-sided, i.e. it belongs only to the executive.<sup>328</sup> The 1903 constitution also limited the assembly's right to amend a budgetary bill,

327 The king never did use this right.

328 'The government has the sole right to plan the budget.' S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, 7/1909, p.177. See Article 173 of the constitution and Articles 7–11 of the law on the state budget of 1903, or Articles 9–12 of the law on state finances of 1910.

by rejecting the solution present in the 1888 constitution (Article 174) and adopting instead the relevant solution from the 1901 constitution (Art. 91). Namely, the assembly would have only the right to reduce the budget by omitting proposed individual items from it, but not the right to increase these. This right, contained in the constitution of 1888, was explicitly suspended by Article 173 of the 1903 constitution.<sup>329</sup>

However, this limitation of the assembly's budgetary rights in favour of the executive – the absence of initiative, and reduction of the right to amend – common to modern parliamentary states could not seriously endanger the assembly's budgetary powers as the legal foundation of responsible government. This is because, according to the constitution, not only could the new budget not be adopted without the assembly's assent (Article 173), but also the old budget could not be extended without its approval, unless the assembly introduced a new one before the end of the financial year (Article 174). Hence, both a new budget and a temporary extension of the old one are decided, in principle, in the form of a law, which means with the obligatory agreement of both factors – the king and parliament.<sup>330</sup>

329 This was one of the crucial reasons why the budgetary law, passed in April 1903 under the constitution of 1901, continued in force even after adoption of the 1903 constitution, rather than the corresponding law passed in 1889 under the 1888 constitution.

330 More will be said later on the legal extension of the budget. It will be noted here only that the term 'temporary' in this regard was not interpreted in the same way during this period. The constitution states that the assembly may prolong the old budget 'temporarily', 'until the new budget has been approved'. In this way the assembly is practically unrestrained time-wise in its right to prolong the old budget. Also, the term 'temporary' refers to the period from the end of the current financial year (the time for which the budget is granted, according to the constitution) to the adoption of a new budget, which means that the assembly is not bound to specify the precise time limit of the extension. The budgetary law of 1910, however, brought in both types of limitation of the assembly's rights in this regard. First, it prescribed that a proposal for extension of the budget be submitted for 'one or more twelfths', which means that the number of months during which the old budget remains valid is specified; secondly, it prescribed that the state budget of the past financial

However, the 1903 constitution provided an important exception from, in particular, the principle that the state budget was not valid in any of its segments, or at any point in time, unless parliament had approved it – the principle that provides the legal precondition of parliamentary rule – by prescribing that under certain conditions the executive might decide on its own, without the assembly's agreement, to extend the budget beyond the end of the financial year. Thus, according to Article 174 of the constitution, the king might use his right of dissolution and postponement also against a parliament that had failed to pass the budget before the end of the financial year, and to extend by decree the old budget for at most four months – albeit, in contrast to the 1888 constitution, with the obligatory agreement of the state council. In this exception from the rule that no budget could be passed without the assembly's agreement lay the most serious limitation of the parliamentary principle contained in the 1903 constitution. For it legalised non-responsible government.

This poses the question of whether this constitutional provision gave the crown the right to extend the budget repeatedly by decree in the course of a financial year, and even after its end; or whether the king could do this constitutionally only once during a financial year. In other words, to what extent did this constitutional provision challenge the parliamentary principle? It should be said here that the king's right to postpone a parliamentary session by decree – that is, without the assembly's agreement – was limited to one such act during a given parliamentary session, and that the postponement was limited to two months. Moreover, the decree on dissolution of the assembly had to contain an order for holding new elections within two months, and an order for convening a new assembly within three months of the dissolution (Article 54). But the constitution did not limit the number of times the assembly could be dissolved, or the timing of the right to dissolve or postpone, which meant that it did not

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year could not remain valid for more than a year 'in any case or form' other than that for which it was originally approved (Article 33 of the budgetary law of 1910). These legal limitations were not followed in practice, however.

prohibit the possibility of postponement immediately after dissolution, or the other way round. It is precisely because of this that the question above could be posed: did the constitution limit the length of validity of a budget that did not have the assembly's agreement, and therewith also the possibility of a non-parliamentary government and administration of the state in the long run.

It is necessary to note that we are dealing here with a constitutionally established relationship between the executive and the legislature. Given that the constitution identifies the executive solely with the king, and not also with the government, then this relationship in general – including also the question of the budget – must necessarily be analysed as a relationship between the king and the assembly. It must be borne in mind, therefore, that in the case of a development of the parliamentary principle, which assumes a partial or full transfer of the crown's constitutional privileges to the government, the relationship between executive and legislature inscribed in the constitution holds also for the relationship between the assembly and the government. The issue is important in this case too, since as far as the parliamentary principle is concerned it is in the last instance irrelevant whether it is imperilled by the government as the executive power or by the king himself. It is necessary to point this out here, because instances of extension of the budget by decree under the 1903 constitution were in practice to occur precisely during a period of the crown's passivity.

The question of whether the constitution formally allowed multiple consecutive extensions of the budget in the Kingdom of Serbia was not much discussed, most likely because it was never posed in constitutional practice. For instances of extension of the budget by decree did occur, but were never repeated in the course of a single financial year. So far as we know, of the experts only Slobodan Jovanović addressed this, and of the politicians only Lazar Paču took a clear stand on the issue. The issue drew more attention in the Kingdom of Serbs, Croats and Slovenes, during the debate on the prerogatives of the crown under the Vidovdan Constitution,

which contained a limitation of the assembly's budgetary powers similar to that in the constitution of 1903.<sup>331</sup>

Slobodan Jovanović argues in his book *Ustavno pravo* (Constitutional Law) that the right to extend the budget by decree 'should be understood in the sense that during a single financial year one may govern for at most four months with a budget approved by the state council.'<sup>332</sup> Jovanović's arguments are as follows. If one were to adopt an interpretation according to which the king, acting together with the state council, could extend the old budget 'as often as he postponed or dissolved the assembly', this would mean that he – i.e. the government – could administer the country for a whole year on a budget not approved by the national assembly. Moreover, he could carry on doing this after the end of that year – formally for an indefinite period. In that case the assembly's budgetary rights would be completely denied, and would in practice be transferred from the representative body to the king and the council. 'An interpretation that ends with a total negation of the assembly's basic right, the right to decide the budget, cannot be correct', argues Jovanović.<sup>333</sup> The sense of a right on the

331 In regard to the right to decree an extension of the budget, the Vidovdan Constitution differed from the 1903 constitution in the following way. First, it did not envisage the assent of the state council, taking its inspiration from the 1888 constitution. Secondly, and far more importantly, under the Vidovdan Constitution the king did not have the right to postpone the assembly, so that his right to decree an extension of the budget applied only in the event of the assembly's dissolution. Finally, the new assembly had to be convened within four months, which is the same as the ultimate limit on extension of the old budget. This did not mean, of course, that the assembly could not be convened in less than four months, i.e. before the deadline for extension of the old budget.

332 Slobodan Jovanović, *Ustavno pravo*, Belgrade 1907, pp. 230–31. Josif Kasanović asserted even more strongly that according to the 1903 constitution the budget could be extended by decree for only four months. According to him, the regulations on dissolution of the assembly were such that the assembly's budgetary rights 'cannot be evaded'. He did not elaborate this assertion. Josif Kasanović, *op.cit.*, pp. 118–19.

333 It is interesting that King Milan gave the same explanation during the drafting of the 1888 constitution, when he rejected a deputy's suggestion that the



part of the executive to extend the budget with the state council rather than with the assembly, adds Jovanović, is to avoid an extra-budgetary situation in the event that the assembly 'is unable to do so', because it has been dissolved or postponed before passing the new budget. So in that case the council replaces the assembly.<sup>334</sup> In addition to these, Jovanović adduces yet another basic argument, which is that although the right of dissolution is formally unlimited, 'the king cannot be constantly dissolving the assembly'. In the event of a clash, writes Jovanović, 'the assembly always has the final word'.<sup>335</sup> Jovanović argued this also in the Kingdom of Serbs, Croats and Slovenes, stating that the right of the crown repeatedly to dissolve the assembly, to which it might resort because unhappy with the electoral outcome, should not be used in a democracy.<sup>336</sup> This last argument of Jovanović's cannot be faulted, but it is nevertheless necessary to stress that constitutional provisions undoubtedly did permit consecutive dissolutions of the assembly.<sup>337</sup>

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 constitution should include guarantees against possible abuse of the right to extend the budget by decree. For, according to this deputy, the budget could be prolonged as often as the king dissolved or postponed the assembly; but King Milan allegedly replied that the whole constitution would thereby be rendered meaningless. M. Popović, *Poreklo i postanak*, pp. 128–9.

334 Slobodan Jovanović, *Ustavno pravo*, Belgrade 1907, pp 230–31.

335 *Ibid.*, p.313.

336 *Ustavno pravo Kraljevine Srba, Hrvata i Slovenaca*, Belgrade 1924, p.157. See also Đorđe Tasić, 'O parlamentarizmu', *Letopis Matice srpske*, vol.309/1926, p. 274, and *O našem parlamentarizmu*, p.430; Radivoj Đisalović, *Raspuštanje Narodne Skupštine*, Belgrade 1939, p.9.

337 During the drafting of the Belgian constitution, some deputies argued that it was necessary to limit the king's right of dissolution, e.g. by forbidding the king to use this right during the first sitting of an assembly elected in early elections. The advocates of this proposal stressed that this would forestall what had happened in France in 1830. For in France a revolution broke out when the king dissolved the newly elected assembly before it had met. The proposal was rejected on the grounds that dissolution is established not only to protect the rights of the crown, but also to protect the people's political liberties. This is why consecutive dissolution is sometimes necessary. Étienne Taron, *Du droit de dissolution des assemblées parlementaires. Spécialement en Belgique*, Paris, 1911, pp. 46–7. Repeated consecutive dissolution, as well

How valid are Jovanović's arguments aiming to show that, according to the constitution, during a single financial year the king could rule for at most four months with a budget not approved by the assembly? True, they point convincingly to the kind of practical consequences that would ensue if a contrary interpretation of the constitution were to be adopted. For it is clear that this would mean that the king could rule constitutionally disregarding the parliamentary principle. They do not prove, however, that such a non-parliamentary use of the right of dissolution and postponement was legally prohibited in a formal sense. For Jovanović's arguments are based not on constitutional provisions, but on the assumption that the 1903 constitution implies the existence of a parliamentary regime. As such, they are consequently of no use here, since the question is not whether a parliamentary regime was preferred in Serbia after 1903, but to what extent the 1903 constitution reflected the formal legal premises of such a regime. If it is relevant to assert the existence of a right to extend the budget by decree – a right unknown to the constitutional model of parliamentary monarchy, and which theoretically runs contrary to its nature – then it is no less relevant to ascertain whether the constitutional norm limits its use or not. It is as important to answer this question as to answer questions about the existence of any other right of the crown, such as the right of veto, for example. Whether and in which manner the executive uses the rights it holds under the constitution is a crucial question of constitutional practice. But since, to use Jovanović's words, 'practically all constitutional provisions on the rights of the crown and parliament contain an implicit addition – namely, that the crown and parliament would use them if they could in a given situation'<sup>338</sup> – a parliamentary system assumes that the assembly has 'sufficient' constitutional means at its disposal to 'force' the government to resign, because in a parliamentary system it cannot dismiss

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as dissolution and postponement following one another, was explicitly forbidden only in the Radical Party's constitutional draft (Section 5).

338 S. Jovanović, 'Perić o vladalačkoj vlasti', *Arhiv za pravne i društvene nauke*, 53/1938, p.10.

it; only the king can do that.<sup>339</sup> These formal legal premises, significant as they are in themselves, are particularly important in a country in which constitutionalism had not taken deep roots, in which there was no parliamentary tradition, and which did not know constitutional custom but only written law.

Speaking of the 'sufficient' constitutional means that parliament must have for us to be able to say that the constitution had created the legal premises of parliamentary rule, Jovanović also had in mind the assembly's right to deny the government a budget, a right that could not be questioned by royal will. This is shown, among other things, by his judgments on the regency constitution and on that of 1901, elaborated in his extensive scholarly works on the Serbian constitutions of the nineteenth century. These two constitutions, he argues repeatedly in his analysis of Serbian nineteenth-century constitutions, did not create the necessary conditions for a parliamentary government, because – among other things, but most importantly – the assembly did not have full budgetary powers. This is reflected both in the fact that the assembly did not have the right, in the aforementioned constitutions, to reject a budget as such – something that the 1903 constitution did not prohibit<sup>340</sup> – and in the fact that the king could extend the old budget without the assembly: according to the regency constitution for an unlimited time (Article 65), and according to the 1901 constitution for up to a year (Article 93). Consequently if one accepts the view that, in the absence of other formal legal sanctions of ministerial responsibility before parliament, constitutional guarantees of the assembly's budgetary powers are an indispensable legal condition for parliamentary rule, then it becomes highly important to address the question of whether or not, under the 1903 constitution, there existed a formal

339 *Ustavno pravo*, p.312.

340 *Ibid.*, p.222; Ž. Perić, *Parliamentary proceedings, 1910–1911*, 11.12.1910, p.2. Perić states explicitly that *de lege lata* the assembly may reject a budget in principle. See also J. Kasanović, *op.cit.*, pp.118–19. For Jovanović, the assembly's right to reject the budget as a whole is a basic condition of parliamentary rule. *Ustavno pravo*, pp.307, 312.

legal possibility of multiple sequential dissolutions, accompanied by extension by decree of the budget; and also the question of whether, according to this constitution, it was possible for dissolution to be followed directly by postponement of the assembly. Jovanović is aware of the importance of this question, but the response he gives to it is untenable.

‘A four-month period would have passed between the dissolution of one assembly and the election of another, which means that the budget could not be extended further without the assembly’s approval, from which it follows that the newly elected assembly cannot be dissolved, at least not until it has passed the budget’, writes Jovanović.<sup>341</sup> Leaving aside the fact that he fails to take into account here the possibility of the assembly being postponed before or after the dissolution, this account is faulty. According to Article 54 of the constitution, the king’s ‘act of dissolution must contain an order for new elections to be held not later than two months after the date of dissolution, and an order for the national assembly to convene not later than three months after the dissolution.’ This means that when the new assembly met, the four-month period for which the old budget was extended by decree would not have ran out; and that the king, contrary to Jovanović’s assertion, would have at least a month once again to dissolve the assembly if he so wished, or possibly to postpone it while extending the budget again by decree, without the risk of taking the state into a non-budgetary situation and thus violating the constitution. Jovanović’s faulty calculation led him to the equally faulty conclusion that, under the 1903 constitution, the assembly’s budgetary authority ‘was quite sufficient to secure the political responsibility of ministers before the assembly’; and that ‘one can, therefore, conclude that our constitution sought to establish a parliamentary system.’<sup>342</sup> True, at another point Jovanović concluded that, contrary to the British model, Article 174 of the constitution created the possibility of a minority government; but by arguing that the king could

341 *Ibid.*, pp. 313–14.

342 *Ibid.*, p.312.

do this only once during a single financial year, he groundlessly reduced the possibility of a minority government to an exception.<sup>343</sup>

It is necessary to reflect here also on the part of Jovanović's argument concerned with the meaning of the provision giving the crown the right to extend the budget for a certain period without the assembly. According to him, let us repeat, the reason for this constitutional provision is to prevent the state from falling into an extra-budgetary situation in the event that the assembly is 'unable' to pass a budget, because it has been postponed or dissolved. According to this interpretation, the right to decree the budget's extension was not an expression of the crown's dominance over parliament, but a practical measure designed to safeguard constitutionality. In favour of this understanding of the constitution-makers' intention, Jovanović cites the role played in this regard by the state council, without whose assent it was not possible to extend the budget by decree, from which it follows that in this case the council replaces the assembly.

This explanation by Jovanović is not very persuasive. First, the 1888 constitution, restored in 1903 by decision of the constituent assembly, did not envisage obligatory assent on the part of the state council: the king could decide quite independently to extend the budget by decree, albeit with the obligatory ministerial counter-signature. According to the 1888 constitution, therefore, the right of the executive to prolong the budget without the assembly's approval undeniably signifies its supremacy over the legislature. Had the meaning of extension of the budget by decree changed so much that it turned a legalised supremacy of the crown, or the executive power, over the assembly or legislature into a mere instrument designed to forestall the danger of an extra-budgetary situation, then this would be a change of essential and in practice principled importance, which would have called into question the constituent assembly's decision that the new constitution could not be altered in a way that would infringe the principles of the 1888 constitution. It is true that this would not have been the only novelty of such a nature introduced into the 1903

343 *Iz istorije književnosti, Sabrana dela*, vol.11, I, Belgrade 1991, pp. 437–8.

constitution – the new constitution also called into question the electoral system under the 1888 constitution – but the fact remains that, in the occasional discussion about the state council as an institution, nothing was ever said about its competence in this regard, nor was such a novelty ever referred to either in political practice or in the scientific literature. Moreover, Slobodan Jovanović did not suggest that it was a novelty, and one should not exclude the possibility that he would have judged differently the quality and meaning of the role of the state council in extension of the budget by decree, had he not held erroneously that the state council's assent was included also in the 1888 constitution.<sup>344</sup> For the obligatory agreement of the state council was taken over from the constitution of 1901 (Article 93), not from that of 1888, which did not contain such a provision.<sup>345</sup> It was included into the text of the 1903 constitution as one of several changes of little significance indicating the lawmakers' tendency to increase the importance of the state council by comparison with the 1888 constitution.<sup>346</sup>

344 According to the 1888 constitution 'the government cannot extend the old budget without the assembly, or if the latter has been postponed or dissolved, without the consent of the state council.' Jovanović, *Ustavno pravo*, p.220. However, the last paragraph of Article 175 of the 1888 constitution, which regulates this issue, states: 'If the national assembly is dissolved or postponed before the budget is passed, the king may extend the budget of the expired financial year for up to four months.' The corresponding article of the 1903 constitution interpolates between the words 'extend' and 'the budget of the expired' the clause 'with the consent of the state council'. The Vidovdan Constitution, which was drafted in line with the 1903 constitution, in other words with the constitution of 1888, goes back to the rule contained in the latter.

345 The constitution of 1901 solved the issue of extension of the budget by decree in the same way as did that of 1903, with the difference that it limited the validity of the extension to one year, rather than to four months as in the 1903 constitution.

346 The most important change in this regard concerned the procedure for passing a budget. Whereas in the case of the 1888 constitution the advice of the council was not sought in advance – either for the budget itself or for the annual financial laws related to the budget (Article 112) – the 1903 constitution excluded only the budget itself from obligatory prior consultation with this body (Article 111). But this provision, however perfectly clear and explicit, was interpreted in practice as if it had not been changed in relation to the

It is true that, in contrast to a legislative procedure in which it played only a consultative role, the state council in this case appears as a body participating in decisions. Yet it is nevertheless difficult to imagine a situation in which it would refuse to give the crown its assent for an extension of the budget, despite the fact that the assembly might be deferred or dissolved, without having passed a new budget or extended the old one. The council, being a bureaucratic body, would in such a case assume responsibility for the state's descent into a non-budgetary state with unimaginable political consequences – a state of affairs that is difficult to imagine.<sup>347</sup> In practice – as Jovanović himself would later conclude – ‘the assent of the state council was a pure formality; in reality, in the event of dissolution, the king would extend the budget by his decree.’<sup>348</sup>

With respect to the practice of extending the budget by decree, more will be said on this at the appropriate time. Here it is necessary to state merely that it too, for its part, confirmed that what was involved was a constitutional prerogative securing the supremacy of the executive over the legislature. On no occasion was the old budget extended by decree because the assembly was ‘unable’ to do so itself, which would imply that it was postponed or dissolved for reasons not related to the budget. On the

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1888 constitution, so that the government regularly submitted its budgetary proposals to the assembly without having obtained the advice of the state council. This is how the lawmakers interpreted it too when passing the new budgetary law for 1910, despite the fact that the unconstitutional nature of this decision was pointed out to them. See Ž. Perić, *Parliamentary proceedings, 1909–1910*, 1.3.1910, pp. 2200–2203; S. Jovanović, *Ustavno pravo*, pp. 434–5; K. Kumanudi, *Administrativno pravo*, p.59.

347 The paragraph dealing with extension of the budget by decree reads: ‘If the national assembly is dissolved or postponed before the budget is passed, the king may extend, with the agreement of the state council, the budget of the expired financial year for up to four months.’ Hence, at the moment when the council seeks approval for extending the old budget, the assembly is already postponed or dissolved, which means that the council's refusal to give its approval leads automatically to descent into a non-budgetary state, with unimaginable political and state-legal consequences.

348 *Iz istorije i književnosti*, 1, pp.437–8.

contrary, postponement or dissolution arose because assemblies, seeking to provoke the government's resignation, refused to pass a new budget, and the current government's term would be prolonged by extending the old budget by decree.<sup>349</sup> So although the executive, by using its constitutional powers one at a time, remained within the limits of parliamentary principle – albeit only in the final reckoning – these cases would prove to be a practical confirmation that the 1903 constitution did not divide budgetary power in such a way that, in the event of a conflict between the legislature and the executive, it represented the legislature's ultimate weapon; on the contrary, it was the ultimate weapon in the hands of the executive.

The dilemma as to whether multiple sequential recourse to extension of the budget was legally permitted in formal terms was in a way solved by the law on state accounts (henceforth: budget law) of 1910, which replaced the law on the state budget of April 1903. Unlike the previous one, the new budget law prescribed that 'the state budget of the expired financial year may *in no case or form* [O.P.'s italics] remain valid for more than a year, except for the year for which it was originally granted' (Art. 33, para. 4). This rule is contained in the article of the law that regulates both forms of extension of the budget – extension with the assembly's approval and extension by decree – and there is no doubt that the indicated time span for which the expired budget may be extended applies to both cases. This may mean either that the lawmakers assumed that the constitution allowed successive extensions of the budget by decree, and used this prescription only to prevent possible extensive abuse, i.e. a wholly unparliamentary use of this right by the executive; or that they indeed wished to remove any doubt that the constitution permitted it, and to limit the possibility of maintaining a non-parliamentary government to one year only.<sup>350</sup> At

349 See 'The Period of Monism'.

350 It may at first glance seem that this is a return to the solution adopted under the 1901 constitution, namely that if the assembly had been dissolved or postponed before passing a budget, the king could extend the old budget 'for up to one year' (Art.93). It was not the same, however, provided naturally that the right to successive repetitions of the decreed prolongation of the



all events, the lawmakers took the position that the constitution did not exclude the possibility of repeated successive extensions of the budget by decree. This is confirmed by the explanation given by minister of finance Lazu Paču of Art. 33 of the budget law. Addressing the issue of the meaning of the given provision, he stated explicitly that ‘the intention was not constitutionally to prevent the monarch from making a new, second appeal to the people immediately after the completion of the first appeal.’<sup>351</sup>

All in all, one may conclude in regard to the assembly’s budgetary power under the 1903 constitution that it was not sufficient to sanction ministerial responsibility before parliament formally. The difference in this regard between this constitution, i.e. the constitution of 1888, on the one hand, and the constitution of 1901 on the other is not of the essence. For all these three constitutions contain by their nature the same limitation of the assembly’s budgetary powers in favour of the executive – something

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 budget under the 1901 constitution was interpreted for the 1903 constitution too in the way that we have interpreted it. For according to the former the king needed only one postponement or dissolution of the assembly to gain a year of non-parliamentary government, after which he would be able once again to exercise his right. But the budget law in force under that constitution did not even attempt to question this right of the crown. Under the 1903 constitution, however, with one postponement or dissolution the king could rule without parliament for only four months, while the possibility of successive repetitions of the decreed budget, though recognised, was nevertheless limited, so that the king could administer the country without parliament for at most a year, since further extensions of the budget (with a postponement or dissolution of the assembly) would be unlawful. This poses the question of the constitutionality of the budget law of 1910, i.e. the extent to which it was possible to introduce by law a limitation not foreseen in the constitution – which holds equally for a decreed or a legal extension of the budget. This issue will not be discussed.

351 *Parliamentary proceedings*, 1912–1913, 8.4.1913, p. 262. Protić said something similar about the meaning of Art.33 of the budget law, albeit not so explicitly. Denying during a debate that the said article limited the time for which the assembly might extend an expired budget, he argued that the time limit of one year envisaged by the new budget law applied only to the right of the executive to extend the budget by decree. *Parliamentary proceedings*, 1913–1914, 13.12.1913, p.488.

not present in parliamentary monarchies – the right of the crown to extend the budget beyond the expiry of the financial year without the legislature. In all three constitutions, moreover, this right of the crown in principle is formulated in the same way. Its application is always made conditional upon prior dissolution or postponement of the assembly, which in all three constitutions is likewise regulated in the same way. This means in the final instance that the king – whether through dissolution, which he can repeat an unlimited number of times; or by postponement of the assembly, which it is, true he can not go on repeating, but which he can order at any time – may extend the expired budget by decree for an unlimited period. During that time he may freely decide the choice of ministers, regardless of whether or not they enjoy the confidence of the assembly. As for the obligatory agreement of the state council, which in contrast to the 1888 constitution is present in the constitutions of both 1901 and 1903, in our view this is of no particular importance and certainly cannot be taken as a criterion for the nature of the institution of extending the budget by decree. The absence of a provision on such consent in the 1888 constitution can thus likewise not be treated as a significant difference between this constitution and those of 1901 and 1903.

Though the limitation of parliament's budgetary power by the right to extension of the budget by decree is of the same in nature in the 1903 constitution and in that of 1901, it nevertheless differs in its intensity. Whereas under the 1901 constitution the king, with one postponement or dissolution of the assembly, can extend by decree the old budget by a whole year, the constitution of 1903 – like that of 1888 – limits this right of his to four months. Bearing in mind the legal possibility of repeated extensions by decree, which in each of these cases can be done at leisure, this difference does not appear crucial.<sup>352</sup> Looking at it from the practical angle, however, it is of great importance and for the following reasons. Every repetition

352 According to the 1901 constitution, the act of dissolution of the assembly must contain an order for new elections to be held within three months, and for the assembly to be convened within four (Art.15).

of the assembly's dissolution, like every use of the right to postpone the assembly immediately before or after dissolution, with the budget issue unresolved (or indeed even if it had been resolved), would represent a clear abuse of constitutional prerogatives by the executive, in other words an open and brutal disregard for the assembly's budgetary right. So assuming that the king, or in the case that he is politically passive the responsible government, feels deeply loyal to the constitutional institutions, the limitation of the assembly's budgetary right under the 1903 constitution, though significant, is nevertheless considerably less than under the 1901 constitution, and thus represents a lesser threat to the principle of parliamentary government: the possibility of governing independently of the assembly is reduced to four months rather than to one year, as under the 1901 constitution. In addition, as already mentioned, the assembly may also reject the draft budget as a whole, which it could not do under the 1901 constitution. However, if the executive turns out not to be loyal to the constitutional institutions and the idea of constitutional rule, or not in sufficient measure, then the constitutional guarantees of parliamentary rule are not essentially stronger under the 1903 constitution than under that of 1901, despite the assembly's right to reject the budget as a whole.

In short, as regards the formal legal assumptions of ministerial responsibility before the legislative body, of which the most important one is the assembly's full budgetary right, the most one can say of the 1903 constitution is that it stopped half-way, falling far behind the classic pattern of dualist parliamentary monarchy on which it modelled itself. It was similar in this regard to the other Balkan constitutions – the Romanian one of 1866, and the Bulgarian one of 1879 – and closer to the latter with regard to the seriousness of the threat to the principles of parliamentary rule, since it also failed to determine precisely the maximum time for which the executive was allowed to extend an expired budget.<sup>353</sup> As for the

353 Article 122 of the Bulgarian constitution prescribed that, in the event that the assembly 'cannot be convened', the old budget would remain in force, under the responsibility of the ministers, until such time as 'their decision is

Greek constitution of 1864, it alone of all the Balkan constitutions was on this issue true to the original model by not questioning the budgetary power of the assembly.<sup>354</sup>

## 2. Autonomy of the assembly

Autonomy of the legislative body in relation to the executive, as one of the primary conditions for realising the principles of parliamentary government, was limited in manifold ways under the 1903 constitution. Some of the envisaged limitations are common to continental constitutions based on the British model, but the 1903 constitution also contains some that are unknown in other constitutional monarchies of this type.

The most significant departure from the model is contained in the provisions for postponement of sessions. Whereas in Britain this right belonged exclusively to parliament, in Serbia under the 1903 constitution – as under all previous constitutions – postponement of parliamentary sessions was the exclusive privilege of the crown.<sup>355</sup> According to Art. 54 of

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 approved by the assembly at its first subsequent session'. It is not clear from this provision what possible causes could prevent the assembly from meeting, nor consequently when they would cease to operate. Particularly important was the consideration that under this constitution, as under the Serbian one, the right to convene the assembly belonged to the king (Art.127). As for the Romanian constitution of 1866, it gave 'the executive' the right to extend the old budget whenever the legislature failed to adopt one 'on time', with the proviso that it could be implemented for no more than a year after the year in which the budget had been passed (Art.133). This was practically the same solution as that adopted by Serbian legislators in 1910 when passing a new budget law, with the difference that the Romanian constitution did not link the right to decree an extension of the budget to postponement or dissolution of the assembly. For the Romanian constitution of 1866, see Dareste and Dareste, *Les constitutions modernes*, vol.2, pp 266–286.

354 Art.60 of the Greek constitution of 1864. For the 1864 Greek constitution, see *ibid.*, pp. 321–37.

355 The provisions on postponement of the assembly in the constitutions of 1888 (Art.54) and 1901 (Art. 15) are identical to those in the 1903 constitution. The right of postponement would move from the executive to the assembly

the 1903 constitution, the king had the right to postpone national assembly sessions, with the proviso, as we have seen, that this could not be for longer than two months, nor could it be repeated during the same parliamentary term without the assembly's agreement. The legislature could thus be postponed by a unilateral act of the executive, i.e. by decree, but not by its own unilateral act, by an assembly resolution. The only right that the assembly enjoyed under this constitution was to refuse to assent to an eventual attempt by the king to postpone it once again within the same term.

This type of limitation of parliament's autonomy was present in the constitutions of other European monarchies drafted in line with the British model; but the Serbian constitution went further in this direction than most others, conforming in this regard to the Bulgarian constitution of 1879.<sup>356</sup>

Wherein the right to postpone assembly sessions as regulated by the constitution of 1903 especially violates the principle of parliamentary government, however, is the circumstance that the king can use the right of

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only under the Vidovdan Constitution.

356 The right of the crown to postpone the assembly (as well as the chamber of peers) was prefigured already in the French constitutional charters of 1814 and 1830, and according to these charters it was unlimited. Art. 50 and 42 respectively; in Leon Duguit and Henry Monnier, *Constitutions et les principales lois politiques de la France depuis 1789*. The Belgian constitution too (Art.72) left the power of postponement to the king, but first it limited the time for which parliament could be postponed to one month, and secondly it prohibited repetition of the postponement during the same term without parliament's approval. For the Belgian constitution of 1831, see Dareste and Dareste, *Les constitutions modernes*, vol.1, pp. 58–75. The Belgian formula was found in all the Balkan constitutions, with the difference that the prescribed length of time for which the assembly could be postponed varied. It was forty days in the Greek constitution (Art.38) and one month in the Romanian (Art.95) (as in the Belgian), while in the Serbian and Bulgarian constitutions it was two months (Art. 135 of the Bulgarian constitution). It is interesting to note that not even in the French constitution of 1875, which modelled itself on the British, was the right of postponement reserved for the assembly, but for the head of state (Art. 2 of the constitutional law of 16.7.1875).

postponement even when the old budget – that is, the approved budgetary twelfth – is about to run out, while a new budget has not yet been passed. In this case he can extend the old budget by decree for four months, as discussed earlier. All that needs to be added here is that using the right to extend the budget by decree is, in a way, far more of a threat to the principle of ministerial responsibility in the case of postponement than in the case of dissolution of the assembly. This is because, in the case of dissolution, the majority principle will ultimately be observed, since the legitimacy of a government left without a budget will be tested in general elections; while postponement means simply extension of a government that has lost the assembly's confidence, as shown by the latter's refusal to approve its budget. As we shall see, examples of both will be found in Serbian parliamentary practice.

As noted above, the 1903 constitution also contains limitations of the assembly's autonomy that go beyond the usual standards in the constitutional or parliamentary monarchies of the continent. Thus, according to the 1903 constitution, the king has the right to decide the assembly's standing orders, albeit not unilaterally as in the case of postponement, but together with the assembly itself, i.e. in agreement with it. For, according to Art. 128, the rules on the national assembly's standing orders, unless already contained in the constitution – as many of them were – are prescribed by law. This means that, as in the case of any other law (apart from the budget), both sides – the king and the assembly – have the right of initiative; that the king has the right of veto; and that the state council is consulted. In this way, under the 1903 constitution the assembly was deprived in favour of the crown of one right that is considered integral to it, not just in parliamentary but in all representative systems: the right to decide on its own, by way of a resolution, the rules regulating its own business.<sup>357</sup>

357 All other Balkan constitutions explicitly assigned this right to the assembly (i.e. to the second chamber, where as in Romania it was provided for). In this regard they unreservedly emulated the Belgian formula according to which the adoption of standing orders was the exclusive prerogative of parliament – both the assembly and the senate. See Art.46 of the Belgian, Art.65 of the

The negative practical consequences of this solution are twofold. First, the assembly is prevented from freely determining its own internal organisation and manner of work, which is of particular significance for the realisation of parliamentary government, since the standing orders regulate, among other things, the mechanisms and procedures for raising the question of ministerial responsibility – the right to pose questions, interpellate, etc. ‘I don’t need a constitutional revision; give me good standing orders and that’s all that is needed to change the substance of the constitution,’ Raymond Poincaré once said.<sup>358</sup> Moreover, the complex and relatively slow legislative procedure is unsuited to the nature of many practical issues of the assembly’s organisation and work, which demand flexibility and frequent re-examination, hence also a simple procedure for revision.

This substantial reduction of the autonomy of the legislative body’s organisation and work – characteristic for all Serbian constitutions<sup>359</sup> – did not attract much expert attention at the time. It was only after the [1914–18] war, in the Kingdom of Serbs, Croats and Slovenes, that Slobodan Jovanović would characterise the legal form of the assembly’s standing orders under the 1903 constitution as a major departure from parliamentary norms. He stressed on that occasion, moreover, the importance of the principle of autonomy of the assembly as an organ of government as such, i.e. even in

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Greek, Art. 53 of the Romanian and Art. 104 of the Bulgarian constitutions. In France even at the end of the Second Empire, in 1869, the rule that the parliamentary chambers decided their standing orders on their own was re-introduced. Jean Laporte et Marie-Louise Tulard, *Le droit parlementaire, Que sais-je?*, Paris 1986, p.32.

358 *Ibid.*, p. 33. In the Third Republic, the freedom of the chambers to decide their internal organisation and rules of work was practically unlimited. *Ibid.*

359 Neither the constitution of 1888 nor those of 1901 or 1903 – let alone earlier constitutions – gave the assembly the right to enact its own standing orders. Of all the various drafts of the constitutional order in Serbia in the second half of the nineteenth century, only that of the Progressive Party gave the assembly the right to enact its own standing orders. The Radical constitutional draft even placed the enactment of standing orders under the authority of a Grand constituent assembly. See the section ‘Historical Foundations’. The Vidovdan Constitution [of 1921] was the first to give this right to the assembly.

monarchies that do not accept the parliamentary principle of rule. 'The independence of every assembly in relation to the monarch presupposes that the assembly is the master of its own standing orders. What, indeed, would its autonomy be, if it depended on the monarch for how it should deal with draft bills – whether, for example, to take them up individually or en bloc?', asked Jovanović.<sup>360</sup>

Finally, the unusually great constitutional power of the crown over the assembly was reflected also in the rules on convening the assembly. Serbia, like other continental constitutional monarchies, did not adopt the British system of permanent parliamentary session, but that of regular annual and emergency convocations. Unlike other states, however, which followed Belgium in giving the king the right to decide only on emergency sessions, while adopting for regular sessions the system of convocation as of right, Serbia – alone of the Balkan states other than Bulgaria – regulated the right of convening the assembly on the model of the French constitutional charters of 1814 and 1830, which surrendered this right wholly to the king.<sup>361</sup> The latter, to be sure, was doubly restricted in

360 S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, 18/1920, pp. 446–7. Jovanović referred to Adhémar Esmein, according to whom, he states, an assembly that did not have the right to decide its own manner of work would not be able to perform its function (p.446). The firmness and passion with which Jovanović defends here the assembly's right to enact its own standing orders is linked to the fact that this text was written as a critique of the standing orders of the constituent assembly of the Kingdom of Serbs, Croats and Slovenes, which had been enacted by decree, without any consultation with the assembly. 'Not one writer on constitutional issues, not even in pre-war Germany, felt free to argue that parliamentary standing orders might be prescribed by royal decree', wrote an embittered Jovanović.

361 The formula according to which the king convenes only emergency sessions of the assembly, while the latter holds regular sessions 'as of right' each year at a specified time unless the king has already recalled it, has an interesting history. Though part of French constitutional history – defined in the senate constitution of 1814 (Art. 10) – it became a feature not of the French but of the Belgian dualistic model, and would return to French constitutional practice only with the constitution of 1875 (Art.1 of the constitutional law of 16.7.1875). For the senate constitution was never applied in practice, giving



this regard: first by the rule according to which the assembly was to convene regularly on 1 October each year; secondly by the ban on ending the regular assembly term before the assembly had passed the budget (Art. 101).<sup>362</sup> But, as Slobodan Jovanović explains, the crown's constitutional obligation to recall the assembly each year at a specified time did not imply the assembly's right to meet at the appointed time even if the king failed to perform his constitutional duty. The deputies 'do not enjoy that right in any event', stressed Jovanović, and 'the only sanction would lie in the fact that the incumbent ministers would be accountable for this violation of the constitution, as indeed for any other'.<sup>363</sup> This last provision could

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 way soon after its adoption to the constitutional charter of 1814. This charter, far less liberal regarding the rights of the assembly in relation to the crown, prescribed that the king was to convene the chambers both regularly each year and also in emergency sessions (Art.50). The constitutional charter of 1830 regulated this in the same manner (Art.42). However, the Belgian constitution, which became the most acceptable model for the reception of constitutional monarchy on the continent, and which was particularly popular in the Balkans, did not take over the formula of the French constitutional charters, but the more liberal one of the senate constitution of 1814 (see Art.70). Of the Balkan constitutions, only the Romanian and the Greek adopted it. The former stresses that the assembly meets 'without being summoned' (Art.95), while the latter is somewhat contradictory: on the one hand, in Art. 37, it prescribes that the king must convene the assembly each year for a regular session, while on the other hand, in Art. 54, it literally repeats the formula of the French constitution, using the phrases 'it reconvenes' and 'as of right' ('se réunit' and 'de plein droit'). Bulgaria, like Serbia, adopted the formula of the French charters, or the Italian constitution (see Art.127 of the Bulgarian 1879 constitution). Among Serbian constitutional drafts in the nineteenth century, convening 'as of right' is envisaged only in the Radical and Progressive constitutional drafts. See the section 'The Historical Foundations'.

362 According to the constitution of 1888, the regular term had to last at least six weeks (Art. 102). This change has no particular significance, given that the assembly's, or the king's, budgetary right was under this constitution regulated in the same way, which means that the budget cannot be brought without the assembly. This change means only that the king could in principle close the regular term of the assembly before the end of the six weeks, if the assembly had by that time passed the state budget.

363 *Ustavno pravo*, p.109.

be implemented, of course, only after the assembly had met and only if it decided to charge the ministers with violating the constitution.

### 3. Other questions

#### A. THE QUESTION OF MINISTERS BEING ELECTED DEPUTIES

On the list of departures from parliamentary standards, one might with some reservations include also the provisions of the 1903 constitution legalising ministers who are not parliamentary deputies. The first paragraph of Art. 134 states: 'Ministers have the right to attend the assembly, which is bound to hear them at their request. Ministers may vote in the assembly, however, *only if they are* also national deputies' (italics, O.P.). The 1903 constitution did not, therefore, exclude the possibility that ministers might also be parliamentary deputies (unlike the 1901 constitution, which did so explicitly); but neither did it prescribe that ministers had to be members of the legislature, as is the case in British parliamentarism. This formula, adopted by the 1903 constitution as a solution to the question of the relationship between a ministerial post and that of a parliamentary deputy, is characteristic for all continental constitutions of this type.<sup>364</sup>

This raises the question of whether it is possible to treat the obligation for ministerial posts to require a parliamentary mandate as a criterion for the existence of parliamentary government. For most writers this was

364 The rule that ministers *may* be deputies (or members of the upper house) is contained in both French acts of 1814 (Art.14 and Art.54), as well as in the constitutional charter of 1830 (Art. 46). The quoted formulation in the Serbian constitution was taken from the Belgian constitution (Art. 88), however, and is present in a practically identical form in all Balkan constitutions that followed the dualistic model, except for the Serbian 1901 constitution, which prohibits ministers from being members of the legislature (Art. 78), and the Bulgarian constitution, which says nothing about overlapping functions but does not prohibit them either. See Art. 78 of the Greek and Art.99 of the Romanian constitutions.

undoubtedly an important feature of such a system, and some even treated it as an undeviating rule.<sup>365</sup> But there are others who consider this not to be essential to parliamentarism. Among the latter one should recall the view of one of the most influential interpreters of classic British parliamentarism, Bagehot, according to whom this rule was undoubtedly customary, but represented more of a historical fortuity than something deriving from the nature of the parliamentary system as such.<sup>366</sup> While not wishing to go further into this issue, one can say the following. The rule that a minister must also be a member of parliament in a way sublimates the idea of the relative nature of the principle of separation of powers, characteristic of the parliamentary system; and in that sense it can be taken as an important feature of that system. It also underscores the political character of the ministerial function: elected as a deputy for his political views, the minister represents his own or his party's political positions, which is an important guarantee of his political autonomy in relation to the crown. The political nature of the ministerial function and of ministerial autonomy are an important, indeed indispensable, condition of the parliamentary system. On the other hand, classic or dualist parliamentarism assumes dual responsibility; so it is quite logical that the crown should have the right to have ministers who may not be members of the legislative body. After

365 S. Low, *op.cit.*, p. 49; W.R. Anson, *op.cit.*, vol.1, pp.5,9; A. Houriou and L. Sfez, *op.cit.*, p. 125; P. Lalumière and A. Demichel, *op.cit.*, p. 85. A. Todd believes that in order to achieve ministerial responsibility before parliament 'it is absolutely necessary that ministers be chosen from among the members of one or other of the two legislative bodies'. *Op.cit.*, pp. 37–8.

366 W. Bagehot, *op.cit.*, p. 13. Before the consolidation of the parliamentary principle, English parliaments did not favour this practice, given that ministers were politically responsible only to the king, so that the combination of the ministerial function and membership of parliament was treated as an extension of the crown's influence over the work of the legislative body, an instrument with which the executive sought to secure parliament's loyalty. S. Low, *op.cit.*, pp.19–20; W.R. Anson, *op.cit.*, vol.2, part I, p. 35. At the start of the eighteenth century, ministers on being appointed by the king had to submit their parliamentary mandate to the test of a new election. A. Todd, *op.cit.*, vol.2, pp. 60–62.

all, those writers who insist on the rule in question, although they usually have British parliamentarism in mind, seem to overlook the fact that in its country of origin this rule refers not only to members of the representative body – the House of Commons – but also to peers, whose membership of parliament depends on the will of the king. This is why this British constitutional custom, even if one did not accept Bagehot's view of its historically contingent nature, could not be automatically transferred to parliamentary regimes in which the legislature is of an exclusively representative character. It would, therefore, have to be treated as being of secondary importance in such countries, always provided that the British model were taken as the model and true criterion of parliamentarism – which is what these writers do. Bagehot's position, after all, appears highly persuasive, bearing in mind the undeniable fact that the legal nature of parliamentarism is contained in ministerial responsibility before parliament, or rather before its elected chamber (where two chambers exist), which is possible irrespective of whether ministers are members of it or not.

Slobodan Jovanović, taking the view that one of the most important rules of the parliamentary system was 'coincidence of the ministerial and deputy functions', saw the lifting of the prohibition on their coincidence as proof that the 1903 constitution introduced a parliamentary regime, by contrast with that of 1901 which rejected one through the prohibition in question.<sup>367</sup> It should be noted here, however, that under the 1903 constitution ministers, as we have seen, did not have to be deputies, so that suspension of the aforementioned prohibition could not be taken as proof that the rule which Jovanović considered to be of greatest importance for the existence of a parliamentary system had been adopted. Most important, it was not adopted in constitutional practice either, since numerous

367 *Ustavno pravo*, p.307, 312–13. Jovanović referred here to two, in his view crucial, rules of the parliamentary regime: the assembly's right to reject the budget as such, and the obligation for appointed ministers to be also parliamentary deputies.

ministers were not deputies. Moreover, they regularly included army officers, who did not even have the right to vote.<sup>368</sup>

## **B. INDIVIDUAL OR COLLECTIVE MINISTERIAL RESPONSIBILITY**

The constitution of 1903 departs somewhat from the model in this regard, though not at the expense but in favour of parliamentary government. The classic model of constitutional monarchy, in which ministers are seen as organs of the crown, does not recognise collective, but only individual ministerial responsibility – with Bulgaria here being an interesting exception<sup>369</sup> – given that the basic criterion for the responsibility of ministers is not the political fitness, but the lawfulness of their work. For the same reasons, the separate function of the prime minister is not institutionalised either: he is only *primus inter pares*, not the responsible bearer of a policy who, as Capitant would say, ‘holds all government in his hands.’<sup>370</sup> The 1903 constitution endorses in principle this model, given that it views

368 See the section ‘Ministerial Responsibility’.

369 The Bulgarian constitution of 1879 is unique among constitutions drafted on the Belgian model in that, like the 1903 Serbian constitution, it gives the crown broader powers than is usual in constitutions of this type, but at the same time explicitly prescribes the political and hence also collective responsibility of ministers to parliament. According to Art. 153 of this constitution, the ministers are responsible ‘as a collective’ to the king and the assembly for all ‘general measures’ which they undertake as an administration, while remaining responsible as individuals for the work of their individual departments. This article, whether intentionally or not, is drafted in a manner identical to Art. 6 of the French constitutional law of 1875 (see also ft.62 on p.63).

370 Quoted in C. Zilemenos, *op.cit.*, p. 44. Zilemenos refers to Greece (but not Bulgaria) as an exception, stressing, however, that its constitution too fails to differentiate between the government and its head as a separate institution, but only refers to them casually. The writer takes as characteristic the example of Belgium, whose constitution carefully avoids reference to a ministerial council, and where it ‘has to’ do so, uses the phrase ‘ministers gathered in council’. *Ibid.*, pp.33, 109, 119, 147. As the most striking example, however, one might mention here that of Bulgaria, i.e. its 1879 constitution, which as we have seen introduces the institution of the ministerial council.

ministerial responsibility before parliament as being only penal, and not also political, in nature. It is open, however, to the idea of the government as a collective body, as well as to the specific position of the prime minister in relation to other ministers. Generally speaking, Serbian parliamentarism in this regard had a stronger legal grounding than was common among constitutional monarchies of this type.

The constitution prescribes that 'the state administration is headed by the ministerial council', which 'is composed of ministers appointed to the individual departments of the administration, and a president of the ministerial council who may be without portfolio' (Art. 131).<sup>371</sup> The separate status of the government's president is further stressed in the law on the constitution of the central state administration (*Structure of the central state administration in the Principality of Serbia*), which – albeit dating back to 1862, and revised for the last time under the regency constitution in 1899 – formally regulated the ministerial function under the 1903 constitution too. According to this law, ministers – who are 'direct organs of the crown' – are 'mutually equal', but the crown appoints one of them president of the ministerial council (Art.15). As such, he chairs meetings of the council in the king's absence (Art.15), countersigns all crown acts falling outside the competence of other ministers, and is generally 'considered to be the head' of the ministerial council (Art. 18). Most importantly, this law also displays clear indications of collective political responsibility: according to Art.5, the ministers 'together compose a cabinet, which represents the government's unity; so that the advice that ministers give to the state council is taken as being the advice of the government as a whole.'<sup>372</sup>

371 Zilemenos argues that even such a term as 'head of the ministerial council', as opposed to 'prime minister', suggests the adoption of ministerial responsibility and the prime minister's separate role. C. Zilemenos, *op.cit.*, pp 26–7.

372 At the time this law was made, the prince shared legislative powers with the state council, not with the assembly. Under the constitution of 1903, as in previous constitutions beginning with that of the regency, the council's legislative role recalled in the quoted article was replaced by the assembly, i.e. the elected chamber.

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While adopting, in imitation of the Belgian constitution, the model of a classic constitutional monarchy, the 1903 constitution made significant departures from it in the sphere of the relationship between the assembly and the crown, in favour of the latter; it thus brought into question ministerial responsibility before the assembly as the parliamentary principle. It is similar in this regard to other Balkan constitutions – the Romanian one of 1866, the Bulgarian one of 1879 – but not to the Greek constitution of 1864, which in this aspect remains faithful to the original. Moreover, though similar to the Romanian and the Bulgarian constitutions, the Serbian one as we have seen falls behind even these in this regard. It is here not without significance, albeit only symbolic, that the 1903 constitution did not proclaim the two fundamental political principles on which the Belgian constitution as a whole rests: the principle of popular sovereignty, and the principle according to which the legitimacy of royal rule derives solely from the constitution.<sup>373</sup> Despite the fact that it was introduced in a revolutionary fashion, the 1903 constitution instead retained the provision of the 1888 constitution stating that the king enjoys ‘all rights of state power, and uses these in accordance with the constitution’ (Art. 40).<sup>374</sup> This is yet another of those provisions that make the 1903 constitution recall a limited rather than a parliamentary monarchy.<sup>375</sup> Of the Balkan constitutions, apart from the Serbian only

373 Art. 25 of the Belgian constitution states: ‘All powers emanate from the nation. They are used in accordance with the constitution.’ Art. 78, on the other hand, stipulates: ‘The king has no rights other than those prescribed by the constitution or by laws enacted in accordance with it.’ In Serbian constitutional history, only the Radical Party’s constitutional draft of 1888 contains the principle of popular sovereignty as a basic constitutional principle. See the section: ‘Historical Foundations’.

374 For the inappropriateness of keeping such a principle in a constitution enacted by revolutionary means, and one that effectively established royal rule itself, see the section ‘The Political Foundations’, pp. 108–9.

375 For a differing view, see Đ. Tasić, *L’histoire constitutionnelle de la Serbie*, pp. 234–5. Comparing it with the regency constitution, which according to him introduced constitutional monarchy, Tasić describes the 1888 constitution as one typical for a parliamentary monarchy.

the Bulgarian failed to adopt the provisions of the Belgian constitution proclaiming the aforementioned principles, whereas the Romanian and Greek constitutions repeated them almost word for word.<sup>376</sup>

The reservations regarding the parliamentary system of government contained in the 1903 constitution – predominance of the executive over the legislature in budgetary powers; significant limitation of parliament's autonomy – are similar in nature to those displayed in the 1901 constitution, albeit not to the same extent. Like other, earlier Serbian constitutions, that of 1903 did not measure up to the classic model of constitutional monarchy, primarily though not exclusively because it failed to transform the assembly's budgetary power into the ultimate instrument that the legislature can use to force a non – responsible government to retreat, something without which – at least in theory – there is no parliamentary government.<sup>377</sup> This is important to stress, given that the constitution of 1903, i.e. that of 1888, is regularly cited as the one that adopted the principle of parliamentary rule, while the constitution of 1901 is presented as one that rejected this principle.<sup>378</sup>

376 See articles 21 and 24 of the Greek constitution and articles 31 and 96 of the Romanian.

377 The constitution of 1921, based on a draft produced by N .Pašić's government, did not do so either. The Vidovdan constitution did remove the limits on the assembly's autonomy – by depriving the king of the right to postpone the assembly and to sanction the assembly's standing orders – but it retained the crucial limitation of the assembly's power, the one that brings parliamentary government into question: the right of the crown to extend the budget beyond the expiry of the financial year without its consent.

378 In legal literature, see for example S. Jovanović, *Ustavno pravo*, p.307; Dragoslav Janković and Mirko Mirković, *Državotvorna istorija Jugoslavije*, p.138; Dragoš Jeftić and Dragoljub Popović, *Pravna istorija jugoslavenskih naroda*, Belgrade 1996, pp. 153–5, 166. It should be stressed that this legal-historical literature bases its conclusions on an overall scrutiny of the texts of these constitutions, and above all on the above-mentioned provisions regarding the relationship between membership of the assembly and of the government, and the assembly's right to reject the budget in principle: provisions that undoubtedly indicate an important difference between the 1901 constitution, on the one hand, and those of 1903 and 1888 on the other, as described



## II THE ELECTORAL SYSTEM

Forced to accede to the return of the 1888 constitution, the Old Radicals found themselves for the second time in a situation in which they, as the strongest party, were forced to accept the principle of proportional representation that in 1888 they had viewed as their great concession to the smaller parties and their sponsor, King Milan. The constitution of 1888, moreover, not only made this rule mandatory, but also prescribed a system of exceptionally high proportionality by specifying the manner of distribution of seats. The 1901 constitution had suited the Old Radicals far better: apart from the principle of electoral lists, this constitution – in line with European constitutional standards – left all other issues concerning the electoral system to the legislators.<sup>379</sup>

Though forced to abandon the 1901 constitution, the Old Radicals were not ready to give up on removing proportionality from the constitution, which they saw – especially after the fraying of party unity in 1901 – as their supreme political interest.<sup>380</sup> Enjoying strong majorities in both chambers of parliament, holding the posts of president of both constitutional committees – assembly (Petar Maksimović) and senate (Nikola Pašić) – and additionally utilizing the great speed with which decisions on the new constitution were being made, they succeeded – with an insertion and a few omitted sentences in the relevant articles of the constitution – in fundamentally altering the electoral system prescribed by the 1888 con-

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above. But the historiographical literature is as a rule uncritical in its judgment of these constitutions, or rather in particular of those of 1888 and 1903. For example, the latter is cited as a constitution that established the superiority of the assembly over the king (M-H Coppa), and ‘introduced British parliamentarism’ and ‘recognised general male suffrage’ (Coppa, *op.cit.* p.452; D. Đorđević, *Ogledi*, p.126; M. Protić, *op.cit.*, pp 99–100).

379 See Art.65 of the 1901 constitution.

380 See on this Živojin Hadžić, *Parliamentary proceedings*, emergency session of 1906, 11.7.1906, p.147.

stitution and suspending in reality, albeit not nominally, the system of proportional representation.

According to both the 1903 and the 1888 constitutions, deputies are in principle elected in accordance with the system of proportional representation. Votes are cast for electoral lists containing the same number of candidates as the number of deputies to be elected by an electoral unit. The electoral units are 17 districts, in each of which 4,500 taxpayers elect one deputy, or two if in the given district the surplus number of taxpayers exceeds 3,000; and 24 towns as listed in the constitution, with Belgrade electing four deputies, Niš and Kragujevac two apiece, and the rest one each. With the exception of towns electing one deputy, to which a two-round first-past-the-post system applies, seats are distributed in accordance with a largest remainder system, by means of a quotient calculated by dividing the total number of voters by the number of deputies elected in the given electoral body (Hare's [Single Transferable Vote] system). The number of seats won by each list is equal to the number of multiples of the quotient contained in the votes cast for it. If after this some seats remain unallocated, they are added in order to lists with remaining votes closest to the quotient.<sup>381</sup> Lists are strictly bound, and seats are distributed begin-

381. As noted by Vasa Jovanović, the electoral system adopted in the 1888 constitution was 'one of many nameless systems' and cannot be identified with Hare's system, given that in the latter the voter himself decides the order of candidates on the list. According to Jovanović, 'our system' was presented for the first time in the journal *Moniteur*. Vasa Jovanović, *O biračkom pravu. Konferencija održana u klubu beogradskih radikala 23.X.1919*, Belgrade 1920, pp. 24–5. The only thing that these systems have in common is the way the quotient is calculated, which is why the Serbian system is called Hare's system in the Serbian literature. M. Popović, *Poreklo i postanak*, p.112. Following the adoption of the 1888 constitution and before the electoral law was passed, the constitutional committee sent its 'special envoys' – Milan Milovanović, Živan Živanović, Andrija Đorđević and Jovan Djaja – to Denmark, Belgium, France and Greece 'to study in depth the electoral system in countries with a similar or identical one to the electoral system adopted by the new constitution'. *Branič*, vol.3/1889, p.63. However, judging by the report submitted by J. Djaja and A. Đorđević, who were sent to Greece, the 'envoys' spent more time studying ways of ensuring the correctness of the electoral exercise, and especially

ning with the candidate at the top of the list and then in order, until the number of its seats is complete. So the voters cannot influence the priority among the candidates on a list, which means that it is parties rather than individuals that are being chosen.<sup>382</sup>

The proportional nature of the electoral system was already infringed in several ways under the 1888 constitution. First, in towns electing one deputy, of which there were 21 according to the constitution, a two-round first-past-the-post system was used. Secondly, qualified candidates, two per district, were elected separately. As a result, the number of seats in each electoral district, which in any case was relatively small (7 on average), on calculating the electoral quotient for the remaining deputies was reduced by two – the number of qualified deputies. Thus the distribution of seats, though based on proportional representation, was conducted within small groups of deputies (3–4 on average), which reduces in principle the

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the guarantees on the part of the police authorities for a free vote, than the system of distribution of seats, which in any case had already been regulated in detail by the constitution. *Koncept izveštaja J. Džaje i A. Dorđevića predsjedniku Ustavotvornog odbora J. Ristiću o izbornom zakonu u Grčkoj, kamo su bili poslani Ristićevom odlukom od 13.I. 1889*, ASANU, 13683.

382 See Živojin Ristić, *Izborni zakoni Srbije*, Belgrade 1935, pp. 112–13, 137; S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, 19/1921, pp. 59–60. There were instances in practice where the parties neutralised this limitation of the voters' freedom by their candidates agreeing among themselves to give a seat won in line with the order on the list to the candidate with the greater number of votes in their district. See report of the local committees of the Independent Party to Lj. Stojanović, ASANU, 12850, 12193/2.

proportionality of the list system.<sup>383</sup> Nevertheless, as we shall see, the system's degree of proportionality was very high.<sup>384</sup>

Identical up to this point to the 1888 constitution, the constitution of 1903 considerably diverged from its model in the subsequent electoral provisions. We are referring to two changes envisaged in articles 92 and 99 of the 1903 constitution. Following a proposal by the president of the constitutional committee Petar Maksimović, Art. 92, which regulated the distribution of seats, was amended with the rule that votes cast for lists that failed to reach the quotient should be added to the list with the greatest number of votes.<sup>385</sup> In this way lists without the quotient, which in principle remained without a seat under the old system too, in the new constitution also lost the possibility of winning a seat in an eventual distribution of the remaining mandates, if the number of votes they had gained came closest to the quotient. For, according to the new system of allocation of seats, the votes they had won did not remain theirs, but were given to the largest party. In line with this change, the law on the election of national deputies of 1890, or rather 1891, resuscitated in the 1903 constitution, was likewise revised, by adding a note to Art. 86 – which of itself does not

383 The basic rule in systems based on electoral lists – in other words, systems based on proportional representation – is that the greater the electoral unit, i.e. the greater the number of deputies a unit elects, the higher the degree of proportionality. Richard Rose, 'Choice in Electoral Systems: The Political and Technical Alternatives', in *Studies in Public Policy*, no.108, Glasgow 1982, p.19. Rose includes among small electoral units those which give 5–6 deputies (p. 25). Following the end of the Balkan Wars, the Socialist deputy D. Lapčević stated, in response to demands for revision of the electoral system, that his Social-Democratic Party would propose a system based on a single list for the whole country. Lapčević declared this in response to rumours that the Radical Party intended to propose an electoral system based on districts of one deputy apiece, i.e. a first-past-the-post system. *Parliamentary proceedings, 1913–1914*, 25.2.1914, p. 1037.

384 See the section 'Parties and elections'.

385 The Old Radical Petar Maksimović was president and rapporteur of the constitutional committee. On the making of this rule, see the testimony of J. Avakumović, who writes that he argued against this change believing it to be unfair. *Memoari Jovana Avakumovića*, ASANU, 9287/B, p.76.

envisage any such transfer of votes – referring it to the relevant Art. 92 of the new constitution.<sup>386</sup> Thanks to this provision, the electoral system established by the 1903 constitution is described in the Serbian literature as the worst of all proportional systems; the political opposition – above all the Progressives and Liberals, later also the Independents – saw it as ‘cynicism’, ‘sheer theft of votes’, ‘proof of the Radicals’ Jacobinism’, and judged it to be ‘foul’ and ‘immoral’.<sup>387</sup> Andra Đorđević considered the rule on the transfer of the small parties’ votes to the strongest party as one that ‘disfigured the wonderful achievement of modern constitutional law, which is the theory on representation of the minority in parliament. The provision negates the very idea of law.’<sup>388</sup> Others – such as Stojan Novaković, Stojan Ribarac, Svetomir Nikolajević – insisted that this ran against the very decision of the constituent assembly of 2 June 1903 to restore the 1888 constitution with amendments that would not question its principles.<sup>389</sup>

386 For the text of this law see *Zbornik zakona i uredaba u Kraljevini Srbiji*, vol.58 (1903), Belgrade 1905, pp. 599–649.

387 Mihajlo Petrović, *O proporcionalnom predstavnstvu*, Belgrade 1936, p.15; *Parliamentary proceedings*, emergency session of 1908, 12.7., p.124; *Nedeljni pregled*, nos. 6,10,11,15/1908; *Odjek*, no.139/8.6.1908; Velislav Vulović, ‘Povodom izbora narodnih poslanika’, *Misao*, 8/1922, pp. 454–6. Another stringent critic of the system was Ž. Perić; see introduction to Sv.M.Grebenac, *Iz srpskog ustavnog prava*, Belgrade 1910, p.13. S. Jovanović also stressed its unfairness in ‘Parlamentarna hronika’, *Arhiv za pravne i društvene nauke*, 18/1920, p. 212.

388 *Parliamentary proceedings*, 1905–1906, 18.10.1905, p. 199. Đorđević believed that this (though not only this) made revision of the constitution ‘absolutely necessary’.

389 S.Novaković and S. Ribarac, *Parliamentary proceedings*, 1905–1906, 1.12.1905, pp.832,834; S.Nikolajević, *Parliamentary proceedings*, 1905–1906, 11.10. 1905, p.97. Many Old Radical deputies recognised that this was a ‘radical change’, and that it was ‘the basic principle of the constitutional change of 1903’. Unlike the representatives of the minority, they naturally approved of this basic change, finding its legitimacy in the fact that in 1888 the system of proportional representation had been imposed on the Radical Party. See, for example, Ilija Ilić, *Parliamentary proceedings*, 1909–1910, 12.5. and 15.5. 1910, pp.2986, 3135–6.

The authors of this innovation, the Old Radicals, rejected all these objections, arguing that the representatives of the minority had agreed to it in the constituent assembly, and that the debate on this issue had 'ended in agreement and unanimity', which was in fact true: during the discussion of the details, no one in the assembly or senate had made any criticisms of the read Art. 92.<sup>390</sup> However, the leader of the Liberals, Ribarac, asserted that before the opening of parliament on 1 June there was a 'conference of the assembly and the senate' at which a commission was elected with the task of revising the 1888 constitution. According to Ribarac, the commission did so during the night of 1 to 2 June, on which occasion the constitutional provision on the distribution of seats was 'not even brought up'. The formal constitutional proposal was made 'on the next day', when the senate and the assembly appointed a committee to study the proposal, but 'no account was given ... of what the commission had done during the night'. This is how the new constitution with the new electoral law emerged', argued Ribarac, thus revealing the attempt to decide the constitutional issue before parliament was convened, but without explaining why there were no reactions in the constituent assembly to the proposed wording of Art. 92 of the new constitution.<sup>391</sup>

The other change that the 1903 constitution introduced in the sphere of the electoral system dealt with the choice of qualified deputies, regulated by Article 99 of the constitution. Whereas the first paragraph of the corresponding Art. 100 of the 1888 constitution had prescribed that, in each district, two of the *elected* deputies had to have special, constitutionally defined qualifications, the first paragraph of Art. 99 of the 1903 constitution stated only that 'every *list of candidates* in an electoral district must contain two individuals' who in addition to general conditions have to satisfy also special ones, namely to be graduates of a university or equivalent

390 Ljuba Jovanović, *Parliamentary proceedings, 1909–1910*, 12.5. 1910, p.2993; *O izboru kralja*, pp.61,152. Novaković and Nikolajević, it is true, had not attended the constituent assembly, but Đorđević had done so.

391 *Parliamentary proceedings, 1905–1906*, 1.12.1905, p. 834.

high school' (italics, O.P.).<sup>392</sup> The last paragraph of the 1888 constitution, which had stipulated that qualified candidates were to be elected in the same way as ordinary ones but separately from them, was simultaneously deleted; in other words, the paragraph envisaging a quotient also for the election of qualified candidates – one calculated in the same way but separately for each of the two types of candidate – was deleted. However, by contrast with the provision for adding votes in Art. 92, these innovations were ignored during the harmonisation of the electoral law with the new constitution, and the legal provisions dealing with separate calculation of the quotient for the election of qualified deputies remained intact.<sup>393</sup> Article 99 of the new constitution was thus interpreted as if its text had undergone no change in relation to Art.100 of the 1888 constitution. It should be noted that this was done by the government itself, without the assembly, because the electoral law of 1890 was not restored in a regular, legal manner, but administratively, by having it published in the official *Srpske novine* [Serbian Journal].<sup>394</sup>

This caused many lengthy debates on whether retention of the double quotient was constitutional or not. It was a question of how to interpret Art. 99 of the 1903 constitution: whether omission of the last paragraph of Art. 100 of the 1888 constitution in the constitution of 1903 meant opting for a single quotient, or whether the reasons for deleting the given paragraph were of a different nature; whether the change in the first paragraph of the contested article was proof that the constitution makers had dropped the compulsory election of qualified deputies – which is why by deleting the

392 The first paragraph of Art. 99 of the 1903 constitution states: 'On every candidate list of an electoral district there must be two persons who, in addition to the other constitutional conditions common to all deputies, must fulfill also this special condition...'. The first paragraph of the 1888 constitution differed only in the following: instead of 'on every candidate list' it read 'among the deputies'.

393 In order to secure the election of qualified deputies, the lists were divided into two parts, leading to de facto parallel elections: for ordinary and for qualified deputies.

394 Ž. Ristić, *op.cit.*, p.5.

last paragraph they introduced a single quotient, thus making the election of qualified deputies depend upon their place on the lists and upon the number of votes that the lists won – or whether the revised text of the first paragraph was unconnected with the deletion of the last one and in no way called into question the compulsory election of qualified deputies in the new constitution too.

This was one of the most contested legal-political issues in this period, because not only did the fate of the highly unpopular institution of qualified deputies depend upon its outcome, but so too did the size of the electoral quota, hence the degree of proportionality of the electoral system. For the calculation of a single quotient lowered the electoral quota, and increased the chances of the small parties to reach it. This was true not only in regard to ordinary, but also and especially qualified, deputies. With retention of the double quotient, which for their election would always be one half plus one, they could never be elected on the small parties' lists. In short, opting for or against a single quotient meant in fact opting for or against proportionality, which assumed also a corresponding manner of solving one of the most important questions of the parliamentary system of government: the question of forming a government. In addition, the interpretation of Art. 90 opened up also the question of survival of the institution of qualified deputies, which was viewed as a substitute for a second parliamentary chamber. As we shall see, this latter further complicated the conflict over interpretation, and further underlined its politicised nature.

Due to the political implications of these issues, and given that the electoral system could not be changed by legislation, the interpretation of this constitutional article acquired great importance in Serbian political life. This lasted in the main up to 1910, when amendments to the electoral law were adopted which, despite the existence of a strong current in favour of a single quotient and the widespread belief that the double quotient was



unconstitutional, confirmed the status quo and largely removed the issue from the political agenda.<sup>395</sup>

Three different interpretations were to be found among the various opinions expressed in regard to Art. 99. According to one of these, the constitution prescribed the obligatory election of qualified deputies and two quotients; according to another, the constitution retained only obligatory election, but not the double quotient; according to yet another, the constitution adopted only obligatory candidacy, but not obligatory election of qualified candidates, and consequently prescribed a single quotient.

One of the most ardent advocates of the first view was Milan Marković, whose treatise *One or Two Quotients?*, published on the eve of the elections of 8 September 1903, was among the first to place this issue before scholarly or expert circles. Referring to views already heard in the constituent assembly, that the constitution was undecided in regard to the quotient, Marković firmly rejected these as erroneous and concluded as follows: the constitution does not speak about the number of quotients, but about how to calculate the quotient. Given, however, that Art. 99 prescribed that each electoral district had to elect also two qualified candidates, and that the quotient furthermore was determined by the number of deputies, it was clear that according to the constitution there were two quotients, as the electoral law expressly stated.<sup>396</sup>

Marković thus interpreted the first paragraph of Art. 99 as prescribing the obligation of actual election, and concluded from it that this assumed a separate quotient for the election of qualified deputies. Since he did not offer any explanation for this, it remains unclear why Marković felt able to interpret as obligatory election a formulation that speaks unambiguously only about obligatory candidacy.

395 See Law on the Election of National Deputies, *Prečišćeni zbornik, henceforth 1910 election law*, pp. 33–58.

396 M. Marković, 'Jedan ili dva količnika?', *Glas prava, sudstva i administracije*, II/1903, pp. 817–18.

Slobodan Jovanović argued in similar vein, but with an explanation. In his textbook *Constitutional Law*, he stated the view that the last paragraph of Art. 100 of the 1888 constitution was removed in order to make the constitution fully consonant with the electoral law. For under the 1888 constitution, Jovanović argued, the rule on the separate election of qualified deputies was frequently interpreted as an obligation to cast two balls, and there were even demands in this regard that the electoral law prescribing that only one ball be cast should be changed. In order to avoid further disputes over the number of balls, the 1903 constitution makers deleted the paragraph on separate voting from the relevant article of the 1888 constitution, thus aligning the new constitution with the electoral law.<sup>397</sup> Jovanović backs his interpretation of Art. 99 of the constitution with the assertion that the assembly did not accept the argument in favour of a single quotient, which some members of the electoral committees put forward in connection with the elections held in September 1903.<sup>398</sup> The assembly did not do so, Jovanović explained, because it took the view that two quotients were 'evidently assumed', since otherwise it would not be possible to ensure the election of qualified deputies.<sup>399</sup> Jovanović's explanation does not contain explicit support for or rejection of obligatory election or a single quotient; but it is clear from his interpretation of the motives that led the 1903 constitution makers to erase the last paragraph of the relevant article that he viewed obligatory election as given. This is confirmed by his subsequent account, given in 1913 when explaining the assembly's decision in 1910 to retain the double quotient when passing amendments to the electoral law. According to Jovanović, the assembly was unable on that occasion to find 'anything that would better agree with the constitution than two quotients.' When asked whether two quotients were in agreement with the

397 S. Jovanović, *Ustavno pravo*, pp. 83–4. Jovanović himself advocated voting with two balls, believing that in this way the provision on separate voting would be realised and the election of qualified candidates secured.

398 See on this the report of the committee for scrutinizing deputies' credentials in *Parliamentary proceedings*, emergency session of 1903, 20.9., p. 3 ff.

399 *Ustavno pravo*, pp. 90–91.

constitution, Jovanović gave a positive answer, which he reached by a historical interpretation of the institution of qualified deputies. Starting from the undeniable decision of the 1888 constitution makers to make election of the latter compulsory, as well as from the fact that the provisional electoral law of 1889 prescribed even casting two balls, he concluded that 'one can say for certain' that the decision in favour of having the qualified candidates separately elected had been a constant 'since the very first draft of the existing constitution.'<sup>400</sup> He repeated in this regard as a 'perfectly possible supposition' that the 'true intention' of the 1903 constituent assembly in removing the last paragraph of the contested article was 'not to do away with two quotients, but to do away with two balls.'<sup>401</sup>

Jovanović's explanation is questionable for several reasons. First, it deals with only one part of the argument offered by the opposing view: the one referring to the fact that Art. 99 omits the last paragraph of the corresponding article of the 1888 constitution, which prescribes the separate election of qualified deputies. Just like the aforementioned Marković, he says nothing about the second alteration of the disputed article, contained in its first paragraph, which speaks not about obligatory election but about obligatory candidacy. Yet it was this that explains the removal of the last paragraph of Art. 100 of the 1888 constitution, thus making superfluous any further search for the reasons for this measure outside the text of the 1903 constitution itself.

Secondly, the hierarchy of normative acts assumes harmonisation of laws with the constitution, not the other way round, and it is not clear why the constituent assembly, however much it behaved like a sovereign body, failed in this concrete case to take into account this rule when, instead of removing the whole paragraph and thus creating a new source of conflict, it

400 On the dilemmas during the drafting of Art.100 of the 1888 constitution and the corresponding article of the electoral law in the period 1889–1890, and linked to this how to understand the rule on 'separate voting' and the arguments for and against two balls, see at length Mihailo Ilić, 'Kvalifikovani poslanici', *Misao*, 14/1924, pp. 385–9.

401 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, 15/1913, 57–63.

could have specified in a few words the number of balls already prescribed by law, thereby removing any dilemma in this regard.

Furthermore, Jovanović's interpretation of the motive or 'true intention' of the constituent assembly in making this change is in direct contradiction with the interpretation of Art. 99 of the constitution provided by the president and rapporteur of the assembly's constitutional committee, Petar Maksimović. Responding to the complaints of some Radical deputies who were unhappy that the new regime had also retained the institution of qualified deputies, Maksimović replied that, by contrast with the 1888 constitution, election of qualified deputies was not compulsory under the new constitution.<sup>402</sup>

Finally, the assertion that the assembly of 1903, convened after the first elections under the new regime, believed that two quotients were 'evidently assumed' is quite untenable. During the debate on the report of the credentials committee, numerous speakers advocated a single quotient.<sup>403</sup>

402 Maksimović was explicit: 'It says here that two persons must be qualified, but not that they have to be elected.' *O izboru kralja*, pp.33, 63–5. The Independent Party deputy Milan Arsenijević, one of the few deputies who raised the issue of the principle on retaining the institution of qualified deputies, referred subsequently, in a discussion of the report of the credentials committee after the 1903 elections, to this interpretation of Art. 99 on the part of the rapporteurs and 'some honourable deputies'. *Parliamentary proceedings*, emergency session of 1903, 20.9. 1903, p. 17. It may be relevant to note here that the constitution of 1901 likewise envisaged the obligatory candidacy only of qualified deputies. This particular constitution insisted that, among the candidates placed on a district list, only one had to have special qualifications. Art. 65 of the 1901 constitution.

403 All the Liberal deputies and the occasional Progressive were in favour, but not a single Old Radical. The Progressives had only one deputy in this assembly, Stojan Novaković, who remained silent. The Liberal deputy Dimitrije Mašić asked, for example: 'whence comes the idea found among the district election committees to separate the quotient for qualified deputies? The constitution is so clear that even schoolchildren could understand it.' *Parliamentary proceedings*, emergency session of 1903, 20.9.1903, pp. 3–19. This issue was disputed among the assembly deputies, and even among members of the credentials committee, not only during the first but also in later elections. See, for example, the report of the credentials committee after the elections

In addition, the interpretation of Art. 99 as favouring double quotients was contested by the government too in this assembly, soon after the election. This was done at the end of 1903 by the interior minister Stojan Protić, who submitted a proposal for changes to the electoral law on the grounds that it should be harmonised with the constitution; demanding a single quotient, he put forward the view that the 1903 constitution makers had probably intended 'to remove the special provisions for the election of qualified candidates.' Professing the belief that it was 'inopportune' to 'encourage division between the intelligentsia and the people', and thereby declaring himself implicitly against qualified deputies, he argued that a separate quotient was not justifiable also because it was 'so large that the opposition would never be able to reach it'. At this time the state council too held the view that the electoral law was not in accordance with the constitution; in its opinion on the proposed law – given to the assembly on 10.12.1913 – it stated categorically that in regard to qualified candidates Art. 99 of the 1903 constitution 'demands only their candidacy, not their election', which was why 'the provision of Art. 100 of the 1888 constitution on the separate election of qualified candidates was abolished. It was necessary, therefore, necessary to harmonise the electoral law elections ... with the aforementioned constitutional changes.'<sup>404</sup> The debate on Protić's draft bill was not completed during that particular parliamentary term, and when changes to the electoral law were once again placed on the assembly's agenda in 1909, Protić as we shall see advocated the opposite view – not dealing with the legal aspect of the issue, which did not then interest him, but openly defending his party's interests.

Marković and Jovanović were not alone in interpreting the first paragraph of Art. 99 of the constitution in the sense of obligatory election

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of 1905. *Parliamentary proceedings*, emergency session of 1905, 25.7.1905.

404 The elections were held on 8.9.1903. Protić sent the draft law on amendments to the electoral law to the state council on 13.11.1903. The state council, in order to ensure at least 'the likelihood of election', proposed that qualified candidates be placed in the second and third places on the district list. *Parliamentary proceedings*, 1903–1904, pp. 378–9.

of qualified deputies.<sup>405</sup> On the contrary, this was done also by the most prominent known advocates of the view that the double quotient was , including in particular Živojin Perić and Svetozar Grebenac.<sup>406</sup> As political supporters of the minority, they saw in the single quotient a way of neutralising to some extent the system's lack of proportionality, which greatly favoured the strongest party. However, apart from an evident party interest, their position on this issue was backed up also by legal arguments. The formulation of Art. 99 of the new constitution really did not offer grounds for deriving the double quotient from the constitution makers' intention, nor was this view supported by interventions in the constituent assembly. Attacking the double quotient, they argued rightly that the new constitution had introduced 'a new proportional system'. According to the old system, in other words, the high, double quotient had neutralised the advantage for small parties that the largest remainder system provided; in the new

405 Mihailo Ilić, who wrote about this after the First World War, fully agreed with Jovanović's interpretation, which he treated as authoritative. 'All those who thought that the disappearance of the provision for separate elections meant also the disappearance of two quotients took as their starting point the fact that this provision had established their existence.' That, however, 'was not so ... because the two quotients derive from the constitution independently of the provision for separate elections.', Ilić argued. Like S. Jovanović, he too sought to explain this issue by historical reasons, and like him he referred only to the deletion of the last paragraph of the disputed article, but not to the changes in its first paragraph. M. Ilić, *op.cit.*, especially pp. 389–90. Given their identical arguments, all criticism directed at Jovanović's explanation applies also to that of Ilić. It should be said, nevertheless, that when explaining the question of qualified deputies in Serbia in this way, Ilić was not expressing his own views in principle on this institution. Writing on whether qualified deputies should have a place in the constitution of the Kingdom of Serbs, Croats and Slovenes, he concluded that this would run against the principle of equality before the law and the principle of electoral freedom. *Ibid.*, p.396.

406 S. Grebenac, 'Izmene u izbornom zakonu', *Nedeljni pregled*, 37/ 11.10.1909, p. 547 and 9/1.11.1909, pp. 580–81; S. Grebenac, *Iz srpskog ustavnog prava*, Belgrade 1910, pp. 48–9; Živojin Perić in his introduction to Grebenac's book, p. 13; Nikola Isailović, *Nedeljni pregled*, 12/1908, pp. 202–4. See also the debate on the electoral law amendments in the assembly in May and June 1910, during which Andra Đorđević, among others, argued in favour of a single quotient and retention of the obligatory election of qualified deputies.

system, meanwhile, the lower, single quotient neutralised the provision for transferring the votes of small parties to the largest one.<sup>407</sup> This is why the new constitution removed the last paragraph of the contested article demanding separate election of the qualified deputies.

However, the nature of the double quotient derived even more convincingly from the formulation of the first paragraph of the disputed article of the new constitution than from the fact that the provision on separate elections had been removed. For, in contrast to the 1888 constitution, the paragraph in question did not provide for obligatory election of the qualified deputies, but merely for their obligatory candidacy. Nevertheless, the above-mentioned group of scholars, supported by all the politicians of the Progressive and Liberal parties, firmly held to the view that election of the qualified deputies was obligatory according to the new constitution too. They saw a way to ensure this with a single quotient in placing candidates with special qualifications at the head of the electoral lists,<sup>408</sup> which – given the order of distribution of parliamentary seats within a single list – worked against candidates lacking such qualifications.<sup>409</sup>

Why did the 1903 constitution makers, insofar as they wished to retain obligatory election of the qualified candidates, opt for the aforementioned change to the text of the disputed article, rather than remove its last paragraph while leaving the first unaltered? What was the actual meaning and reason behind the changed text, and how was it possible to overlook the evident logical compatibility between the altered text of the first and the

407 S. Grebenac, 'Izmene u izbornom zakonu', *Nedeljni pregled*, 37/11.10.1909, p. 547. See also *Nedeljni pregled*, 6/21.2.1910, p. 83.

408 S. Grebenac, 'Izmene u izbornom zakonu', *Nedeljni pregled*, 37/11.10.1909, p. 547, and 39/1.9. 1909, pp. 580–81. Also Grebenac, *Iz srpskog ustavnog prava*, pp. 48–9; Ž. Perić in the introduction to Grebenac's study, p.13. This was the view also of the state council, when in 1909 it submitted to the assembly its view on the proposal to amend the electoral law, contrary to that of the state council in 1903. *Parliamentary proceedings, 1909–1910*, I, 23.10.1909, p.239.

409 This was one of the arguments put forward by S. Protić against this system in 1910. *Parliamentary proceedings, 1909–1910*, 17.5.1910, p.3144.

removal of the last paragraph of Article 100 of the 1888 constitution? None of the above-mentioned writers tried to answer these questions.

Advocating an electoral system which, in addition to protecting minority parties, would also ensure representation of the intelligentsia as a substitute for a second chamber – something that they all wished to see – supporters of the argument for obligatory election of the qualified deputies relied on political rather than legal arguments.<sup>410</sup> One of the most active of them, Svetozar Grebenac, went so far as to conclude that ‘the constitution evidently values the qualified deputies more highly.’<sup>411</sup> In sum, the position of this group of experts and politicians only partly agreed with the constitution, and was guided as much by political interests as that which denied that the new constitution changed anything with respect to election of the qualified deputies.

Following an initial and very brief commitment to solve this issue at the level of the constitution, the Old Radical majority, as indicated above, itself became the guardian of the institution of qualified deputies, or rather of their obligatory election. Their primary reasons, however, were quite different from those that guided the minority. What the Old Radicals wanted was retention of the double quotient, which was naturally impossible without the qualified deputies.

The pro-Radical electoral body did not favour the institution of qualified deputies, and one might often hear condemnation in the assembly of its retention by the new regime, especially in the first years after the coup. When explaining his proposal for harmonising the electoral law

410 Endorsing the interpretation of the constitution in favour of the obligatory election of qualified deputies, Ž. Perić explicitly gave as his reason the need ‘to alleviate the damaging consequences of the absence of a senate’. He went so far as to conclude from the provisions on the legislative function of the state council that the constitution-makers had shown ‘a lack of confidence’ in a single-chamber legislative body, and that it was logical, therefore, that it should seek to compensate for the absence of a second chamber by way of the election of qualified deputies. Introduction to S. Grebenac’s study quoted above, p. 19.

411 *Nedeljni pregljed*, 39/1.10.1909, p. 576.



with the constitution, Protić put forward in addition to legal reasons also a political rationale against separating the intelligentsia from the population, which conformed to his party's mood. The lowering of the electoral quota brought about by the single quotient went against the interests of his party; but for Protić this was an acceptable sacrifice, because the unity broken in 1901 had just been restored within the Radical Party. With the support of three quarters of the electoral body, the Radicals were in a position to accept a lower quotient without undue fear that this would endanger their numerical majority; while, at the same time, by suspending 'the division between the intelligentsia and the people' – in Protić's words – they increased their political credibility among the broad mass of the electorate. In the meantime, however, the party had split irrevocably; and Protić's Old Radicals, faced with the problem of securing a parliamentary majority, became even more committed to a first-past-the-post system.<sup>412</sup> Consequently, instead of abolishing the institution of qualified deputies, they accorded priority to a higher electoral quota, which in turn could be secured only with the double quotient, hence with the retention of obligatory election of the qualified deputies.<sup>413</sup>

That it was the quotient rather than obligatory election which most concerned the Old Radicals was proved on the occasion of the adoption of amendments to the electoral law of 1909–1910. The Old Radical interior minister in the Radical-Independent coalition government, Ljuba Jovanović, submitted a draft bill to the assembly designed to harmonise

412 See on this the section 'Parties and Elections'.

413 According to some contemporary political analyses, the change in the Old Radicals' position on the issue of the election of qualified deputies had an additional reason. According to these sources, the resistance displayed by the broad electoral masses towards the intelligentsia meant that the Radicals had problems with lists headed by party leaders, as a result of which they – possessing as a rule all the necessary qualifications – could be sure of entering parliament only as qualified deputies. *Srbija*, no.16/11.6.1905. But while there are some indications of this being the case, the electoral practice does not confirm that the Radicals had particular problems with lists headed by party leaders.

the electoral law with the constitution. The bill occupied a mid point between the political interests of the largest party, on the one hand, and of the other parties on the other. The minority parties were to be satisfied first by the fact that the quotient for ordinary deputies was to be calculated by dividing the total number of votes by the number of all deputies elected in a given district; secondly by the fact that election of the qualified deputies was guaranteed. The Old Radicals were to be satisfied by having the qualified deputies elected in the same way as under the old law, which meant that either both would be on the list with a half plus one of the total number of votes in the district or, if no such list existed, on the two strongest lists.<sup>414</sup> So far as the constitutionality of the electoral law is concerned, nothing would be gained by this, since in this proposal too the quotient *de facto* remained dual.<sup>415</sup>

414 See articles 86 and 87 of Lj. Jovanović's draft bill in *Parliamentary Proceedings*, 1910–1910, 29.10.1909, p.249.

415 The existing literature wrongly suggests that Jovanović's proposal envisaged the calculation of one and the same quotient for the election of both kinds of deputies. (Ž. Ristić, *ibid.*, pp. 142–3). This is probably due to the fact that both the minister and the majority of participants in the debate, each for their own reasons, interpreted the proposal as introducing a single quotient. The minister did so wishing to present his proposal as conforming to the constitution, which prescribed only one quotient. So did the minority, which supported the minister's proposal, aware that this was as far as one could go in the direction of proportionality. Finally, the opponents of the minister's proposal, those who defended the double quotient because they wished to keep the high electoral quota, rather than criticising Jovanović's proposal because it lowered the quota for ordinary deputies, opted for an approach that seemed to them more 'principled', and insisted that the proposal was unconstitutional because it envisaged a single quotient. The actual drafting of the proposed changes was confused and illogical. On the one hand, the text spoke of calculating the quotient 'in the same way' (Art. 86 of the proposal), and on the other it prescribed the election of qualified deputies (they were obtained by a list with half the votes plus one, i.e. by the two strongest lists), which was identical to that provided for by the old electoral law (Article 87 of the proposal). The proposal was quite clear, however, in that the distribution of non-parliamentary seats was not carried out with the same quotient for ordinary and qualified deputies.

Nevertheless, a large number of opposition deputies – as well as some government deputies, those belonging to the Independent Radical Party – were ready to accept this proposal. But the Old Radical leaders themselves – who on this matter were guided by the finance minister S. Protić – were not in favour of their own minister’s bill, even though it guaranteed election of the qualified deputies on the basis of a quotient that only the largest party could achieve. They insisted on retention of the existing legal provision, and the assembly majority, together with the assembly committee, lined up behind them and voted down Jovanović’s draft law.<sup>416</sup> Declaring that the government was not united on this issue, Protić – noting that he had in the meantime, since 1903, changed his view – justified his position in purely political terms. The party ideologue Protić, recalling that in 1888 ‘King Milan had forced’ the proportional system upon the Radical Party, stressed the importance of the first-past-the-post system for governmental stability, which in his view was possible only with a homogeneous government. Quoting the example of Great Britain, he insisted that the interest of stable government had to come before the need to protect the minority. Protić agreed with the objection of the opposition deputies that ‘half plus one means all, and less than half minus one nothing’, but argued that ‘it was a lesser evil than bringing the majority into question.’ ‘What the present constitution gives to the minority is not merely enough, it is too much ... the qualified deputies should continue to enter the assembly in

416 The government’s proposal was voted down on 18.5.1910. The leaders of the Independent Party, then in a coalition government with the Old Radicals – Lj. Stojanović, Lj. Davidović and Dragutin Pečić – voted for Lj. Jovanović’s proposal. The rest were absent. *Parliamentary proceedings, 1909–1910*, p. 3150. Given that an appropriate solution of the question of qualified deputies was the most important motive for submitting the draft law, the rejection of the minister’s proposal was a vote of non-confidence. Jovanović, nevertheless, declared that he would not make an issue of it and kept his ministerial seat, provoking sharp protests from the opposition for his openly un-parliamentary behaviour. *Ibid.*, 3. 6. 1910, pp 3379–82. See also the section ‘The Period of Monism’, pp. 382–3.

the same way as before,' concluded Protić, thus removing this issue from the agenda.<sup>417</sup>

The third view, according to which the new constitution did not demand obligatory election but only obligatory candidacy of qualified deputies, and accordingly prescribed only a single quotient – something that in our view was indisputable – had a very small, practically negligible number of supporters.<sup>418</sup> This interpretation acquired a certain political importance very briefly when Protić, as minister of the interior, submitted in 1903 the aforementioned draft law, which the state council upheld with its expert opinion. Subsequent sporadic interventions on behalf of this view in the assembly exerted little serious influence.<sup>419</sup>

Nevertheless, few contested the fact that the electoral law contradicted the constitution, Slobodan Jovanović and Milan Marković being pretty isolated in this regard. But those who proposed that it be changed cared as little for constitutionality as those who insisted that the existing law be kept. This does not mean, of course, that proposals to dispense with the double quotient, and to place candidates with special qualifications at the top of the lists, were, merely that proposals without any such provision would be equally constitutional. The constitution makers evidently left this issue to the legislators, forbidding them only to regulate election of the qualified deputies by introducing a separate quotient. Thus if the aforementioned proposals were in themselves constitutional, the explanation whereby they were motivated – obligatory election as a constitutional demand – involved a wrong interpretation of the constitution,

417 *Parliamentary proceedings*, 1909–1910, 11.5.1910, p. 2987 and 17.5.1910, pp 3145–6. The electoral law was not changed again, but the Old Radicals continued to stress the advantages of a purely first-past-the-post electoral system. They remained opposed to proportional representation also after the war. V. Vulović, *Povodom zakona o izborima narodnih poslanika*, p.379.

418 This interpretation of Art. 99 was adopted also by Ž.Ristić, *op.cit.*, p. 142.

419 See, for example, the Liberal Milan Marković, *Parliamentary proceedings*, 1909–1910, 11.5.1910, pp. 2981–2.

and strengthened the position of those who insisted that the double quotient be retained.<sup>420</sup>

For the dispute was not of a legal, but of a purely political nature. It was a matter of the degree of proportionality of the system of distribution of seats, in other words of representation of the minority. This is why Stojan Protić stood on solid ground when, rejecting the draft law of a government of which he himself was a member, he told his opponents: 'If you want one quotient, then you must accept also the consequences.' – having in mind here abandonment of the demand that election of the qualified deputies be made obligatory.<sup>421</sup> Unlike his political opponents, he did not hide the fact that he was defending the double quotient for party-political reasons rather than in order to protect constitutionality, which he openly ignored. The difference between him and his opponents was that his party-political interest was in reality of greater weight.

In this way the consolidation of the new regime brought the principle of constitutionality into question also at the legislative level. The explicit constitutional ruling (Art. 202) that the revived electoral law of 1890 had to be brought in line with the constitution of 1903 was not followed, and a new law – one contradicting it – was passed together with the new constitution. At the same time – having accepted one constitutional novelty and tacitly overlooking another – this law devalued the principle of proportional representation that the 1903 constitution had already adopted, albeit less consistently than the constitution of 1888. For the 1903 constitution – as would be proved in practice – adopted a system of distribution of seats that involved a lower degree of proportionality than the exceptionally high one prescribed in the 1888 constitution, yet

420 This is illustrated by the argument that S. Jovanović used to justify the parliamentary majority's decision in 1910 to keep the double quotient. Despite the strong arguments in favour of a single quotient, the assembly, Jovanović explained, had decided to keep the double quotient because it was shown that this was more in keeping with the constitutional provision on obligatory election of qualified deputies. 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, 15/1913, pp. 57–63.

421 *Parliamentary proceedings*, 1909–1910, 17.5. 1910, p. 3144.

considerably higher than the one prescribed by electoral law after 1903. The Old Radicals started with the premise, however, that the 1903 constitution 'says nothing about representation of the minority, because it sought to protect the majority, so that the assembly would not divide into many fractions.'<sup>422</sup> They rebutted the opposition's argument that such an interpretation of the constitution had to be wrong, if only because of the constituent assembly's decision that the new constitution would not contradict the principles of the 1888 constitution, by recalling that the system of proportionality was introduced into Serbia against the will of the Radical Party. It was included in the 1888 constitution 'not by the wish of the democrats', argued Protić, 'but by the wish of the monarch and of the then minority ... in order to fragment, divide, bring down and destroy the Radical majority.'<sup>423</sup> The Radicals were not impressed by evocation of the 1888 constitution: that constitution had been twice imposed on them – albeit in 1903, by contrast with 1888, not 'from cover to cover.' So they considered it quite legitimate, following 29 May 1903 when 'the then minority' of which Protić had spoken lost political power, that they should be able to interpret it in accordance with their own political interests.

In 1903, therefore, an electoral system that had been hailed as one of the most proportional, in other words most just, was replaced by an electoral system of very low proportionality that favoured the largest party.<sup>424</sup> Bearing in mind the great – and according to some writers even constitutive – importance of the electoral system for articulating the type of parliamentary system,<sup>425</sup> one may freely say that the legal assumptions of parliamentary government were not the same under the 1888 and 1903 constitutions.<sup>426</sup>

422 Ilija Ilić, *Parliamentary proceedings*, 1903–1904, 25.9.1903, p. 15.

423 *Parliamentary proceedings*, 1909–1910, 17.5.1910, pp 3145–6.

424 See, for example, Slobodan Jovanović, 'Parlamentarna hronika, 181/1920, p.212', *Arhiv za pravne i društvene nauke*. Jovanović, while stressing that the electoral law of 1888 was undoubtedly more than just the system of 1903, added that 'from the point of view of mathematical exactness, it too falls behind the D'Hondt system'. See also M. Petrović, *op.cit.*, p.15.

425 According to R. Rose, the choice of a particular electoral system has constitutive importance for a regime. *Op.cit.*, pp 87–89.

426 For a different view, see M. Popović, *Borba za parlamentarni režim*, pp. 87–9.

PART TWO

# **PARLIAMENTARY PRACTICE**





## SECTION ONE

# **Parties And Elections – Structuring Of The Party System: Homogeneous Or Coalition Government**

Five general elections were held in Serbia under the 1903 constitution: on 8 September 1903, 10 July 1905, 11 June 1906, 18 May 1908, and 1 April 1912. The sixth elections, called for August 1914, were not held due to the outbreak of the First World War. None of the elected assemblies sat until the end of its legally prescribed term, hence all these elections, including that planned for 1914, were early elections.

The property census was relatively low, somewhat lower than under the 1888 and 1869 constitutions, and considerably lower than under that of 1901.<sup>427</sup> Nevertheless, the number of adult male citizens who paid insufficient tax to reach the census, albeit in slow decline, was considerable. According to the electoral statistics, it ranged from 22.4 per cent in 1903 to 17.1 per cent in 1908. According to one source, 548,167 adult men had the right to vote in the elections of 1906, but 53,278 adult men (and 552,103 women) did not.<sup>428</sup> Different data, on the other hand, were aired in the assemblies, the reliability of which is hard to establish due to inadequate statistics. For example, the deputy Dragiša Lapčević stated in 1912 that the

427 The property census for passive voting rights was 60 dinars of indirect tax under the 1901 constitution (Art. 67), and 15 dinars under the 1903 constitution (Art. 84). Under the 1888 constitution (Art. 85) the minimal amount of indirect tax required was the same as under the 1903 constitution, with the difference that under the latter the amount included also the permanent state surtax.

428 Maljenac (Dragiša Lapčević), *Opšte pravo glasa*, Belgrade 1910, p.15.

census of 15 dinars prevented 200,000 adult males from voting. Živojin Ristić cites the same number.<sup>429</sup>

Army personnel were denied both active and passive voting rights, and police officials only passive ones. The constitution also adopted the rule that state officials could not be deputies, but with significant exceptions. Acting ministers, members of the state council, the diplomatic corps, university professors, secondary and technical college teachers, engineers, doctors, pensioners and unassigned officials were allowed to keep state jobs even while serving as deputies.<sup>430</sup> The percentage of voters kept rising until 1908: from 53 per cent in the elections of 1903 to 70.1 per cent in those of 1908. In the elections of 1912 this percentage was somewhat lower than in 1908 – 68.2 per cent – but this difference should be treated with reserve: because of the different kind of sources used for electoral results before 1908 and for those of 1912, possible differences in methodology should be taken into account, as well as the exactitude and reliability of the data. This caution should be applied to all electoral statistics quoted in this work.<sup>431</sup> The level of abstention was highest in Belgrade – only 33.6 per cent of registered voters voted in 1903; 34.1 per cent in 1905; 50.9 per cent in 1906; 50.3 per cent in 1908; and 54.4 per cent in 1912.

The number of parliamentary deputies was calculated on the basis of the number of taxpayers. Thus the constitution prescribed (Art. 80) that a special state committee be established for each general election, in order

429 *Parliamentary proceedings*, emergency session of 1912, p.91. See also Ž. Ristić, *op.cit.*, p. 163.

430 See articles 86, 94, 96 and 98 of the 1903 constitution. Amendments to the electoral law adopted in 1910 specified that presidents and judges of the lowest courts could not stand for elections in the districts or towns where they served (Art.18).

431 The source for the statistical data used in this work for the elections held in the Kingdom of Serbia in 1903, 1905, 1906 and 1908 is Radul Veljović, *Statistički pregled izbora narodnih poslanika za 1903, 1905, 1906 i 1908. godinu*, Izdanje Srpske narodne skupštine, Belgrade 1910. Data published in the press are used for the elections of 1912. The most exhaustive data on these elections discovered by the author are in *Pravda*, no.162, 15.6.1914.

to determine the actual number of taxpayers and the corresponding number of deputies for each district. In practice, all elections up to 1912 had the same number of deputies – 160. It was only at the time of the 1912 elections that the number of deputies was harmonised with the number of taxpayers, and raised to 166.

All three old Serbian political parties – Radicals, Liberals and Progressives – confronted the May Coup politically weakened and internally divided. The reign of the last Obrenović, accompanied as it was by frequent coups d'état, constitutional changes and neutral, non-party governments, was undoubtedly the most important cause of this. During the last decade prior to the coup, one of the parties – the Progressives – formally ceased to exist (1897), although its leaders continued to participate in political life; another – the Liberals – was growing weaker, owing to numerous internal currents and divisions; while in the third and largest – the Radical Party – two wings emerged in 1901: the Old Radicals and the Independent Radicals.

Following the coup and the constitutional change opening the path to a parliamentary regime, organisational unity was restored among the Radicals, but not for long. At the end of 1904, the Independent Radicals formally became a separate organisation, with the formation of their own club in the assembly, headed by Ljubomir Živković; and in 1905 the new party acquired its own programme and statute.<sup>432</sup> In 1906, however, Živković left his own party and joined the Old Radicals, following which Ljubomir Stojanović was elected head of the Independent Radicals' main committee. At the beginning of 1912 Stojanović retired, with his place being taken by Ljuba Davidović. The Old Radicals continued party life under their old name, as the People's Radical Party, with their old programme from 1881 and headed by their old leader, Nikola Pašić. The inner-party conflict among the Serbian Radicals thus ended in the formation of two separate parties soon after Obrenović's removal.

432 See V. Krestić and R. Ljušić, *op.cit.*, pp. 317–30.

The other two parties also underwent important internal restructuring in the conditions of parliamentary life. The relatively small Liberal Party, led by Stojan Ribarac, in October 1904 adopted a new programme and a new name – the People’s (or National) Party. A small group headed by Vojislav Veljković, insisting on the party’s liberal-democratic character, did not accept these changes and continued to act independently. However, on the occasion of the elections called for 10.7.1905, this group was the first to call for joint participation in the elections, in order to prevent the party’s definite break-up, leaving organisational questions to be resolved later. The initiative was accepted, and it was agreed to put up joint electoral lists, but the agreement was only partly implemented.<sup>433</sup> Nevertheless, the elected deputies formed a joint club in the assembly, and in October 1904 the two sides made peace and re-united. Both groups accepted the 1904 programme and agreed that their common party would henceforth be called the National Party. Stojan Ribarac became its president and Voja Veljković his deputy. Under the new name, the former Liberals took part in all elections and political life in general as a single party. Since many continued to call themselves Liberals, and since they called themselves sometimes Populists and sometimes Nationals while stressing their continuity with the old Liberal Party, we shall continue to call the members of this party Liberals for the sake of clarity.

The Progressives, traditionally the smallest Serbian party, dissolved at the start of 1897 and began to regroup only in 1904, with the appearance in November of that year of their paper *Pravda* [Justice]. The Progressives took the decision to revive the party in May 1905, but they implemented it only in January 1906.<sup>434</sup> They thus participated in the first and second parliamentary elections – in 1903 and 1905 – as individuals, and as an organised party only from the elections of 1906 onwards. Beginning with

433 See on this *Srbija*, no 1/2, 6.1905; 4/7, 6.1905; 6/9, 6.1905; 22/29, 6.1905; 27/6, 7.1905; and 33/13, 7.1905.

434 *Srpska napredna stranka obnovljena 30.januara 1906. godine*, Belgrade 1906.

1908, the core of a new party began to form within it around the Progressive deputy Živojin Perić and his journal *Nedeljni pregled* [Weekly Survey], which organised itself finally in April 1914 under the name of Serbian Conservative Party.<sup>435</sup> This party, negligible in terms of supporters and formed practically on the eve of the First World War, was never tested in elections and left no trace in the country's political life.

During this period two newly founded parties participated in elections with varying degrees of success: the Serbian Social-Democratic Party, and the Serbian People's Peasant Accord. The former, organised in July 1903, took part in all elections and, since its supporters were concentrated in the towns, managed despite its small numbers to be represented in parliament and to exercise some influence on political life. The latter, conceived as a corporate political organisation of the peasantry – of a supra-party type – was a marginal and short-lived political phenomenon. It began to be organised in 1903 with the foundation of the Serbian Agrarian (Peasant-Agricultural) Party, but the party as such was formed only in April 1905.<sup>436</sup> According to the sources, this political party was formed on the initiative and with the support of a few conservative politicians, members and sympathisers of the still dormant Progressive Party, in order to undermine the all-powerful Radicals among the peasant masses.<sup>437</sup> The party took part in the elections of 1905, 1906 and 1908, but managed to enter parliament only in 1905.

435 See the second and only surviving issue of this party's paper *Srbija* of 20.4.1914. See also Živojin Perić, *O konzervativnoj politici*, Belgrade 1914.

436 *Pravila Srpske poljoprivredne (seljačko-zemljoradničke) stranke*, Belgrade 1903; *Jedan pogled na naš državni život za vreme poslednjih 25 godina, govor Mijalka V. Ćirića*, 27.IV.1905, Belgrade 1905, pp. 27–8; Miloslav P. Kurtović, *Pozdravna reč kojom je vođa velike Seljačke Sloge na dan 27.IV.1905. godine otvorio u gradu Ćupriji prve sednice narodom izabranog Glavnog Odbora Seljačke Sloge*, Belgrade 1905, pp. 8,14, 24–5.

437 *Memoari Vukašina Petrovića*, ASANU, 7247, vol.11, pp. 30–31; ASANU, 10139/7 and 10139/9; *Pravda*, 5/19,1.1905; *Nedeljni pregled*, no.6/1908, pp. 101–2.

# I FROM MONISM TO A SYSTEM OF PARTY PLURALISM 1903–1908

## 1. Emergence and practice of bi-partyism 1903–1906

### A. THE ELECTIONS OF 1903

The retreat of the Old Radicals before parties whose political authority had been greatly enhanced by their association with the plotters and their deed did not last long. Their greatest, but also last, concession was acceptance of the 1888 constitution, which in turn was called into question by the changes in the electoral law that they managed to include in the text of the constitution, and the failure of the new electoral law to harmonise with the constitution, as discussed above. From that moment on, the Radicals would more or less continue to gain ground against the other parties, and become – albeit gradually – ‘the main beneficiary of the new order’.<sup>438</sup>

Enjoying a majority in both chambers of the national assembly convened after the coup, the Old Radicals were not happy with the make-up of the first government, in which they were represented solely by Stojan Protić. The first opportune moment to open this issue was provided by the king’s assumption of the throne on 12 June, which was supposed to terminate the provisional government’s life. Following the latter’s resignation soon after the royal proclamation, the king appointed a new government with the same composition.<sup>439</sup> Thus the king did not form the new government from the majority in the assembly, but retained the composition created immediately after the coup under the decisive influence of the conspirators. So a few days later, on 16 June, the Old Radicals raised in

438 D. Đorđević, *Carinski rat*, p.35.

439 *Memoari Jovana Avakumovića*, pp. 83–4.

the assembly the question of the government's majority, arguing that the confidence that the national assembly had shown to the provisional government did not automatically extend to a regular one. The Independent Radicals agreed that implementation of the parliamentary principle should not be delayed. Unlike the Old Radicals, however, they were not in favour of the government's reconstruction, but called instead for an immediate dissolution of the constituent assembly and the holding of new elections, on the grounds that the national assembly had completed the work for which it had been convened. In their view, any further work with this body, convened 'by the force of events, the power of the revolution itself', would be un-parliamentary, because parliamentary government assumed the establishment of a parliamentary majority on the basis of free elections, which had not been possible under the old regime.<sup>440</sup> The government accepted this view and on 17 June, the day after this debate, the national assembly's meetings were concluded, and on 24 June the first elections under the new regime were called for 8 September 1903.

The government that announced the elections was not fated, however, also to conduct them. What the Old Radicals failed to achieve in the national assembly they managed to achieve outside it: on 2 August, a month before the elections, the king reshuffled Avakumović's government by replacing Ljuba Živković and Ljuba Stojanović with two Old Radicals, Mihailo Jovanović and Dobra Ružić, in the posts of, respectively, the ministers of justice and education. In this way the Old Radicals increased their share of the nine governmental posts from one to three, with Stojan Protić in continued occupancy of one of the most important – the ministry of the interior. This government organised the first elections.

The leaders of the two Radical factions tried to reach an agreement on the renewal of full party unity before the elections and for the sake of them. 'The division is more external and at the top', declared the Independent leader Jovan Žujović at a rally of the Independent Radicals in August 1903. It was therefore necessary, he concluded, 'that we again become one

440 Nastas Petrović and Ivan Pavićević, *O izboru kralja*, 16.6.1903, pp. 204–7

by placing ourselves under the command of old, trustworthy leaders'. The head of the Old Radicals, Pašić, adopted a similar stance at election rallies. But in the local committees the mood prevailed that one should not go into the elections together, so that in most electoral districts the two Radical parties appeared with separate lists.<sup>441</sup>

The electoral results (see Table 1) showed the clear predominance of the Radicals among Serbian voters. The Radical lists gained 74.8 per cent of votes, divided almost equally between its younger and older wings: the Old Radicals gained 38.3 per cent and the Independents 36.5 per cent of the votes. The Liberals and Progressives took practically all the remaining votes, 23.8 per cent in total, of which the great majority, 17.8 per cent, went to the Liberals and only 6% to the Progressives. The Socialists gained 1% and the remaining parties 0.4 per cent of the votes.

441 *Srpska radikalna stranka*, p. 16; Report of 21.7.1903 on a Radical rally held in Užice at which Pašić spoke, in a letter from a Radical to Lj. Stojanović, AS-ANU, 12940/1. See also ASANU, 12823 and 12825.



**TABLE 1: Results of the 1903 elections**<sup>442</sup>

1) in reality; 2) under the constitution of 1888; 3) under the single-quotient system

	<b>Party</b>	<b>Rad.</b>	<b>Ind.</b>	<b>Lib.</b>	<b>Prog.</b>	<b>Soc.</b>	<b>Other</b>
In reality	% of votes	38,3	36,5	17,8	6,0	1,0	0,4
	number of seats	75	66	17	1	1	
	% of seats	46,9	41,3	10,6	0,6	0,6	
	diff. % votes and % seats	+8,6	+4,8	-7,2	-5,4	-0,4	-0,4
Constitution of 1888	number of seats	61	61	29	5	2	2
	% of seats	38,1	38,1	18,1	3,1	1,2	1,2
	diff. % votes and % seats	-0,2	+1,6	+0,3	-2,9	+0,2	+0,8
Single-quotient	number of seats	69	65	23	2	1	
	% of seats	43,1	40,6	14,4	1,2	0,6	
	diff. % votes and % seats	+4,8	+4,1	-3,4	-4,8	-0,4	-0,4

The Radicals' great electoral success was underscored in parliament. The distribution of mandates gave them 141 out of a total of 160 seats, of which 75 went to the Old Radicals and 66 to the Independents. Of the remaining 19 seats, the Liberals took 17 and the Progressives and Socialists 1 each.

The Radical Party's unity was restored soon after the elections. The compromise was achieved by not having Pašić, who for the Independent

442 A table has been compiled for each of the elections – 1903, 1905, 1906, 1908 and 1912 – showing in a systematic form the electoral results achieved by the parties: the percentage of votes gained, the number and percentage of seats gained, and the difference (positive or negative) between the percentage of votes gained and the percentage of seats allocated. In addition, these tables give the numbers and percentages of the seats that the parties would have won under the constitution of 1888, as well as under the single-quotient system envisaged by the actual constitution. In both cases, the difference (positive and negative) is given between the percentage of votes gained and the percentage of seats that would have been won, if one or the other electoral system had been applied. Due to the rounding up of figures to the first decimal point, it is possible that the total of percentages cast for all parties may diverge – up to plus or minus 2% – from 100%. I wish to thank Dr Ivan Obradović of the Chair of Applied Mathematics, Faculty of Mining and Geology, University of Belgrade, for his help in drawing up the tables.

Radicals was the main obstacle to unity, included on the party's new main committee, and by closing down the Old Radical paper *Ustavna Srbija* [Constitutional Serbia] and the Independent Radicals' paper *Odjek* [Echo]. *Samouprava* [Self-government] became once again the organ of a united party.<sup>443</sup> The Old and Independent Radicals, having made peace and united in this way, formed a joint parliamentary club in the assembly.

Holding nearly 90 per cent of the seats, the Radicals on 21 September 1903 formed a government, headed by Sava Grujić, which faced no parliamentary opposition to speak of. At the start of the new regime, Serbia's nominally multi-party system thus turned out to be de facto single-party rule. The electoral system undoubtedly contributed to this, but the weight of the Radical Party in the electorate was so great that the strength of its parliamentary majority would not have essentially changed the relationship of forces between the government and the assembly even if the electoral law had conformed to the constitution, or equally if the electoral system contained in the 1888 constitution – with its unquestionably high level of proportionality – had been kept. The novelty introduced into the 1903 electoral system was not without significance for parliament's composition, nevertheless, primarily because it greatly damaged the Liberals and the Progressives: with nearly 24 per cent of the votes, they together gained only 11.2 per cent of the seats. If the largest remainder system had been retained, meanwhile, they would have gained nearly twice as many seats (see Table 1). Until the end of the period under consideration, these two parties were to suffer most from the existing electoral system's lack of proportionality.

The two wings of the Radical Party took pride in their electoral success, which appeared all the greater in that much of Serbian public opinion was convinced that the elections had been conducted fairly. In early July the government had sent a directive to all governmental bodies in reference to the forthcoming elections, ordering strict respect for the law, for citizens' personal security and that of their property, and especially for freedom

443 V. Kazimirović, *op.cit.*, vol.2, pp. 16–17.

of the vote. 'Since Serbia is entering the era of true constitutionalism and parliamentarism, the national assembly which is to be elected in accordance with the 1903 constitution has to be an honest and free expression of popular will, of the people's true disposition,' the rescript said.<sup>444</sup> Not only the victorious Radicals, but the Liberals too judged the elections to have complied with the proclaimed principles. The president of the first post-coup government, Jovan Avakumović, believed this to be 'an indisputable and acknowledged fact.'<sup>445</sup> The assembly too, for its part, confirmed this in its address to the king, by praising the previous government 'for doing all in its power to ensure that a truly free voice of the people be heard in the recent elections.'<sup>446</sup>

The Progressives took a very different view. On the eve of the elections, the minister of the interior, Stojan Protić, had dismissed all the existing municipal administrations, displaying particular thoroughness in removing political supporters of the Progressive Party. In Stojan Novaković's view, these dismissals meant that the assembly could not be considered 'an honest and free expression of popular will', because – thanks to the doctoring of electoral registers on the one hand and the intimidation of political opponents on the other – nearly 'half of the legitimate voters did not vote.'<sup>447</sup> The French envoy to Belgrade informed his government that Protić 'omits no possible measure to ensure his party's majority at the next elections', provoking bloody upheavals in the interior; he expressed his belief that the new constitution was too liberal for 'the level of intellectual and political consciousness in Serbia.'<sup>448</sup> The Progressives too spoke of the state of political consciousness after the May Coup as a negative factor for holding free elections in 1903, especially in regard to their supporters' freedom to speak their minds. As the only political group that distanced itself from the coup and publicly identified with the Obrenović regime, they ascribed their

444 *Zbornik zakona 1903*, pp. 791–4.

445 ASANU, 9287/V, p.93.

446 *Parliamentary proceedings*, 1903–1904, 3.10.1903, p. 71.

447 *Parliamentary proceedings*, 1903–1904, 9.1.1904, p. 1043.

448 MAE-AD, vo.3, no.78, 15.8.1903 and no. 69, 12.8.1903.

electoral defeat to the post-revolutionary political atmosphere in which opponents of the coup were treated as national enemies. Believing themselves to have been placed beyond the law, Pavle Marinković testified, many did not dare even to vote. 'It would be ironical to say that the Progressives enjoyed freedom of the vote,' he argued, in elections held under such conditions.<sup>449</sup>

Though well founded in reality and justified in principle, such criticisms could not place in doubt the fact that the vast majority of the Serbian electorate supported the Radicals, and that the Radical Party simply faced no opposition in a practical-political sense. This fact was indeed admitted even by its political adversaries. The great opponent of the Radicals and of Radicalism in general, Vukašin Petrović, stated in April 1904: 'In Serbia today there is only the Radical Party.'<sup>450</sup> In October 1905 in the assembly, Petrović's political co-thinker, Andra Đorđević, described the power of the Radical Party at the time of the coup in the following words: 'being numerically so strong and powerful, [it] was capable of effortlessly moving Avala to Višnjica at one word from its chief; all that was needed was for each member of the Radical Party to take a cupful of earth for Avala to turn into Višnjica in no time at all.'<sup>451</sup>

A few months before the coup, Miloš Milovanović had described this as the basic obstacle to the normal functioning of a parliamentary regime in Serbia. According to Milovanović: 'A fatal and rare phenomenon' obtains in Serbia, which is that 'only one powerful party did, does and will exist in Serbia for no one knows how long, against which the small groups of the other two parties have sought, and still seek, help from the state apparatus.' In Serbia, therefore, Milovanović concluded, 'there is no mechanism ensuring constitutional and parliamentary rule,' because 'there are no remotely

449 *Parliamentary proceedings*, emergency session of 1906, 11.6.1906, pp 150–51.

450 *Memoari Vukašina Petrovića*, ASANU, 7247, vol.10, p.19.

451 *Parliamentary proceedings*, 1905–1906, 18.10.1905, p. 202.

equal political parties to compete with one another, so that the state apparatus is forced to interfere in party struggles.<sup>452</sup>

While not denying the truth of this assessment, Protić replied to Milovanović that opposition would emerge in Serbia only once conditions had been secured for the proper functioning of a parliamentary regime, and no one sought to remove the Radical Party from power by force. A party loses strength when in government, which is the precondition for strengthening the opposition, was Protić's conclusion. 'Only in that way would opposition to the Radicals be able to grow naturally, without conflict or significant damage to the country', argued Protić, quoting examples from the constitutional practice of the British, Belgian and other European states.<sup>453</sup> This hypothesis of his, which appeared well founded in principle and in logic, and undoubtedly borne out by European experience, nevertheless in the light of the first election results proved quite unrealistic – or at least as something belonging to the distant future. The strength of the other parties was so insignificant that it was difficult to expect them to behave as an opposition to the Radicals in any serious practical-political sense, especially in the conditions created by the existing electoral system.

Yet Protić's prediction was realised in a way. The Radical Party's rule did indeed bring about the emergence of a true opposition. But the first and the most important act took place not outside and in opposition to the Radicals, but within its own body. The foundations of an opposition as the indispensable institutional precondition for a parliamentary system to begin to function were laid in Serbia after the May Coup, when at the end of 1904 a new political party – the Independent Radicals – emerged from within the ranks of the Radical Party itself. This was because it was only then, in the context of the relationship between the two Radical parties, that the question of the government's majority was placed on the agenda;

452 M. Milovanović, *Prestonička pisma. Dva vandredna politička pisma*, Belgrade 1903, p. 30.

453 S.M.P.(S. Protić), 'Prestonička pisma. Dva vandredna politička pisma. Napisao M. Milovanović', *Delo*, vol. 26/1903, Belgrade 1903, pp. 310–13.

and also because the disappearance from the historical scene of a party that had been hegemonic within the electorate, and its replacement by two powerful but nevertheless considerably smaller parties, raised the practical-political importance of that section of the electoral body which did not vote for the Radicals. The revitalisation of parliamentary life brought about by the division of the Radicals into two parties created much better conditions for the articulation of real political positions, i.e. for other parties to play the role of an opposition.

The government's performance was criticised in the assembly before the end of 1904, to be sure, but only feebly and surreptitiously, especially during the 1903 term, which ended on 3 July 1904. Apart from occasional interventions by the Socialist deputy and by a few Liberals – the Progressive deputy, Stojan Novaković, remained largely silent – criticising the government's policy was left to members of the ruling majority, which for its part was largely undifferentiated. Analysing the interventions made by Radical deputies in the assembly, it is impossible to deduce with certainty to which party wing they belonged without the benefit of insight into their subsequent political orientation. Depending on their own political convictions, the same deputies would sometimes attack and sometimes praise the government and its proposals, the most important of which were submitted by the interior minister, Stojan Protić. The leaders of one or the other Radical wing were divided among themselves over many issues, albeit without omitting to express from time to time their loyalty to the Radical Party as a whole and to the government. 'As a member of the Radical Party and, I might add, a disciplined member of the current majority...', was how Jaša Prodanović – a supporter of the Independent wing who would subsequently gain prominence as one of the most dogmatic proponents of complete ideological and practical-political distance from the Old Radicals – described himself at the end of December 1903.<sup>454</sup> This leader of the Independents, whose subsequent criticism of the Old Radicals would be remembered as a prominent example of political intemperance

454 *Parliamentary proceedings*, 1903–1904, 31.12.1903, p.941.

and extreme intolerance in the relationship between the two Radical parties, at this time described Stojan Protić, about to become the main target of his attacks, as 'a friend sharing the same principles, a journalist of twenty years' standing, a strong and brave fighter for freedom.'<sup>455</sup>

To be sure, while evidence of the lack of clear differences prevailed, already during the first parliamentary term there were instances that indicated the existence of an inner-party struggle, and a growing organisation of those who saw themselves as the Radical left. A most striking example of this occurred at the time of the adoption of a law on municipalities proposed by Stojan Protić. 'In the name of the Independent Radical left', declared the deputy Aleksa Nešić in December 1903, 'we will vote against', because the government's proposal was 'contrary to the Radical Party's principles'. Responding to Protić's comment that 'whence this left now comes ... I do not know', Dragutin Pečić said: 'People have a right to form a group around an issue when some matter is being decided ... When the law on the press comes up, and the law on elections, we shall ... show that a real difference does indeed exist between what he is doing' – said Pečić, with Protić in mind – 'and the theory on behalf of which the Radical Party has fought for twenty years, and show that a younger group of Radicals stands on the ground of that theory and that principle.'<sup>456</sup> At the end of the parliamentary term, on 1.3.1903, during the adoption of the budget for 1904, the difference between the Independent and Old Radical groups was even more in evidence. The former was more vocal in its criticism of the Old Radical leaders, who – as one of the prominent adherents of the Independent wing Aleksa Ratarac noted – 'have sided with the property owners' and surrendered the old party positions of 'twenty-three years ago', when Nikola Pašić argued that 'the jerkin and the sandal deserve to be master of the overall situation in the country'.<sup>457</sup>

455 *Parliamentary proceedings*, 1903–1904, 19.12.1903, p.867.

456 *Parliamentary proceedings*, 1903–1904, 16.12.1903, pp. 512–13.

457 *Parliamentary proceedings*, 1903–1904, 28.2.1904, p. 1712.

But although there was talk, already during the debate and voting on the municipalities law, that the renewed unity would not last long, and that as a result the assembly would soon be dissolved and new elections held, commitment to unity remained strong and the identity of most deputies was still overwhelmingly Radical.<sup>458</sup> The vote on Protić's draft bill on municipalities, which followed immediately after the aforementioned interventions by Aleksa Nešić and Dragutin Pečić, showed that 'the younger group of Radicals' was not united, and that furthermore its leaders were divided.<sup>459</sup> Something similar happened in January 1904 on the occasion of adoption of the press law.<sup>460</sup> It was not possible to draw a clear line of division between Radical deputies, regarding their final option for one party wing or the other, during the vote on the budget either, at the very end of the 1904 session. Some deputies who after the split were to find themselves in the ranks of the Radical, as opposed to the Independent, party criticised the government from the same positions as Ratarac himself; and while claiming loyalty to the party's fundamental principles and socialist roots they voted against the proposed budget – just as many future Independents, including their leaders, voted with the government.<sup>461</sup>

They all called themselves Radicals and, by identifying their groups as 'younger' or 'older brothers', avoided all mention of the possibility of a split within the party. For all of them there was only one Radical Party. The name 'fusionists', which the Old Radicals were pejoratively called during their collaboration with the Progressives and which would be revived

458 The French envoy to Belgrade likewise reported on speculation regarding the possibility that the assembly might be dissolved in order to permit the country to choose between 'the moderate and the progressive Radicals'. MAE-AD, vol.3., no. 169, 29.12.1903.

459 Of the leaders, there was on the one hand D. Pečić and on the other J. Prodanović and Lj. Davidović. *Parliamentary proceedings*, 1903–1904, 16.12.1903, pp. 511–13.

460 For example, Ljuba Davidović voted for and Jaša Prodanović against Protić's draft law on the press. *Parliamentary proceedings*, 1904–1905, 2.1.1904, p. 945.

461 *Parliamentary proceedings*, 1903–1904, 1.3.1904, pp. 1712–14 and 1774.



after the final split, was provisionally set aside. The belief in the possibility of a recreation of true unity that would allow the party to regain its erstwhile strength remained alive among the wider membership. Many 'noted Radicals' were determined that 'the party's unity be in place when the assembly is recalled', wrote a prominent member of the Old Radical wing and deputy Stanko Petrović to Ljuba Stojanović in July 1904. 'We are all aware that at the last elections the Radical Party, lacking unity and agreement, made a cardinal mistake,' wrote Petrović to Stojanović, informing him of new attempts to unite the party. He and his colleagues, he explained, were guided not only by political reasons, but also by 'lasting and pure love towards the Radical Party, by memory of its bitter and desperate days, and by recalling the sustained struggle and determined endeavour to keep it whole and strong...'<sup>462</sup>

The adoption of the municipalities law in December 1903 and the press law in January 1904, as well as to a lesser extent the passing of the budget in March 1904, brought out another important fact, however, which was that the existing government could not always count on having a majority. This was clearly shown during the passing of the law on the press, in relation to the article banning criticism of military officers, the adoption of which Protić as mover of the law made into a question of confidence in the government. The proposal was adopted, but with only 48 votes in favour and with 36 votes against. Protić's authority was insufficient to ensure during the voting the presence and support even of the deputies from the wing of the party elected on the Old Radical lists.<sup>463</sup> The government did not treat this as a sufficient reason to back off. The assembly 'mercilessly mutilated the law on the municipalities and the law on the press', Ljuba Davidović subsequently commented, 'but nonetheless Mr Protić did not pick up his hat to go home.'<sup>464</sup>

462 ASANU, 12823, letter of 26.7.1904.

463 A significant number of votes in favour of the proposal came from those elected on the Independent lists, including Ljuba Davidović. *Parliamentary proceedings, 1903-1904*, 2.1.1904, pp. 941, 945.

464 *Parliamentary proceedings, 1904-1905*, 19.1.1905, p. 1248.

An attempt was made instead to discipline the parliamentary majority by adding Radicals of great political standing to the government, and on 26.1.1904 Grujić's government was reshuffled with the inclusion of Pašić and Paču of the Old Radicals and Davidović of the Independents. This did not alter essentially, however, the parliamentary majority's attitude towards the government. It was clear that the main reason lay not in some fixed division between the Old Radicals and the Independents, with neither side having a majority, but in the deputies' lack of discipline, which derived precisely from their non-alignment. The party that in the first elections had won the majority no longer existed, and new ones had not yet emerged from it. A government formed on the basis of such a majority could not have a definite party identity. It was neither homogeneous nor a coalition.

A clearer definition of relations within the ruling party came in the autumn of 1904. The decisive impulse was provided by a very important question that was now placed on the agenda: the question of armament and railway construction. A serious difference arose within the government on this issue between its Independent and Old Radical members. As the minister of construction in Sava Grujić's government, the Independent Vladimir Todorović, subsequently explained, his group believed that the issue of armament should not be tied to that of railway construction. A loan raised on international financial markets was essential for the former, while railways could be built with domestic resources. The Old Radicals were convinced, however, that the government could not raise a loan for armaments without simultaneously raising one for the railways, and were adamant in insisting that the two issues could not be separated. In this situation, the Independents argued, it was the government's duty to leave the choice between the two alternatives to the assembly, which would decide whether to give its support to another government that would be able to implement what the existing government could not.<sup>465</sup> The Old Radical ministers would not agree to this solution, and enjoying an undisputed political dominance in the government remained committed to their view.

465 *Parliamentary proceedings*, 1904–1905, 28.1.1905, pp. 1308, 1315.

At about the same time, the government divided also in relation to another of Stojan Protić's draft laws – the law on public security. The Independent ministers were strongly against a provision contained in the latter, giving the minister of police the right to use the army to suppress unrest. As the Independent minister of justice Mihailo Polićević explained to the assembly a few months later, his group in the government felt that this law signalled a return to an 'absolutist' and 'bureaucratic' system that 'contradicted our country's basic organisation' and the very essence of constitutional government too.<sup>466</sup> Their opposition did not move the Old Radical group, however, and the final wording of the bill, made at the beginning of October 1904, was in keeping with Protić's draft.<sup>467</sup>

At the start of the assembly's work in 1904, the question of governmental responsibility was thus posed in parliamentary practice for the first time since the coup, and for two reasons. First, because in the meantime, before the assembly had convened, the government started to function as a de facto coalition government, although the party was still organisationally one, so that the governmental majority continued to form a single club in the assembly. At the same time, the groups forming the governmental coalition were not in agreement on important political issues, which meant that the government as a collective political body practically did not exist. Protić's draft law on public security was not the government's proposal, but the work of a few ministers – who, as it turned out, were actually in a minority – which meant a complete negation of the principle of collective ministerial responsibility.<sup>468</sup>

466 *Parliamentary proceedings*, 1904–1904, 15.1.1905, p. 1127.

467 See on this the subsequent statements by the ministers in Grujić's government, M. Polićević and Lj. Davidović, *Parliamentary proceedings*, 1904–1905, 15.1.1905, pp. 1126–7, 1198 and 19.1.1905, p. 1248. The law was finally passed by the assembly on 31.1.1905, and the drafting of the contested law followed Protić's proposal.

468 As the Independent ministers in S. Grujić's government M. Polićević and Lj. Davidović subsequently declared, at the meeting of ministers of 13.10.1904 at which the contentious draft law was approved, one of the Old Radical ministers too refused to support it, while another two were absent from the meeting.

As the subsequent parliamentary debate highlighted, the two groups held totally opposing views on this parliamentary principle. Neither the Old Radical nor the Independent ministers questioned its obligatory character, but each side blamed the other for violating it. The Old Radicals believed that ministers who did not agree with the proposed law should resign; in other words, that by remaining in the government they too assumed responsibility for the substance of the law. 'Those who are "against" yet remain, are "for"; as for those who are against, let them pick up their caps and go home', was how Protić presented this position.<sup>469</sup> The Independent ministers took a quite different view. First, Protić's draft law should not have been adopted as the government's, given that it did not have the approval of most cabinet members. But they were chiefly concerned with something else. Namely, their starting assumption was that the government was a coalition government, and that the principle of collective responsibility should be applied in keeping with that fact, rather than pretending the government was homogeneous. This meant, in their view, that all draft bills should have the approval of both groups, or in the event of disagreement should be withdrawn. According to Mihailo Polićević, the ministerial responsibility to which Protić referred demanded not that the whole Independent group should resign, but rather that a proposal that it did not support should be withdrawn. 'According to Mr Protić's theory', Ljuba Davidović added, 'if a minister felt like driving out other ministers, he would submit a proposal with which the others were bound to disagree, impelling them to "pick up their caps and go home"'. The Independent ministers ultimately justified their refusal to resign by the need to consult beforehand 'their group in the assembly', which they could not do during the work on the draft law, because in Serbia – as Mihailo Polićević disapprovingly remarked – the assembly was not 'permanently in session.'<sup>470</sup>

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As a result, Polićević concluded, 'four ministers were against it and only two, apart from Mr Protić, were in favour..'. *Parliamentary proceedings*, 1904–1905, 15.1.1905, pp. 1127, 1248–9. The government had nine ministers.

469 *Parliamentary proceedings*, 1904–1905, 15.1.1905, p. 1198.

470 *Parliamentary proceedings*, 1904–1905, 15.1.1905, p. 1126, and 19.1.1905,

What lay at the basis of this dispute, however, was not a different understanding of the principle of collective responsibility – since Protić's theory was quite absurd in this case, when over half the ministers were against his proposal – but the fact that the Old Radicals had already decided to form a homogeneous cabinet, and were making clear to their 'younger brothers' in the government that they planned henceforth to operate independently of them.

At all events, the government's work was blocked, which became clear as soon as the assembly opened.<sup>471</sup> The deputies of the Independent wing of the assembly majority approved their ministers' policy and formed their separate club, thereby also formally turning the government into a coalition. Increasing tensions over the armament bill helped to consolidate the division and, according to the testimony of some Independent leaders, played a decisive role indeed in bringing down Grujić's government.<sup>472</sup>

The Old Radicals then made a final attempt to save party unity by calling 'a meeting of both Radical wings' on 21 November, 'at which the question of the Radical Party's organisation would be resolved'. In the meantime, the government resigned and the Independents asked that the meeting be postponed for a day. When the meeting was convened on 22 November, the 'envoys' of the Independent wing 'submitted both orally and in writing the following decision: "The Independent Radical club declares that unity of the Radical Party is untenable."<sup>473</sup> The last act in the split within the Radical Party was thus completed, and a new Independent Radical Party created.

Having decided to submit its resignation, the government found it easiest to avoid informing the assembly of the true reason for this by seeking to place itself in the position of a minority. Such an opportunity presented

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p. 1248.

471 The assembly of 1904 opened on 1 November rather than on 1 October due to the crowning of King Peter.

472 D. Joksimović, *Parliamentary proceedings*, 1906–1907, 23.9.1906, p. 1293; M. Polićević, *Parliamentary proceedings* 1904–1905, 15.1.1905, pp. 1126–7.

473 *Odjek*, no.1, 1.12.1904.

itself on 19.11.1904, when a majority of the assembly rejected the proposal by a committee majority that the Socialist deputy Mihailo Ilić be taken to court for breaking the press law. The government resigned on the same day, on the grounds that the assembly had displayed its lack of confidence in the government by rejecting a proposal that enjoyed its support.<sup>474</sup> As Vlada Todorović subsequently stated in the assembly: 'You and the whole world knows that Sava Grujić's cabinet resigned not because of taking Mihailo Ilić, to court but for other reasons: because the Old Radicals were persisting in their demand for "unity", insisting that the affairs of state be conducted in their own way and never without Pašić.'<sup>475</sup>

With the fall of Grujić's government, the question of the governmental majority was placed on the agenda for the first time since the coup, and with it one of the central questions which, being constantly kept open, would mark parliamentary life throughout this period. It was a matter of conflict between the concept of coalition government, advocated by the somewhat weaker Independents, and the concept of homogeneous government, which the somewhat stronger Radicals had endorsed. Opting for a coalition government implied resolving the majority issue within the framework of the existing assembly, while a homogeneous government assumed dissolution and new elections. Posed at the end of 1904 by the division of the Radicals into two parties – the Radical Party and the Independent Radical Party – this question became the basic point of division, the fundamental conflict between these two parties, in the context of which and in relation to which the parliamentary system would function up to 1914.

According to Ljuba Stojanović, the government's fall in 1904 led to prolonged and difficult 'negotiations between the older and the younger

474 Ilić was accused of voicing offensive remarks against the standing army. He was supposed to be tried, however, not as a writer but as chief editor of the journal *Radnik* [Worker] in which the alleged insults had appeared, although he had distanced himself from the insults in the following issue. *Parliamentary proceedings*, 1904–1905, 29.11.1904, pp. 430–31.

475 *Parliamentary proceedings*, 1905–1906, 14.10.1905, p.154.

Radicals'. The former continued to insist that the assembly should immediately be dissolved in order to secure a majority for a strong homogeneous government; while the latter argued in favour of consensual work, defending coalition in general and believing, in particular, that dissolution of the assembly at this moment would be quite unjustified and, as they insisted, unparliamentary.<sup>476</sup> This above all because – as Stojanović explained – it would be difficult to explain to the population the calling of new elections, since one could not tell them – as in the assembly – that the reason was a conflict over whether a Socialist deputy should be taken to court. After a long persuasion, the dispute ended with a compromise. The Independents' view that the assembly should not be dissolved was adopted, but also the Old Radicals' demand for a homogeneous government. The solution was found in an agreement by the Independents to support in the assembly the Old Radicals' government 'in everything in which we would support our own cabinet.'<sup>477</sup> As an insurance against the eventuality that the support promised by Stojanović might not materialise, the Old Radicals in separate negotiations won over to their side six deputies from the Independent parliamentary club.<sup>478</sup>

As a result, on 27.11.1905 a Radical government without the Independents was formed under Nikola Pašić. In his statement before the assembly in connection with the contested issue of the government's majority, Pašić referred to 'the conviction shared by the representatives of both wings of the assembly majority that the national assembly would provide the necessary support' – which Stojanović confirmed in the name of the Independent Radical club. According to Stojanović, 'we stand as a separate Radical group in relation to the new government ... in which we are now not represented', but 'we will not adopt a hostile or oppositional, but rather

476 See on this also *Odjek*, no 1–2, 1–2.12.1904.

477 *Parliamentary proceedings*, 1905–1906, 22.10.1905, p. 227.

478 J. Prodanović, *Parliamentary proceedings*, 1905–1906, 16.10.1905, p.176. See also Dimitrije Đorđević, 'Parlamentarna kriza u Srbiji 1905. godine', *Is-torijski časopis*, 14–15/1963–1964, pp. 160–61.

a purely critical, stance towards the new government.’<sup>479</sup> The Radicals thus gained a homogeneous government, although they did not command a majority. The Independents for their part gave up power, but were not yet ready to accept unreservedly the role of an opposition.

The position that the assembly should be dissolved, adopted by Pasić’s Radicals at the time of the crisis of November 1904, had its pre-history. As testified to by the Independents, the Old Radicals, unhappy from the start with the composition of Grujić’s government and especially with the fact that Pašić was excluded from it, reckoned on its short duration and planned its downfall. A strong, homogeneous government was their unattainable aim from the very first day of the new regime. ‘This is not the first time that you are bringing down a government in this way’, Jaša Prodanović said in 1909, accusing the Radicals of undermining the joint government at that time. ‘This is an act being repeated.’ Following the September 1903 elections, ‘the government barely began to function when your group ... started to seek the cabinet’s fall. There were rumours that the government was weak... Nor were you happy with a cabinet strengthened by the inclusion of Pašić. You found six Independent deputies, lured them away ... and took the administration of the country into your own hands.’<sup>480</sup> The same was said by other Independents. ‘Throughout the period of Mr Grujić’s governments, both the first and the second, it was constantly being said that the government was weak and ... that a “homogeneous government” should be formed, and that only a “homogeneous government” would make the country prosper’, recalled Stojan Lukić.<sup>481</sup> From the very start the Radicals did all they could ‘to bring about the fall of the government and the assembly’s dissolution’, declared Živojin Hadžić.<sup>482</sup> On the other hand, the Independents remained convinced to the end that the greatest error

479 *Parliamentary proceedings*, 1904–1905, 29.11.1904, p.439.

480 *Parliamentary proceedings*, 1908–1909, 4.2.1909, p. 712.

481 *Parliamentary proceedings*, 1905–1906, 10.12.1905, p. 1021.

482 *Parliamentary proceedings*, 1905–1906, 20.10.1905, p.253.



had been not to have maintained the coalition 'for a number of years' after the first elections, at which neither of the two groups had won a majority.<sup>483</sup>

The resolution of the governmental crisis of November 1904 was only partial. The government was homogeneous but, without a majority of its own – uncertain of both the opposition's support and the loyalty of the six deserters – rather than being stronger it was far weaker and more unstable than its predecessor.

At the same time the Independents, though now organisationally autonomous, accepted only reluctantly the idea of playing opposition to their former 'brothers'. Practically every – increasingly vociferous – criticism of the government's policy from the non-Radical benches met with resistance and condemnation from the Independents, briefly evoking a past that, according to the deep conviction held by all Radicals, had politically discredited Liberals and Progressives alike. The deputies of both Radical parties acted unanimously and almost as one against this part of the opposition, while continuing to talk about their mutual disagreements as internal party matters, sometimes explicitly calling themselves members of a single Radical party, albeit divided into 'two wings'. The Liberals should not count 'on an alliance with the Independent Radicals... from which to attack the Radical Party', declared the prominent Independent leader Dragutin Pečić in the assembly in December 1904. 'We and you ... have nothing in common, we cannot be allies on any issue', Pečić stated clearly. 'We sing songs of love and warmth' to the Radical Party: 'we were born within it, we are its younger generation.' 'We oppose only a small part of the Radical Party. We have attacked only certain individuals, in fact, because by origin and formation we are the foundation that they subsequently abandoned.' Pečić had in mind, in particular, interior minister Stojan Protić, as one of the most controversial of the Old Radical leaders.<sup>484</sup>

483 *Odjek*, no. 123, 29.5.1908.

484 *Parliamentary proceedings*, 1904–1905, 14.12.1904, p. 946.

Other Independent deputies too defined their attitude to Pašić's Radicals and their government in a similar manner.<sup>485</sup>

Despite this, however, the government had great problems with its parliamentary majority, and a significant number of its proposals were passed with only Old Radical votes and thanks to the frequent absence of opposition deputies, which often made the quorum very low. As for the government deputies themselves, one can discern among them a tendency during this first Pašić government of becoming more disciplined, although there were some whose neutrality continued to be evident.

Open resistance to the government on the part of the Independents began, however, as early as 1905, when adoption of the aforementioned law on public security was placed on the agenda, and caused in part the demise of Grujić's joint government. The testimony of the former Independent ministers about the conflict within the government triggered by Protić's draft law, and their stress on the indifference with which the Old Radical ministers had treated the political stance of their Independent colleagues, created a positive climate for the Independents in the assembly to begin to think of their party as one of opposition, and they all without exception voted against the law. In their view, this law meant a return of 'Garašanin's notorious gendarmes', and 'would come in handy for a police minister wanting to engineer a parliamentary majority devoid of popular support'.<sup>486</sup>

The government's draft law on county and district organisation strengthened further the Independents' oppositional stance. The conflict broke out over the article that envisaged a first-past-the-post system and non-secret ballot in the election of county officials.

On this latter issue, to be sure, the Independents and the Old Radicals – especially their deputies from rural areas – often united, showing

485 See, for example, Aleksa Žujović, *Parliamentary proceedings, 1904–1905*, 13.12.1904, p.919.

486 Danilo Jovanović and Kosta Timotijević, *Parliamentary proceedings, 1904–1905*, 15.1.1905, p. 1217 and 18.1.1905, p. 1231.

their indebtedness to the original Radicalism. Secret voting meant ‘loss of character’, whereas open voting ‘steels our character’, argued Independents in support of the governmental majority and in opposition to their own party leaders, who defended the secret ballot.<sup>487</sup> A year earlier this position had been voiced by Father Milan Đurić on behalf of the Old Radicals, during a vote on amendments to the law on municipalities and in support of Stojan Protić’s draft law. ‘Are we to show the whole world that the Serbian people are so weak that they cannot vote openly and say who their village mayors should be?’ – was how Priest Đurić had dismissed views challenging the validity of open voting.<sup>488</sup>

But while many Independents were ready to agree with the ruling majority on the issue of open voting, they united against the government’s proposal in regard to representation of the minority, displaying an unprecedented fervour in their oppositional stance. Defending the first-past-the-post system in the counties, the Old Radicals repeated their position that proportional representation was ‘inopportune’, because it was necessary to secure ‘a strong majority and a strong government.’<sup>489</sup> The Independent leaders’ reply to this was: ‘You should take care, gentlemen, that it not be said that you have lost a chance open to you to calm down party conflicts.’ Jaša Prodanović warned the ruling Radicals: ‘You may rest assured, gentlemen, that the way in which you treat the opposition is how others will treat you when they become a majority and form the government.’<sup>490</sup>

As minister of the interior, Protić had emerged as the most frequent target of attacks. ‘Our country does not need lawyers of your type... You are an arrogant tyrant... You and your gamblers and captains, your mayor, bandits and spies, you deserve to be judged unfit’ – was how Dragutin Pečić, dissatisfied with the minister’s response to one of his interpellations,

487 Aleksa Marković, *Parliamentary proceedings*, 1904–1905, 16.2.1905, p. 1631.

488 *Parliamentary proceedings*, 1903–1904, 2.12.1903, p. 262.

489 Ilija Ilić, *Parliamentary proceedings*, 1904–1905, 16.2.1905, pp. 1629–33.

490 *Parliamentary proceedings*, 1904–1905, 16.2.1905, p.1631.

addressed Protić. 'There is no difference between the tyranny practised by King Alexander and by the assembly majority! Tyranny is tyranny! ... Violence is violence!', Pečić said.<sup>491</sup> This was a wholly new manner of speech, a new tone with which the Independents addressed Pašić's Radicals in the assembly. It became increasingly clear that the government had to start treating them as a real opposition; so without a majority of its own it was brought into question.

At the end of January 1905, this acquired practical confirmation when an interpellation by the Independent deputy Milutin Stojanović, addressed to the minister of public works Pera Velimirović, placed for the first time on the assembly's order of business the most delicate political question of the day – the question of armaments, and linked to it of railway construction. At the end of a two-day debate about the reply to Stojanović's interpellation, during which the former Independent minister Vladimir Todorović asked that the assembly 'condemn the government, if it tries to ... delay further' the question of building new railways, a simple return to the order of business was adopted with a majority of only eight votes. This despite the fact that minister Velimirović had declared before the vote that he could not accept 'any motivated return to the order of business.'<sup>492</sup> It was the first clear and open attempt to bring down the government in the assembly, and it solidified Pašić's intention to engineer as soon as possible early elections that would provide his government with a majority. Eventually, in May 1905, the government decided to ask the king to decree the assembly's dissolution and the holding of new elections.

491 *Parliamentary proceedings*, 1904–1905, 11.2.1905, pp. 1580–81, 1558.

492 A simple return to the order of business was adopted with 68 votes in favour, 60 against. *Parliamentary proceedings*, 1904–1905, 28.1.1905, pp.1308–11, 1320–22.

## B. THE ELECTIONS OF 1905

The first signs that the regime was starting to function on a majority-minority or government-opposition basis – initiated by the question of armaments that had come to dominate the political agenda – coincided with the entry into action of the third factor of parliamentary life: the king. Since the king's position on the question of armaments was contrary to that of Pašić's government, the latter found itself for the first time under a twofold attack – from the assembly on the one hand and from the court on the other. It soon became clear that the issue of the parliamentary majority was not the only, nor even the most important, factor in deciding the government's fate, and that the latter could not survive without having the confidence of the crown. So when it finally took the decision in May 1905 to solve the problem of its majority by way of dissolution, and to strengthen its position not only in the assembly but also – with the latter's support – vis-à-vis the king, Pašić's government found itself hampered by the ruler's constitutional right to decide on the government's composition. Since the attempt to form a coalition government had failed, due to the determined resistance of the ruling Radicals, and since the king was against the formation of a homogeneous Radical government, an Independent government was formed under Ljuba Stojanović, which promptly dissolved the assembly and scheduled early elections for 10.7.1905.<sup>493</sup>

Thus in 1905 the idea of homogeneous government, and of dissolution as a way of solving the question of the government's majority, prevailed over the idea of coalition; but by decision of the crown the organisation and conduct of the elections was not left to the government of the Old Radicals, who had championed the idea, but was given to a government formed by the Independent Radicals, who were their principal opponents. Of the five dissolutions of the assembly that occurred during the eleven years of parliamentary regime in Serbia, this was the only one

493 On questions related to the role of the crown in parliamentary life, see the section 'Ministerial Responsibility'.

implemented by an Independent Radical government, the other four taking place under a government of Old Radicals.

‘Those accused 15 dinars of a deputy’s daily stipend<sup>494</sup> ... have become a bait’ causing ‘a ruckus all over Serbia as men attack each other like wild beasts’, commented the Liberal paper *Srbija* on the announcement of the new elections. The paper of the Serbian Liberals described with indignation and pessimism the election campaign of the two Radical parties.

The quarrelling Radicals were so bent on ‘abusing each other, as if after the elections neither of them would be living in the same country and under the same roof.’ Yet ‘only yesterday’ they were together, and ‘united in charging those who were not Radicals with lack of patriotism and honesty.’ ‘In our country, concepts of morality and political probity [are] so defective and debased ... The Independents are trying in vain to endow the struggle with a modicum of principle... We are falling into an ever deeper moral decay, and it is impossible to see how we shall ever be able to recover from it.’<sup>495</sup>

The new government gave itself the task, however, of proving that such pessimistic visions of the new regime and its future were unjustified. The new government sent a message to ‘all county heads and the Belgrade city administration’ in connection with the forthcoming elections, stating that ‘the people’s confidence in the legal order of the country has been shaken for good reason, and a belief created that laws are being written to no particular purpose, the only true law being the will of property-owners, however lowly their rank.’ ‘I am strongly determined’, declared the prime minister, Ljuba Stojanović, ‘to put an end to this evil, to restore the people’s trust in the law, to raise the standing of the state administration... The government has given itself the task of ensuring that the election of people’s deputies will be conducted without any administrative interference .. and

494 The 1903 constitution (Art. 127) took over from the constitution of 1901 the rule that deputies are paid by the state treasury a daily allowance of 15 dinars, in addition to their travelling expenses.

495 *Srbija*, nos 12, 20 and 26, 17.6, 27.6. and 5.7.1905.

I demand of the local bodies to help me make it so. Let them know that any departure from the law will be punished with all measures available to me, and that this order will not remain just a piece of paper as has often been the case up to now.<sup>496</sup> Placing his personal authority behind the realisation of this aim, Stojanović, a well-known scholar of unquestionable moral integrity, took over the running of the interior ministry only to leave it once the elections had been completed.

The government took seriously the obligation that it had placed upon itself: the 1905 elections were the only elections in Serbia between 1903 and 1914 whose correctness, taken as a whole, few questioned. The credentials committee did have some complaints, to be sure, but in relation to all other elections conducted in the Kingdom of Serbia, before or after that time, there was an incomparably smaller number of these, and only relatively few of them indicated serious irregularities. Such complaints largely had to do with the conduct of the elections and came mainly from the Radicals, although election slogans directed against socialists were especially notable for their impropriety.<sup>497</sup> There were also complaints about the accuracy of electoral lists, as well as allegations of the use of force by municipal authorities, blackmail, threats, etc. Of all the complaints, however, only two were of a serious nature: the one that the Socialist candidate Mihailo Ilić, together with two hundred other signatories, filed in connection with the elections in the town of Kragujevac; and another, filed by the minister of the interior, about the elections in Belgrade.<sup>498</sup> But the assess-

496 *Zbornik zakona 1903*, pp 240–43. See also Lj. Stojanović's draft, ASANU, 12849.

497 All parties conducted a highly abusive campaign against the Socialist candidates. The Socialist deputy Milan Marinković recounted how, at an election meeting held in Pirot, 'one of the leaders' described the Socialists as 'people who eat frogs, lizards and snakes ... who wish to turn the state into a brothel; people who don't want to have children.' D. Lapčević, on the other hand, read out a proclamation by the Progressive Party in Kragujevac in which he, Lapčević, was said to be: 'a traitor to his kin, traitor to the Serb fatherland, traitor to Mother Serbia'. *Parliamentary proceedings*, emergency session of 1905, 4.8.1905, pp 108–9.

498 The first was submitted because of serious abuse by the electoral committee: voting after the prescribed time, keeping whole groups of voters from the ballot boxes, voting by under-age males and by dozens of foreigners, etc. The

ments of the Liberal and Progressive parties were positive, even flattering. The head of the Liberal deputies' club, Borivoje Popović, stated that 'the elections were perfectly correct, and in this regard ... the government deserves full praise.' The Progressive Andra Đorđević drily declared that Stojanović's government had conducted 'free elections,' adding somewhat triumphantly – in response to allegations that the government had 'agitated shamelessly against the older Radical group' – that this was only 'a replay of the agitation that the Radicals had always conducted against the Progressive and Liberal government.'<sup>499</sup> As for the Independents themselves, they considered these elections to have been 'indisputably the freest elections in Serbia's history.'<sup>500</sup> 'Those who come to write the history of Serbian parliamentarism will mark the government of the Independent Radicals in golden letters, because ... these recent elections ... were the freest since elections have been introduced into Serbia' – such was the opinion of the deputy Dimitrije Iliđžanović, behind which stood with undisguised pride the whole of the Independent Party.<sup>501</sup>

The basic reason which led these elections to be judged fair was the fact that the ministry of the interior had retained the existing municipal government and police apparatus installed by the previous minister,

.....  
 minister's complaint was filed because the electoral committee recognised the bearer of the Radical list, Aca Stanojević, although his list had not reached the quotient. In this case, the electoral committee tried in fact to apply the electoral system from the 1888 constitution to the distribution of seats, setting aside the key change made by the 1903 constitution: i.e. the provision in Art. 92 on adding the votes from lists without a quotient to the list with the largest number of votes. The election was declared null and void – this was one of the rare instances in which the Radicals emerged as victims of Art. 92. In response to M. Ilić's complaint, an investigation was ordered and a survey conducted that led to the complaint being rejected, although the representative of the Independent Party on the commission that conducted the survey, Milutin Filipović, stated in a separate finding that he was 'appalled by this election', which was 'in no way conducted in accordance with the law'. *Parliamentary proceedings*, emergency session of 1905, 25.7.1905, pp. 4–5; *Parliamentary proceedings*, 1905–1906, 9.10.1905, pp. 71–3 and 14.10.1905, pp. 144–51.

499 *Parliamentary proceedings*, 1905–1906, 18.10.1905, p.202.

500 *Odjek*, no.94, 21.6.1906.

501 *Parliamentary proceedings*, emergency session of 1906, 6.7.1906, p.65.



Stojan Protić, on the eve of and with a mind to the 1903 elections.<sup>502</sup> ‘We have left intact the trained police apparatus that worked in your favour, apart from 2 or 3 men who were dreadfully corrupt.’<sup>503</sup> The Independent government was ‘the *only* one in the past 30 years which failed to dismiss the existing village mayors and police officials’, they stressed.<sup>504</sup> The Independents were convinced that had Ljuba Stojanović’s government not ‘conducted the electoral campaign in a gentlemanly fashion’, but rather ‘in a manner that resembled however minimally the behaviour of previous governments ... we would now have 120 Independent deputies sitting on these benches.’<sup>505</sup> The failure to carry out a pre-electoral purge of the administrative apparatus was indeed a unique case in the history of electoral campaigns conducted in the Kingdom of Serbia both before and after this, which made it into a historical precedent. ‘Here, in our lands, a free election was an event worthy of note’, wrote Ljuba Radovanović, reflecting on the 1905 elections many years later.<sup>506</sup> If one views Iliđžanović’s judgement – that the 1905 elections deserved to be recorded ‘in golden letters’ in the history of Serbian parliamentarism – in the light of this fact, then despite his evident *parti pris* it was objectively quite fair.

502 D. Đorđević, *Carinski rat*, p.81. The Independents even argued that Pašić’s government, which had from the start planned the dissolution of parliament and new elections, had begun preparations for new elections in 1905 under Protić using ‘impermissible means’. See D. Đorđević, *Parlamentarna kriza*, p. 167.

503 Milovan Lazarević, *Parliamentary proceedings*, 1905–1906, 12.10. 1906, p.112.

504 Kosta Timotijević, *Parliamentary proceedings*, emergency session of 1905, 3.8.1905, p.85.

505 Blagoje Ilić, *Parliamentary proceedings*, 1905–1906, 18.10.1905, p.220.

506 Lj. Radovanović, *Narodna skupština i izborni zakon*, p.32.

**TABLE 2. Results of the 1905 elections**

1) in reality; 2) under the constitution of 1888; 3) under the single-quotient system

	Party	Rad.	Ind.	Lib.	Prog.	Coal. Lib./ Prog.	Peas.	Soc.	Other
In reality	% of votes	32,3	38,4	15,2	8,0	1,0	3,7	0,9	0,5
	number of seats	55	81	16	3	2	1	2	
	% of seats	34,4	50,6	10,0	1,9	1,2	0,6	1,2	
	diff. % votes and % seats	+2,1	+12,2	-5,2	-6,1	+0,2	-3,1	+0,3	-0,5
Constitution of 1888	number of seats	55	66	28	5	2	2	2	
	% of seats	34,4	41,3	17,5	3,1	1,2	1,2	1,2	
	diff. % votes and % seats	+2,1	+2,9	+2,3	-4,9	+0,2	-2,5	+0,3	-0,5
Single- quotient	number of seats	56	75	20	4		3	2	
	% of seats	35,0	46,9	12,5	2,5		1,9	1,2	
	diff. % votes and % seats	+2,7	+8,5	-2,7	-5,5	-1,0	-1,8	+0,3	-0,5

The elections of 1905 (see Table 2) highlighted several important political facts. The pro – Radical mood of the vast mass of the electorate was beyond doubt. The Peasant Accord, as it had expected, seemingly found its voters among dissatisfied Old Radicals; having gained only 3.7% of the vote, however, it showed that its pretensions to becoming an agrarian party capable of mounting a threat to Serbian Radicalism were quite unrealistic.<sup>507</sup> The Radical boxes collected as many as 70.7% of the votes. On the other hand, the 24.2% of votes gained by the Liberals and Progressives together testified to the stability of the electoral base of the two most important non-Radical parties. The Serbian electorate retained the old clear and firm division between Radicals and non-Radicals, with the latter representing a decided minority. ‘The great majority of voters have yet again voted for Radical candidates ... This has been going on for twenty-five years.

507 In the 1905 elections, only the Old Radicals gained a smaller percentage of the vote than in the previous elections of 1903. The 6% of votes that they lost were divided between the Independents and the Seljačka Sloga [Peasant Accord] in a ratio of 1 to 2.

The rest of us, who have been fighting against the Radicals and their theories, remain in a minority. The Radicals quarrel among themselves, split, govern and make mistakes, yet the people continue to back them...’, wrote the paper *Srbija*.<sup>508</sup> This was an incontestable fact that would be confirmed in all subsequent elections held in Serbia before the First World War.

There was a change in the relationship of forces between the two Radical parties: the Independents gained 38.4 per cent and the Old Radicals 32.3 per cent of the votes cast. Bearing in mind the votes that went to the Peasant Accord, one could not say that a significant redistribution of Radical voters between the two parties had occurred. The difference of 6 per cent of votes between the two parties proved highly important, however, because it enabled the somewhat stronger Independent Radical Party to command an absolute majority in the assembly and to form a homogeneous government. Though quite insignificant in the wider political context, the phenomenon of the Peasant Accord contributed to an important extent to the final configuration of the outcome of these elections, due in the first instance, of course, to the existing electoral system. Abandonment of the largest remainder system, combined with calculation of a double quotient, had not been of great significance under conditions of the Radicals’ organisational unity – which even on the assumption of ideal proportionality had turned a (single-)party parliamentary system in the technical sense into a practically monist one – but it had a major effect on the functioning of the system in these first truly multi-party elections.

The division of seats was as follows: the Independents gained 81 seats, the Old Radicals 55, the Liberals 17, the Progressives 4, the Socialists 2 and the Accord 1 seat. With their 38.4 per cent of the votes, the Independents thus gained 50.6 per cent of the total number of seats and, with a majority of only one seat, were able to form a homogenous government.<sup>509</sup> From

508 *Srbija*, no.33, 13.7.1905.

509 Following the elections Lj. Stojanović’s government – which had been formed in May as a minority government – submitted its resignation on 30 July. A decree was signed on the same day establishing a new Stojanović government.

the point of view of votes cast for the governmental majority, this was the weakest government in the 1903–14 period – although, as we shall see, only slightly weaker by comparison with the government formed after the elections of 1912. Had the single quotient been applied in accordance with the constitution, the Independents would have gained only 75 seats and the new government would have been a coalition. This would have been even more likely had the largest remainder system been kept, which would have given the Independents only 66 seats in the assembly. (See Table 2).

Apart from the composition of the parliament, and consequently the party make-up of the government, the electoral system in these first elections showed its first results also at the level of party-political regroupment. Conscious of their weakness, and aware of the effects of the existing system on the distribution of seats, which kept them at the margins of political life, the Liberals and the Progressives, though ideologically and programmatically very different, began to contemplate the idea of an electoral coalition. While not yet ready for wider cooperation, they came out with a joint list in the Toplice electoral district, where they had failed to gain a single seat in the previous elections. Although they won 5.2 per cent fewer votes in this district than in the 1903 elections, thanks to the joint list they gained two seats this time round. This result justified their electoral coalition, which the two parties on the basis of this experience would henceforth proceed to consolidate.

The elections of 1905 did not meet the aim for which they had been held in the first place – to solve the problem of the governmental majority that had opened up with the split of the Radicals into two parties. The electoral results showed that the relationship of forces between the two electorally strongest parties was such, that it was not possible to form a homogeneous government with a solid majority in the assembly, even with a system of distribution of seats based on a high degree of non-proportionality skewed in favour of the biggest party. With its minimal majority – which in the view of the opposition was itself questionable<sup>510</sup> – Ljuba

510 Sima Katić's list, which numbered six deputies (including the minister of foreign

Stojanović's government found itself in crisis from the start, in constant fear of losing the support of even a single member of the majority.<sup>511</sup> Permanently on the point of falling in the assembly, and labouring under heavy and undisguised pressure on the part of the court and the plotters – whose initial confidence it had quickly lost – it submitted its resignation as early as the beginning of April 1906.

The Radical opposition insisted that the fact that the government had managed nevertheless to keep going was due exclusively to an agreement between the Independents and the Liberals, which according to them had been reached before the fall of the previous, Old Radical government, and which – Pašić alleged – was in fact the reason why the Radical Party had demanded the dissolution of the assembly in May 1905.<sup>512</sup> 'What you have is not a majority, but a travesty of a majority – you have none!', the Radicals argued.<sup>513</sup> The majority existed 'only as the result of a partnership that you hesitate to admit', Milan Mostić declared in the immediate aftermath of the elections,<sup>514</sup> while Stanko Petrović said of the minister of public works, Vladimir Todorović, that he was 'more of a Liberal than an Independent'. Petrović argued that Ljuba Stojanović's government represented 'a fusion between the Progressive, Liberal and Independent parties', adding in the

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affairs, Jovan Žujović, who was the first to qualify), was contested; the assembly debated this issue for four full days, before approving it. *Parliamentary proceedings*, emergency session of 1905, pp.5 ff.

511. The government practically lost its majority at the end of November, due the death of the deputy Mihailo Banković. The by-election, held at the end of December, was again won by the Independent Miloš Savčić, whose mandate was approved by the assembly only on 18.1.1906. At the end of November the draft law on improving the material position of secondary-school teachers was removed from the assembly's order of business, after Sime Popović, a member of the majority club, threatened not to vote with the government on the issue of an armaments loan unless the draft law was withdrawn. *Parliamentary proceedings*, 1905–1906, 26.11.1905, pp. 781–8.
- 512 *Parliamentary proceedings*, 1905–1906, 14.10.1905, p.152..
- 513 Aleksa Marković, *Parliamentary proceedings*, 1905–1906, 13.10.1905, p.135.
- 514 *Parliamentary proceedings*, emergency session of 1905, 3.8.1905, p.89.

Progressives in order to make the political disqualification of the Independent government before Radical public opinion more convincing.<sup>515</sup>

Neither denial on the part of the Liberals, nor the party's actual behaviour in the assembly – which gave no reason for doubting its oppositional stance – could halt these allegations, which the Radicals presented as a weighty charge against the Independents.<sup>516</sup> As we shall see, the Liberals were an agile and vociferous opposition in the 1905–6 assembly, raising crucial and highly sensitive political issues in their interpellations. The Liberal Party was the first to raise, at the very start of the regular session of the assembly in 1905, the foreign-policy aspect of the conspirators issue: the renewal of diplomatic relations with Great Britain, broken after the murder of King Alexander. Moreover, the lack of response to the interpellation submitted by its leaders Ribarac and Veljković caused the first obstruction in the Serbian parliament under the new regime, when the whole opposition joined the Liberals at the end of January 1906.<sup>517</sup> The Independent government, in short, was attacked by all parties of the opposition, albeit not using the same methods. What was striking, though, was the quite tolerant relationship established between the Independents as the majority, on the one hand, and the Liberal and Progressive minority on the other. The reason for this did not lie, however, in a latent pro-government position of the latter – as the Old Radicals would have it – but in a sudden and unprecedented deterioration of the relationship between the Independents and the Old Radicals, which pushed all other party conflicts into the background.

Having a weak majority, the Independents expressed readiness immediately after the elections to form a coalition government with the Radicals.<sup>518</sup> It vested its hopes in moderate Radical leaders, above all in

515 *Parliamentary proceedings*, 1905–1906, 14.10.1905, p.157.

516 For the denials, see *Parliamentary proceedings*, 1905–1906, 14.10.1905, p.156.

517 See on this 'The Period of Dualism' in the section 'Ministerial Responsibility' below, pp. 398–400.

518 *Odjek*, no.123, 29.5.1908.

Milovan Milovanović and Mihailo Vujić who according to Milovanović, while not themselves being Independents, were not opponents of the Independents either.<sup>519</sup> The negotiations took off properly only several months later; but the Radicals in the assembly charged the government from the start with ‘constantly plotting with Messrs Vujić and Milovanović’...<sup>520</sup> This current, though quite weak, was viewed by Pašić’s Radicals as dangerous, precisely because of the ongoing possibility that it might collaborate with the Independents. Despite the fact that they had definitely split, the Radicals and the Independents had not as yet properly clarified their mutual relationship. The two parties were practically of the same strength, and many individuals who were unaligned kept crossing over from one party to the other. In such a situation, the eventual success of the ruling Independents in winning the support of the aforementioned Radical leaders presented a serious threat to the Old Radicals’ ambition to bind Radicalism in Serbia to their party: an ambition that had come under serious threat in the 1905 elections. This is why they chose as an instrument of their struggle against the Independent government, which in order to survive was bound sooner or later to seek outside support, to impose the idea of reviving party unity, as opposed to the idea of a coalition favoured by the leadership of the Independent Party.<sup>521</sup> With this aim in mind, from the very start they based their stubborn pursuit of seeking politically to discredit the government largely and mainly on denying the meaning and legitimacy of the Independent Party as such.

According to the Old Radicals, Ljuba Stojanović’s government suffered from innumerable weaknesses. In their view it was unparliamentary, because it derived from a minority in the assembly and because it had won a minimal – and also dubious – majority in the elections; it was unconstitutional, because it had emerged under the influence of ‘non-responsible factors’, i.e. the plotters; and also ‘treasonable’, because it was under the

519 M. Milovanović to Lj. Stojanović, 21.2.1906, ASANU, 12579/7.

520 Nikola Uzunović, *Parliamentary proceedings*, 1905–1906, 16.10.1905, p.179.

521 There was much public talk of this at the end of 1905. See *Pravda*, 1.12.1905.

influence of Austria, 'Serbdom's eternal enemy'.<sup>522</sup> All in all, in Nastas Petrović's words, it was 'politically insubstantial', 'incompetent, befuddled and confused' – in sum, 'the weakest of all governments, weaker than any other that has ever directed the state up to now' – and was consequently from the very outset 'condemned to die'.<sup>523</sup>

Such a government, the Radicals argued, was the logical outcome of an unnatural split within the Radical Party, caused solely by 'the quest for power' (Aleksa Marković), and the essence of which, according to Andra Nikolić, could be reduced to the motto: 'we, not you, come first'.<sup>524</sup> 'But for this', stated A. Marković, 'there would never have been this hatred between two brothers'.<sup>525</sup> The split was caused not by true Radicals, but by 'our opponents, on the one side Ribarac and on the other Nikolajević', explained Stanko Petrović, who was widely believed to be – alongside Stojan Protić, Milan Đurić and a few others – 'the echo of Pašić himself'.<sup>526</sup> According to Petrović, they 'directed their mercenaries – Progressives and Liberals not identified as such – to join the Independents' orbit. There were only a few Radicals among the Independents', the rest were 'intruders'.<sup>527</sup> It was necessary, therefore, 'to purge from our party all who are not Radical, all who have not suffered, all who are without the proper Serb spirit, if we are to advance'. It was only 'the licentiousness of the Serb intelligentsia' that was capable of dividing 'the Radical Party, which means the whole Serb people'.

522 Charges that the government was 'wading in Austrian waters' and that it had come to power 'under foreign influence' were voiced by many Radicals – Nastas Petrović, Ljubomir Jovanović, Nikola Pašić, Stojan Protić, and others – especially during October, November and December 1905. *Parliamentary proceedings*, 1905–1906, pp. 150–53, 994, 1013, 1053.

523 *Parliamentary proceedings*, 1905–1906, 9.12.1905, pp. 1994–5.

524 *Parliamentary proceedings*, 1905–1906, 10.12.1905, p.1035, and 10.10.1905, p.88.

525 *Parliamentary proceedings*, 1905–1906, 10.12.1905, p.1035.

526 Prodanović, *Parliamentary proceedings*, 1906–1907, 10.2.1907, p.2867.

527 The Radicals did not hesitate to accuse even Lj. Stojanović himself of having once been a Progressive, which he treated as a slander. *Parliamentary proceedings*, 1907–1908, 1.2. 1908, p. 615.



For the people it was 'a crime and a misfortune', argued Stanko Petrović.<sup>528</sup> This was a sublimated expression of the image of their own party nurtured by the majority of Old Radicals.

Such a denial that the internal Radical division had any deeper political and programmatic meaning naturally brought a response from the other side, which had built its identity precisely on a revolt against lack of principle, in the name of preserving the original values and programmes of the party, which the Old Radicals had abandoned.<sup>529</sup> The Independents replied that 'the policy of accord' and the principle of 'better something than nothing' entailed 'a weakening of political morality', 'political despondency and capitulation', which is why the split was a necessity.<sup>530</sup> Fusion with the Progressives 'had negated from start to finish the whole of the Radical programme adopted in 1881.'<sup>531</sup> Jaša Prodanović specified three causes of their splitting off as a separate party. First, they were 'principled': the Old Radicals had agreed to an upper chamber, and had abandoned universal suffrage. Secondly they were 'tactical', given the opportunism under King Alexander, when Pašić had even voted against the law on associations 'without which there is no constitutional government'; and thirdly they were 'moral', because the Old Radicals included people who had led the Radical Party 'whence it had emerged covered in shame and dishonour.'<sup>532</sup>

It was thus in the assembly, immediately after the start of the regular session, that the first true, long and painful inter-Radical settling of accounts began, during which, according to Kosta Stojanović, 'serious insults were hurled, as in those popular stories about a son-in-law visiting

528 *Parliamentary proceedings*, 1905–1906, 12.10.1905, pp. 115–18.

529 On the articulation of the two parties following the split, see O.Popović-Obradović, *O ideološkom profilu Radikala*.

530 Ž. Žadžić, *Parliamentary proceedings*, 1905–1906, 20.10.1905, p. 254.

531 A. Ratarac, *Parliamentary proceedings*, 1905–1906, 19.10.1905, p. 232.

532 *Parliamentary proceedings*, 1905–1906, 16.10.1905, p. 175. Prodanović had in mind the vote that Pašić had cast as a senator in March 1902, in agreement with King Alexander, against the draft law on public associations and rallies, which having already been adopted in the assembly was rejected in the senate and stopped. See *Nikola Pašić u Narodnoj skupštini*, I, p.53.

his mother-in-law'.<sup>533</sup> Personal biographies were dissected with the greatest passion, in order to establish who had been a true Radical from the start and who an 'intruder'; who had behaved in what manner under the Obrenović dynasty; who had been responsible for suspension of the 1888 constitution; who 'looked' more like a Progressive; whose fault it was that 'Serbia was covered in shame before the world' when the last Obrenović married his mother's lady-in-waiting – in short, who had been a true Radical and who had not been, or not remained, one.<sup>534</sup>

The basic aim of the debate inspired by the Radical Party was to bring the rebellious Radicals back under the control of the party's old leadership. Its starting point was closest to that argued by Stanko Petrović: the Radical Party was one with the Serbian people, and a split in the party was the same as a split among the people. Their expectation that the Independents should give up their own party was thus in their view perfectly legitimate – on this the Radical Party deputies, regardless of their social background and degree of education, largely agreed. The untutored peasant deputies differed from the party leaders only in the language they used, and the intensity of the emotions with which they spoke about the Radical Party. 'The Radical Party came from the same nest: one knows who its father and mother are, and it must not be divided.'<sup>535</sup> 'I risked everything I owned at that time, my own survival and that of my children and my whole family... I feel pain and feel I have the right to speak about this, to warn our younger brothers that their opposition to their older brothers is not right.'<sup>536</sup> – such were the typical arguments of the former. The latter were more rational.

533 *Parliamentary proceedings*, 1905–1906, 20.10.1905, p.251.

534 *Parliamentary proceedings*, 1905–1906, 9–22.9.1905. Thus, for example, Blagoje Ilić of the Independent Party read out a text written by Stanko Petrović, a Radical, in 1881 in the Progressive paper *Videlo*. Ljubomir Marković, a Radical, said of Blagoje Ilić that he 'had never been a Radical', which the parliamentary speaker, an Independent, qualified as a 'personal attack'. *Parliamentary proceedings*, 1905–1906, 18 and 19.10.1905, pp. 220–21 and 226.

535 Aleksa Marković, *Parliamentary proceedings*, 1905–1906, 10.12.1905, p. 1035.

536 Nikodije Miletić, *Parliamentary proceedings*, 1905–1906, 19.10.1905, p.238.

'Among the many evils that the split within the Radical Party has caused', argued Ljubomir Jovanović, the greatest is that 'only the former Radical Party could have accomplished the great reform'; while Andra Nikolić, maintaining that there was no programmatic difference between the two parties, asked: Why then 'do we not remain together, rather than quarrel and incite discord.'<sup>537</sup>

These appeals fell on deaf ears. The Independents, having already acquired their own separate party organisation and their own programme, rejected the very possibility of giving them up. Their aspiration to become identified in the eyes of the Serbian electorate as the authentic bearer of Radicalism – which guided them from the very earliest days of the split – was enhanced by the results of the 1905 elections; and they were increasingly confident that the slight advantage that the elections of 1905 had given them represented but a first step towards conquest of the vast mass of Radical voters. 'We are no longer the younger Radicals', the Independent paper *Odjek* wrote self-confidently after the elections, 'nor do we now call ourselves that. We are now the *true Radicals*. The old Radical Party has been reborn and renewed in the Independent Radical Party, with its own definite and noteworthy programme in which the old Radical programme has been renewed and freshened up. The majority of the Radical Party finds itself in the Independent Radical Party and upholds its programme. What the fusionists these days call the Radical Party is nothing but ruins and remnants, without programme or principles...' 'Every true Radical who really wishes to realise the Radical programme will leave the ruins and such a chief and join the Independent Radical Party... in that way the unity of the Radical Party, now renewed in the Independent Radical Party, will be realised.'<sup>538</sup>

Consequently, when in February 1906 the Independent Radicals were invited to talks on reconciliation and unification, as *Samouprava* bitterly

537 *Parliamentary proceedings*, 1905–1906, 10.12.1905, p.104, and 10.10.1905, p. 88.

538 *Odjek*, no.171, 26.7.1905.

commented they 'unanimously rejected our proposals that we be one party again', and that 'the people be gathered into a harmonious whole, into an impregnable and invincible people's army'.<sup>539</sup> Instead – their hands tied by their weak and uncertain majority; under constant pressure from the king and the plotters on the one hand, on the other from the assembly opposition, which as early as January 1906 had initiated obstruction; and practically on the brink of the customs war with Austria-Hungary – they tried yet again to strengthen their majority by way of a coalition with Pašić's Radicals, or alternatively with the group of moderates around Milovanović and Vujić.<sup>540</sup> The result was modest: cooperation came only from the former president of the joint government Sava Grujić, who, wishing to become prime minister again, agreed to join the majority's parliamentary club, together with another deputy Milorad Karamarković.<sup>541</sup> But a new Independent government formed under Grujić on 1 March 1906 did not last long either. Having strengthened its majority in the assembly, it came across a new obstacle – mistrust on the part of the king, who did not approve the government's policy towards the conspirators issue, linked to the renewal of diplomatic relations with Great Britain – as a result of which it resigned on 4 April 1905. Seeing in this an opportunity, after the failure of 1905, to resolve the contested issue of the majority between themselves and the Independent party by holding new elections which they themselves would conduct, the Old Radicals tried hard to be the ones to win the king's confidence this time round. So Pašić readily accepted the crown's political position, and on 17 May 1906 he formed a homogeneous minority government, which promptly dissolved the assembly and scheduled new elections for 11 June 1906.

539 *Samouprava*, no.103, 6.5.1906.

540 M. Milovanović to Lj. Stojanović, 5.1.1906, 9.1.1906 and 21.2.1906, ASANU, 12579/3. See also D. Đorđević, *Carinski rat*, pp. 200–201.

541 According to J. Prodanović, K. Karamarković had been elected deputy as an 'Old Radical dissident'. *Parliamentary proceedings*, 1911–1912, 28.11.1911, p. 6.

According to their own testimony, the Independent Radicals proposed a coalition government rather than dissolution as they had done the year before, during the May 1905 governmental crisis. Although they had a majority in the assembly, their electoral proclamation stated that they were ready to form a joint government with the Old Radicals in order to avoid dissolution of the assembly.<sup>542</sup>

One must consider here the position of the Independents on the role of dissolution in a parliamentary system. Unlike the Radical Party, which being firmly committed to the idea of homogeneous governments treated dissolution as the only correct way to solve the problem of the governmental majority, the Independents did not have a clear position on this issue. Ljuba Stojanović spoke about this in the name of his party a few months after it came to power. He noted correctly that dissolution as a method of solving a governmental crisis was justified in the British case, because of its two-party system; but it was practically inapplicable in France, because of its multi-party system, which led to coalition governments. In trying to fit the Serbian system into one of the two models – British and French – Stojanović came to the conclusion that Serbia would be like France if and when the other three parties grew stronger; but until such a time it was closer to Britain, ‘because for the time being one of the two Radical parties can gain an absolute majority in the population.’ Therefore, when the government came into conflict with one of the two constitutional factors – Stojanović upheld the position of dual ministerial responsibility – ‘it would be most natural to follow the British way, i.e. for the government to resign and the assembly be dissolved.’ However, following immediately upon this unambiguous basic argument in favour of dissolution as the regular way to resolve a governmental crisis in Serbia, Stojanović – speaking about the change of government in May 1905 – adopted the very opposite stance. The previous government of Pašić, he said, did not have a majority, so it was its duty to resign ‘and see whether a majority could be formed in the assembly from which a new government might emerge, rather than that

542 *Odjek*, no.9, 21.4.1906.

the assembly be dissolved'. Dissolution of the assembly was 'an extreme measure which as a rule is rarely used'. 'A new government should emerge from the assembly, if not from one party then from several of them', stated Stojanović, wholly negating his former position and opting in this way for a coalition government, i.e. for a position that left it up to the assembly rather than to the electorate to the 'conspirators issue' governmental crises.<sup>543</sup> He followed the same reasoning in condemning dissolution of the assembly in 1906. He said that an assembly that could produce a majority capable of forming a government should not have been dissolved. Stojanović believed this to have been quite wrong and, ascribing the responsibility for it to the king himself, went so far as to conclude that this was leading to 'personal rule'. 'At a time of decisive struggle against personal rule ... let no one dream of dissolving an assembly that has a majority', Stojanović exclaimed in 1906 in the assembly.<sup>544</sup>

This way of thinking, which rejected dissolution in favour of coalition governments – allowing it only as an 'extreme measure' – led to a conclusion about the assembly's supremacy over the government, hence to yet one more source of confusion regarding the views held not just by Stojanović, but also by the whole of his party. The government is 'so to speak a committee of the assembly's majority, mediating between the crown and the assembly as non-responsible factors'. 'The government is not some third factor with its own special position in relation to the assembly and the crown', said Stojanović in 1905, explaining his preference for a coalition as against dissolution.<sup>545</sup> But he subsequently entertained different thoughts on the government and its role in a parliamentary regime. As long as the government enjoyed the confidence of both constitutional factors – Stojanović never questioned ministerial responsibility to the king – it held 'all power', he said in 1911, assuming undoubtedly under 'all power'

543 *Parliamentary proceedings*, 1905–1906, 22.10.1905, pp. 277–8.

544 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, pp.51–2.

545 *Parliamentary proceedings*, 1905–1906, 22.10.1905, p. 277.

administration of the state in accordance with its own programme.<sup>546</sup> It is difficult to tie this to the perception of the government as a committee of the assembly, or indeed with the thesis on dissolution being an 'extreme measure'. The concept of the government holding 'all power' in its hands precisely assumes the government to be a separate 'third factor', rather than a 'committee of the assembly' whose basic function is to mediate and harmonise the political positions of the assembly and the crown, as Stojanović had been wont to explain.

All in all, Stojanović's explanations of these important questions of parliamentary government are not of great use when it comes to establishing the Independent Party's positions on them. It is necessary to stress here that Stojanović's inconsistency was due not to any change of basic position in accordance with practical political needs, but rather to his limited theoretical knowledge of constitutional law and parliamentary theory, leading to insufficient understanding of the problems involved, hence to incoherence and inconsistency in his exposition.

Other leaders of the Independent Radical Party, including Jaša Prodanović – the party's most serious student of constitutional issues – did not discuss this question specifically, but their stubborn defence of a coalition suggests that they too saw dissolution as an 'extreme measure'. This view was defended explicitly, albeit parenthetically, also by *Odjek* – precisely in connection with the crisis of May 1905.<sup>547</sup> Nevertheless, in the absence of other serious contributions on this issue coming from the Independent Party, and given that the latter governed only for a very short time, it is hard to tell by relying solely on Stojanović's thoughts on the subject whether, by contrast with the Radicals, this party was closer to French rather than to British parliamentarism.<sup>548</sup> As a pointer strengthening the

546 *Državna uprava u demokratiji, predavanje g. Ljub. Stojanovića držano u demokratskom klubu samostalne radikalne stranke 30.januara o.g.,* Belgrade 1911, p.15.

547 *Odjek*, no.145, 25.6.1905.

548 It should be noted that, when seeking to identify the Independent Party's concept of parliamentary government, we consider here only its attitude to the

argument in favour of a positive reply to this question, one may cite the very precise and consistent opinion on the subject expressed after the First World War by Jaša Prodanović: 'Parliamentary dissolution is contrary to democratic ideas.' 'The assembly has precedence over the government. So long as the assembly can produce a government, one should not hold elections,' wrote Prodanović in 1924.<sup>549</sup>

## 2. The 1906 elections and the end of bi-partyism

The aim of the elections scheduled for June 1906, as of those held in May 1905, was to produce – in the absence of political conditions for a coalition – a majority for one of the two Radical parties large enough to form a stable homogeneous government. The other parties, left out of the struggle for power, commented resignedly that all of parliamentary life, as well as state policy as a whole, 'revolved around' which Radical party would be in power. 'That is all they are asking us to do... This has caused three general elections to be held in two and a half years,' wrote the Liberal Party organ *Srpska zastava*.<sup>550</sup> The Progressive paper *Videlo* commented in similar fashion on the announcement of new elections. There existed only one question in the Serbian parliamentary system, it wrote, which was: 'are we for the older or the younger brothers?'. 'If only they would find that majority... Will we ever be free from elections and endless electing?'<sup>551</sup>

The basic idea with which the Radicals assumed power in 1906 was precisely the intention to 'free' Serbia from 'endless electing'. Aware that the party's unity was gone for good, they had decided on taking over the

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party composition of the government, and the role of dissolution in solving the problem of governmental crisis; the question of who decides on dissolution, and linked to that the role of the king, is discussed elsewhere.

549 Jaša Prodanović, 'Naš parlamentarizam', *Srpski književni glasnik*, 13, 1924, pp. 39–40.

550 *Srpska zastava*, no.115, 21.5.1906.

551 *Videlo*, no.30, 6.5.1906.



government in order to clarify once and for all the question of supremacy within the Radical electorate, and quickly moved to ensure their electoral victory through practical measures. They allocated the main role in this to the ministry of the interior, once again headed by Stojan Protić. This ministry's conduct in the electoral campaign and during the actual voting virtually negated the freedom of the vote guaranteed by the constitution. In Ljuba Stojanović's judgment, the elections of 11 June 1906 were in fact conducted in a manner that was in direct 'contradiction with the concept of free elections'.<sup>552</sup> 'By stamping down on electoral freedom, you have won governmental power as a war trophy', said the Independent deputy Živojin Hadžić.<sup>553</sup> It was 'the electoral acting out of a farce... in which the main role was played by the police', commented Ljuba Davidović with deep bitterness and indignation. Political opponents 'were treated as public enemies against whom all measures were permitted.... The arsenal of such measures was bottomless: where pleading was necessary, the pleas were cowardly; where it was necessary to threaten, the threats were merciless; where it was necessary to go beyond this, to punish and to imprison, there was no shrinking from that either... Good old trust in the laws and the constitution has been cut off at the roots... within sixty days ... love of rights and duties has been transformed into an apathy bordering on disgust towards force and violence', said Ljuba Davidović.<sup>554</sup>

Immediately after assuming his ministerial post, Protić initiated a systematic replacement of police and local officials. 'Grasping Šumadija Radicalism is swirling through Serbia in a destructive dance', was how *Spska zastava* saw the Radical Party's electoral campaign.<sup>555</sup> 'The police roster in the European St. Protić's pocket was prepared before the list of ministers in the notebook of the Bismarck from Timok', the Independent paper *Odjek*

552 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.50.

553 *Parliamentary proceedings*, emergency session of 1906, 11.7.1906, pp 147–8.

554 *Parliamentary proceedings*, emergency session of 1906, 8.7.1906, pp. 113–14.

555 *Srpska zastava*, no.115, 21.5.1906.

wrote at the same time.<sup>556</sup> During the forty days following the formation of the new government, ‘decrees were issued one after another’ and ‘practically all county and district officials were changed’, opposition deputies attested during the debate on credentials. ‘In this literature of decrees, the most prominent author is found to be the interior minister Mr Stojan Protić’, stated the Liberal deputy Mihailo Đorđević.<sup>557</sup> The ministry of the interior next made a ‘list’ on the basis of which ‘each municipal head was given an imperative order on the minimum of votes that his municipality must cast for the government’, testified an Independent, Medo Djaja, in the assembly.<sup>558</sup> There were many ways in which the secrecy of the vote was nullified, and most proved effective.<sup>559</sup>

There was much evidence of such doings, all incontestable. Indeed the Radicals made little effort to deny them, and some even defended them as legitimate. ‘I found I had to do this for the sake of an assembly like this one, which faces many difficult tasks’, was Nikola Uzunović’s comment on his letter to a municipal head asking him to secure ‘a majority for the government list’, if he wished ‘to remain as head.’<sup>560</sup> Asked about the mass

556 *Odjek*, no.94, 21.4.1906. The Bismarck in question is Pašić.

557 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.52.

558 *Parliamentary proceedings*, 1906–1907, 25.1.1907, p. 2383. Džaja spoke as a witness who had seen one such list.

559 For example, local officials would warn voters suspected of intending to vote for the opposition that the ruling party’s box had to contain a certain number of balls, and that anything less would be counted as their missing votes. See Milovan Lazarević, *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p. 71. Dragiša Lapčević gave another example. According to him, the head of the municipality of Pirot tore away the cotton lining of the government box, so that the balls would fall on bare tin. The police was present throughout, reminding the voters whom they should vote for. ‘If their ball failed to make a sound...’, explained Lapčević – but his demand that an investigating commission be set up was rejected. *Parliamentary proceedings*, emergency session of 1906, 11.7.1906, p.211.

560 *Parliamentary proceedings*, 1906–1907, 6.10.1906, pp. 49–50. The list in question was headed by Stanko Petrović, and the letter was read in the assembly by the Liberal deputy Radovan Agatonović.

dismissals of municipal officials, Protić told the assembly literally: 'I have removed only Independents.'<sup>561</sup>

There was no doubt that the Radicals viewed the electoral campaign primarily as a final settling of accounts with the Independents, and that the only criterion in their choice of methods was their effectiveness. Protić's testimony, and Uzunović's too, only illustrates how far they went in this direction. This is confirmed also by reports sent by county and district committees to the president of the Independent Party, Ljuba Stojanović. 'Everywhere we have been placed outside the law. Our sealed letters and packages have been seized at post-offices and from our officials... the fusionists' police .. remind me of the Cincar-Marković period.' 'Since 29 May, when we thought that reaction would never again raise its head' local Independents wrote to their president, 'we are now much worse off than under the worst reaction at the time of Ribarac and Vladan.'<sup>562</sup>

A common form of electoral malpractice was forced voting. This was linked to the constitutional provision on the transfer of votes won by smaller parties to the largest. In a relatively large number of cases, citizens were thus forced to turn up to vote in order to raise the electoral quotient, thereby increasing the number of lists without a quotient and, in the final instance, the number of votes for the largest party.<sup>563</sup> According to Ljuba Stojanović, the pressure on the electorate to vote was such that it should be taken as the main reason why the percentage of those voting in 1906 (67.6 per cent) was considerably larger than in the previous year.<sup>564</sup> It was a '*marifet* [artful trick]', said Pavle Marinković, 'designed to create a flood

561 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.54.

562 ASANU, 12397, 12787, 12777. The reference is to the Liberal government of 1892, in which S. Ribarac was minister of the interior; the neutral government of Vladan Đorđević in 1897–1900; and the government of Cincar-Marković that predated the coup of 1905. In Radical political memory, all three symbolised absence of liberty and state violence.

563 *Videlo*, no.60, 13.6.1906; M. Grebenac, 'Jedan ili dva količnika', *Nedeljni prehled*, no.6, 21.2.1910, p.83.

564 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.51.

of balls, so that our modest 30,000 balls would drown in those 150,000.’<sup>565</sup> Our ‘state institutions’ are among ‘the freest in Europe’ and the state administration is ‘absolutely unable’ to force electors to vote, retorted Protić, recalling that in many countries there was a ‘strong current’ seeking to make voting legally compulsory.<sup>566</sup>

Refusing to recognise the regularity of the elections, the opposition parties highlighted not just direct government pressure, but also the improperly conducted electoral campaign of the ruling Radicals. The Independents, whom their former party comrades commonly called ‘traitors’ and ‘Austrian spies’, proved the most vociferous critics in this regard. The many examples brought up during the credentials debate included songs composed in decasyllables [epic metres] in which the Independents appeared as ‘Branković-es’ against whom stood Pašić, ‘the right flank of the Serbian lord [Lazar] whom not even the Sultan can outwit.’<sup>567</sup> According to Dimitrije Iliđanović, the improper ‘electoral agitation’ was as strong a reason for declaring these elections invalid as was government pressure and the various electoral malpractices.<sup>568</sup>

565 *Parliamentary proceedings*, emergency session of 1906, 11.7.1906, pp. 150–52.

566 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.54.

567 ‘Who is a hero, who is a true Serb/Who is the grandson of Miloš and Marko/Who remembers bloody Kosovo/And the accursed Vuk Branković... Let him throw a ball at the traitors/Let him destroy Branković’s seed/And the cheating Independent name’ – was part of the song ‘The Šumadija *gusle* player’. The verses were read out in the assembly by A. Ratarac, who was among those personally named in it. The poem was distributed on the eve of the elections together with *Samouprava*, the organ of the Radical Party. *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, pp. 58–9. Composing similar decasyllabic poems was a common practice of all parties, in fact, during Serbian electoral campaigns in this period. See, for example, the Progressives’ electoral poster for the 1912 elections, read out in the assembly by the rapporteur of the credentials committee, the Radical I. Ilić. *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p. 120.

568 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p. 65.

**TABLE 3. Results of the 1906 elections**

1) in reality; 2) under the constitution of 1888; 3) under the single-quotient system

	Party	Rad.	Ind.	Lib.	Prog.	Coal. Lib./ Prog.	Peas.	Soc.	Other
In reality	% of votes	42,9	29,6	12,5	8,0	3,1	2,6	0,9	0,6
	number of seats	91	47	15	5	1		1	
	% of seats	56,9	29,4	9,4	3,1	0,6		0,6	
	diff. % votes and % seats	+14,0	-0,2	-3,1	-4,9	-2,5	-2,6	-0,3	-0,6
Constitution of 1888	number of seats	73	50	21	10	2	2	2	
	% of seats	45,6	31,2	13,1	6,2	1,2	1,2	1,2	
	diff. % votes and % seats	+2,7	+1,6	+0,6	-1,8	-1,9	-1,4	+0,3	-0,6
Single- quotient	number of seats	83	51	14	6	5		1	
	% of seats	51,9	31,9	8,8	3,8	3,1		0,6	
	diff. % votes and % seats	+9,0	+2,3	-3,7	-4,2	0	-2,6	-0,3	-0,6

In the light of the endless list of examples of electoral abuse and pressure on voters on the part of the police and municipal officials brought up during the credentials debate that took place in the assembly between 4 and 17 July 1906, Protić's comment on the enviable freedom of Serbian institutions and their compatibility with European standards appeared cynical to the opposition. The secrecy of the vote and freedom of institutions of which the minister spoke was to them merely a charade. The Independent deputy Mihailo Ranković sounded very convincing when he reminded Protić: 'This would be the case were all citizens in a position to live independent lives... but when they cannot even contemplate ... using their rights and freedoms ... but only how to maintain themselves and their families, and when they see ... what is demanded of them by one who is stronger and holds power in his hands ... it is a sign to Serbian citizens, whom you call free, to take care what they say and do... This is how people see things, and what it is like', said Ranković.<sup>569</sup>

569 *Parliamentary proceedings*, emergency session of 1906, 8.7.1906, p.111.

Holding the view that the circumstances in which the elections were held had been a denial of freedom and legality, the Independents saw them as illegal and decided not to recognise the result. These elections should be 'declared invalid' and 'new elections' organised – 'So, forward to elections!', exclaimed Ranković.<sup>570</sup> With this aim in mind, the Independent Party initiated obstruction with the intention of preventing closure of the credentials debate. The mandates were nevertheless verified, because the Independents retreated from their earlier decision after obtaining from the Radical Party 'its word of honour that repression would cease.'<sup>571</sup>

The election results (see Table 3) showed that the Serbian electorate's overall political make-up remained essentially unchanged. The ratio of pro-Radical and non-Radical voters remained practically the same: 72.5 per cent to 27.5 per cent respectively. As before, the Liberals and the Progressives, independently or in coalition, took the bulk of the non-Radical vote: 23.7 per cent, with the Accord winning 2.6 per cent and the Socialists 0.9 per cent of the votes.<sup>572</sup> There was a further redistribution of votes between the two Radical parties, with the difference that this time round – in 1906 as opposed to 1905 – the majority was won by the Old Radicals. The fact that the combined electoral body of these two parties remained unchanged, albeit with a redistribution of votes between the two, testified anew that the real party division in Serbia remained the division between Radicals and non-Radicals; and that the population had not yet accepted the internal Radical split as final, but saw it rather as a struggle for leadership within a united Radical movement. Asking 'how can the people change its view so much in a year', a deputy of the winning side, Miloš

570 *Ibid.*, p.112.

571 Announcement by the Independent deputies' club, read out in the assembly on 20.3.1907, *Parliamentary proceedings* 1906–1907, p. 3739.

572 The growing coalition makes it difficult to estimate with any degree of precision the relative numerical strengths of the Liberal and Progressive parties respectively. From the start of these elections, their individual strengths can be ascertained only on the basis of the number of their deputies, because the latter, albeit elected in coalition, retained their party identity in the assembly.

Ćosić, noted: 'Our Radicals still fail to understand clearly this inter-Radical division, and move from one lot to the other as if from a father's house to that of an uncle, or vice-versa.'<sup>573</sup>

Ćosić's observation was accurate, but corresponded to the time before rather than after the elections. The intention with which the Old Radicals had assumed power a few months earlier had been realised. For the shift in voting patterns that took place in those elections, though overshadowed by serious doubts over their reliability, was too large not to affect permanently the relationship between the two parties: the Old Radicals increased their presence in the electorate by 10.6 per cent, while the Independents declined by 8.8 per cent. Thus while the election results of 1903 and 1905, showing only a relatively weak advantage of one party over the other, had not allowed any victor of the internal Radical conflict to be identified, the Old Radicals' election victory of 1906 was very clear, and in that sense these elections represented a turning point. With their 42.9 per cent of the vote, Pašić's Radicals emerged as the strongest party in Serbia, while the Independents with their 29.6 per cent became one of the minority parties. 'This year a re-orientation among the Radicals has indeed begun and been accomplished', observed with satisfaction a leader of the Old Radicals, Ljuba Jovanović. The Independent Party had emerged in order to 'morally cleanse the Radical Party, thus causing confusion within the Radical army', argued Jovanović. In the meantime, 'during the past eleven months' this army had seen the error of its ways and was now 'leaving you and going over to the right side', he told the Independents.<sup>574</sup> The next elections would show that the 're-orientation' of 1906 was final, and that it had helped to complete the long process of division within the old Radical Party.

This relationship of forces between the two Radical parties was significantly aided by the effects of the electoral system. The advantage gained in the elections by the Radicals over the Independents was thus doubled in parliament: their 13 per cent advantage in votes cast gave them an

573 *Parliamentary proceedings*, emergency session of 1906, 8.7.1906, p.108.

574 *Parliamentary proceedings*, emergency session of 1906, 12.7. 1906, p. 180.

additional 27.5 per cent of parliamentary seats. This was the greatest deviation of the percentage of seats won from the percentage of votes cast in favour of the strongest party to be recorded in elections during the 1903–1912 period. It amounted to a full 14 per cent, greater than is usual even in first-past-the-post systems.<sup>575</sup> As a result, the number of seats held by the Radical Party rose from 55 in 1905 to 91 in 1906, which was the greatest Radical gain during this period. The Independents, on the other side, took only 47 seats by contrast with their previous 81. The Liberals won 16, the Progressives 5, and the Socialists one seat, while the Peasant Accord failed to gain a single seat. These elections thus for the first time after the split in the Radical Party permitted the creation of a homogeneous government with a large parliamentary majority. The Old Radicals now emerged as the strongest party in the country, a position that they retained as we shall see until the end of this period. At the same time, the electoral defeat suffered by the Independents would prove decisive: following these elections, their party acting on its own would no longer be a serious competitor to the Old Radicals in the struggle for power.

Reflecting on the causes of the extraordinary intolerance between the two Radical parties, and on the factors that had prompted the ruling party to engage in a brutal electoral war, Živojin Hadžić concluded that the ultimate responsibility for this lay in the changes to the electoral system adopted in 1903. The existing electoral system fed the ‘illusion’ among the Old Radicals, he argued, that it was possible to win a simple majority and have a homogeneous government. Had the old electoral system

575 Richard Rose quotes the British elections of 1966 and of 1970 as examples of the high degree of non-proportionality present in the British majority system. In the former case the disparity between the percentage of votes and the percentage of seats was 9.7 per cent in favour of the number of seats (48.1 to 57.8), in the latter it was 8 per cent (46.3 to 52.3). Richard Rose, *The Problem of Party Government*, London 1974, p. 115. This does not mean, of course, that there are no examples of even greater disparity. M. Jovičić cites the case of the 1979 elections in Great Britain, when the Liberal Party with its 13.8 per cent of votes gained only 1.7 per cent of seats (a difference of 12.1 per cent). M. Jovičić, *Veliki ustavni sistemi*, p. 31.



been retained, they would have had to give up their obsession with a homogeneous government, and opt instead for tolerance and collaboration – ‘there would have had to be more cooperation’, argued Hadžić. But this way, fixated on even the smallest possibility of winning a simple majority, they pursued one at all costs, and treated their electoral victory as a ‘war trophy.’<sup>576</sup>

It is impossible to know, of course, how the relationship between the two wings of the Radical Party would have developed had the 1888 electoral system been retained in 1903, or indeed what consequences it would have had on the party system as a whole. Nevertheless Hadžić was right about one thing: the electoral system of 1888 would have prevented a homogeneous government after the May coup – except, of course, in 1903. Application of a largest remainder system would in 1906 have given only 73 seats to the Old Radicals and 50 to the Independents, while the Liberals and the Progressives taken together would have gained 33 seats. It should be said, however, that the distribution of seats in accordance with a single quotient, as prescribed by the constitution of 1903, would have permitted the creation of a homogeneous government this time too, albeit with only a three-seat majority as opposed to the eleven that the Radical Party won thanks to the application of an unconstitutional electoral system. In regard to its degree of proportionality, the electoral system envisaged in the 1903 constitution stood between the 1888 system and the one that the constitution makers adopted after 1903, in defiance of the constitution (see Table 3).

### **A. THE EXACERBATION OF INTER-PARTY CONFLICT**

Relations between the parties changed considerably following these elections. Those between the Independents and the Radicals – already strained during the year of Independent rule, and especially by the actual resolution of the crisis – acquired after these elections the character of a war. At the same time, a process of growing cooperation was initiated between the

576 *Parliamentary proceedings*, emergency session of 1906, 11.7.1906, pp. 147–8.

Independents, on the one hand, and the Liberals and Progressives on the other, which – following a crooked path – by the end of the parliamentary period in Serbia would lead to the formation in spring 1914 of a joint opposition bloc against the Old Radical government.

The Independents were unable to forgive Protić for their electoral defeat and the police violence that accompanied it. As early as November 1906 Ljuba Davidović announced in the name of the Independent Party a struggle ‘by all legal means’ against ‘Mr Protić’s unbridled police’, for ‘there is no end to the persecution.’<sup>577</sup> Despite promises to end the violence, the government’s recourse to force, especially by its minister of the interior, became increasingly frequent and brutal. This was no longer directed as during the elections mainly against the Independents, but was increasingly acquiring the character of state violence directed against all forms of non-compliance with the ruling regime. Demonstrations by Belgrade students against a loan taken out by Pašić’s government were in December 1906 suppressed bloodily by the police, when the government also placed the army on alert.<sup>578</sup> The army was used to break up a strike by workers at Čukarica in February 1907, when four workers were killed.<sup>579</sup> At the level of state institutions, meanwhile, the government, relying on its disciplined majority, on all occasions showed that it understood parliamentary government as virtually unlimited power of the majority.<sup>580</sup>

All this led rather quickly and effortlessly to a convergence of the opposition parties. The time was long distant when the Independent Party, having for the first time after the coup surrendered power to Pašić’s Radicals, had professed loyalty to its ‘older brothers’ and rejected all possibility of cooperation with the parties of the previous regime. The merciless mutual struggle had ended for good the tacking of the Radicals between two parties, and Živojin Hadžić was quite right when he said, addressing the

577 *Parliamentary proceedings*, 1906–1907, 22.11.1906, pp. 1256–7.

578 *Parliamentary proceedings*, 1906–1907, 11.12.1906, pp. 1688–94.

579 *Parliamentary proceedings*, 1906–1907, 28.2. – 5.3.1907, pp. 3248–323.

580 See on this ‘The Era of Monism’ below.

government majority: 'You have finally realised, gentlemen, that the Independent Radicals are an organised party.'<sup>581</sup> The other opposition parties no longer doubted this either, and the electoral war that the Radical Party had initiated against its 'younger brothers' soon turned into the war of a united parliamentary minority against the government and its majority.

The Old Radicals's rule was called the '*stojanovština*' [after Stojan Protić], and described as 'a personal regime of Pašić and Protić', a 'Janissary policy', or 'Radical Caesarism.'<sup>582</sup> The government was meanwhile accused of nurturing corruption as a method of governing, majority deputies and individual ministers of abusing power in pursuit of personal enrichment. 'Deeply convinced that it is their right to treat Serbia as their property, they have divided the counties among themselves. Each has taken a mountain, each a forest and a mine', the deputies complained. 'Each has taken something, leaving nothing for Serbia.'<sup>583</sup> The opposition particularly stressed the misuse of power on the part of prime minister Pašić, who according to *Nedeljni pregled* 'has introduced into Serbia the theory that politics knows no morality, nor chooses its means.'<sup>584</sup> His personal affairs provoked stormy and ill-tempered parliamentary debates. Pašić was a 'state parasite', declared Jaša Prodanović. 'If you need to reward him, it would be better to give it to him once and for all ... This too will be materially damaging to Serbia, but at least we shan't have this moral degradation of the country... Stojan Protić will then explain to you that this is how great men are treated in England. Turn him into a great man, proclaim him a saint, pay him off with a large sum in cash, for I tell you that one loss is better rather than this disgrace.'<sup>585</sup>

581 *Parliamentary proceedings*, 1906–1907, 3.2.1907, p. 2690.

582 Stojan Lukić and Kosta Timotijević for the Independents, and Mihailo Đorđević for the Liberals. *Parliamentary proceedings*, 1906–1907, pp.2420, 2369, 2434.

583 Milan Petrović, a Liberal, and Kosta Timotijević, an Independent. *Parliamentary proceedings*, 1906–1907, 10.3.1907, p. 3445, and 24.1.1907, p. 2335.

584 *Nedeljni pregled*, no.11, 1908, p. 185.

585 *Parliamentary proceedings*, 1906–1907, 28.6.1907, p. 4673. This had to do with two mining concessions won by Pašić's wife during the time of his

‘The people follow him’, was Protić’s reply to the attacks directed at Pašić. ‘What does psychology have to say about this?’, he asked, suggesting that the complaints against Pašić were rendered meaningless by the fact that the majority in Serbia followed him. Prodanović, however, was not ready to accept Protić’s interpretation of this evident fact as an adequate response. ‘Psychology here means that Mr Pašić is followed by a mindless crowd’, he retorted.<sup>586</sup> The part that does not do so for personal profit, ‘the better element’, was ‘hypnotised by Pašić ... rendered spiritually incapable of thinking for themselves’, he said on another occasion. If they could distance themselves but a little from Pašić, they would realise how ‘dangerous it was for them to be sitting in that noxious air.’<sup>587</sup> Other Independent leaders thought likewise. ‘Pašić-ism is destroying us’, wrote Jovan Žujović in early 1908 to the leader of the Independent Party, Ljuba Stojanović. ‘Stepping on the snake’s neck will be your greatest achievement... But I don’t think it’s a snake. It’s a gangrene, a cesspit, in which the Radical Party is drowning’, reckoned Žujović.<sup>588</sup>

But the greatest fire was directed against the minister of the interior, Stojan Protić. His work, as well as that of his department, was the subject of an interpellation submitted by Ljuba Davidović on 22 November 1906, which provoked a debate lasting seventeen days: from 22 January to 7 February 1907. He is ‘nitric acid that attacks iron’, was how Dragoljub Joksimović described Protić on that occasion. ‘He must go, that’s the only way.’ Protić refuses to accept that Serbia has any parties other than his own. He ‘keeps treating the Independent Radicals as rebels, and the Liberals and the Progressives as executioners’, declared Joksimović.<sup>589</sup> And according to Jaša Prodanović: ‘The deputies tell him: “Mr Minister, your policemen make forgeries, steal, engage in dirty doings that are punishable by imprisonment” and the minister replies: “Jenks says... Barthélemy says.” We tell him

.....  
 premiership.

586 *Parliamentary proceedings*, 1906–1907, 21.6.1907, p. 4476.

587 *Parliamentary proceedings*, 1907–1908, 20.12.1870, p.190.

588 ASANU, 12398.

589 *Parliamentary proceedings*, 1906–1907, 2.2.1907, pp. 2668, 2674.

about violence in this country, and he tells us about self-government in France and England.' 'Mr Protić has never been of a liberal mind,' concluded Prodanović. He 'was always a true Turk in practice', who has now become 'head of the privileged group of violent thugs that in Serbia is called the police.'<sup>590</sup> Protić's policy is just a *stambulovština*, opined Kosta Timotijević, warning: 'Mr Protić should not forget that Stambulov died in rags; he was murdered.'<sup>591</sup> The Liberals were even more explicit: the repression he had instituted could lead to a 'revolution'. 'Mr Protić should be aware of this, because the revolution would view them as malefactors and criminals, who are the source of all this evil', said the Liberal deputy Mihailo Škorić.<sup>592</sup>

In this flood of personal abuse and threats, the criticism that came from the Progressive leader Vojislav Marinković sounded unusually calm, even well-intentioned, even though its content was no less hard-hitting and grave. When the Radicals came to power after adoption of the 1888 constitution, recalled Marinković, they 'persecuted the Progressives and the Liberals' until they 'finally ruined what had been the *raison d'être* of their coming to power and of the regime that made it possible'. As a result, 'the constitution was suspended'. 'Today' they were doing the same thing as before. 'I simply do not understand', said Marinković, 'that the Radical Party which has 91 deputies in the national assembly, and which according to the constitution does not have to call elections for four full years,' treats its political opponents in the way it does. 'You have lost those same institutions' once before 'through your misdeeds.' This should not be repeated, warned Marinković.<sup>593</sup>

The Independents – confronted with a government in possession of a strong and disciplined majority, and determined to bring down if not the

590 *Parliamentary proceedings*, 1906–1907, 5.2.1907, pp. 2719–20.

591 *Parliamentary proceedings*, 1906–1907, 24.1.1907, p.2369. Timotijević was referring to Stefan Stambulov, prime minister of Bulgaria, known for his regime of repression directed against his political opponents. Stambulov was assassinated following a private scandal.

592 *Parliamentary proceedings*, 1906–1907, 5.2.1907., p. 2736.

593 *Parliamentary proceedings*, 1906–1907, 29.1.1907, pp. 2540–41.

whole of it then at least the minister of the interior – in March 1907 initiated a new phase of parliamentary struggle, a phase of obstruction.<sup>594</sup> The proclaimed aim, which they called their party's 'pledge', was to turn Serbia into a 'legal state' by preventing Pašić's Radicals from demeaning with their majority the constitution, the laws and the legal order as a whole.<sup>595</sup> 'The present government ... won a majority through violence, maintains itself through corruption, and displays contempt for the law. This government does to the state what bacilli do to an organism: corroding, weakening and disabling it, causing the organism's disintegration. Although I am not all that devout, I say that we should pray to God for Serbia, pray that Mr Pašić does not finish it off by continuing to behave in this manner' – that was how Jaša Prodanović explained his party's decision to obstruct the work of parliament.<sup>596</sup>

Clearly worried, for the Independents' obstruction threatened the passage of the budget, Pašić, who normally let others speak for him, decided to speak himself this time and addressed the Independents with one of his demagogic speeches recalling the past. 'What keeps you together, when we see among you people we expelled from the party, who used to be our political opponents against whom we fought... the kind of people who come from families that used to persecute and attack us, used to testify against us?' 'The Radical Party has its own history and programme...' That programme was 'made public as far back as 1889', its essence being 'the struggle for freedom', said Pašić, knowing well that the original Serbian Radicalism and an appeal to the first (and only) party programme still played an important role in maintaining an emotional link to the party. His proclamation of loyalty to that programme – quite common anyway in both parties – and his reminder of the past were in this case supposed to pacify the Independent Radicals.

594 For the obstruction of Pašić's government in 1906, see 'The Era of Monism' below.

595 *Parliamentary proceedings*, 1906–1907, 20.3.1907, pp. 3739–41, and 27.5.1907, pp. 3926–31.

596 *Parliamentary proceedings*, 1906–1907, 13.3.1907, p. 3495.

But the feelings that the Independents harboured towards the former Radical Party, which were still real enough, could no longer be used in the way Pašić had hoped. 'The younger Radicals don't want to have anything to do with you, which is perfectly natural... Two whole decades divide us from you, we and you are two different worlds... You are incapable of understanding the ideas of today... I think you are a real obstacle to progress,' replied Dragoljub Joksimović. 'You still call yourselves Radicals. This is what you called yourself too when ... you defended the highly opportunistic theory of "it's the king's will" ... when you preached the revolutionary theory of "the worst the better" and ... when you introduced the beggar's theory of "better something than nothing".' 'That ... beautiful name,' Jaša Prodanović told the Old Radicals, should be placed 'among the old Radical relics, and you should call yourself instead the unprincipled party... because your history, gentlemen, is a rare example of the downfall of a party that in its youth ... was the advocate and apostle of freedom, and which in its old age has become the executioner and gravedigger of that freedom.'

The Independents had long ago ceased to link the Old Radicals with the original Serbian Radicalism, believing that they and not the Old Radicals were the latter's true heirs. They saw the Old Radicals as a party that in fact had no programme; one that unlike modern parties was kept together not by principles, but by a cult of personality on the one hand and, on the other, an interest in holding onto power as such. Pašić 'knows that the people of the Orient easily confuse darkness with profundity, and reticence or secretiveness with wisdom,' Prodanović continued. 'Just like the old Greek oracles, Mr Pašić speaks in such a way that you cannot tell what he is saying and whether it is good or bad,' was his comment on Pašić's inarticulate presentation of his party's programme as a struggle 'for freedom.' 'What is your programme *today*? Are you saying: we have drawn a line under the past, we are entering a new era? No!,' Prodanović asked and replied at the same time, as he sought to demonstrate that there existed an essential difference between the Old and the Independent Radicals in that regard. The old programme 'is no longer your programme,' and 'is not ours either,' he

continued. 'That programme could not be anyone's programme in these times', insisted Prodanović, who as the party's ideologue was increasingly trying along with his colleagues to define – without abandoning continuity with the original Radicalism – the Independent Radical Party as an organisation with modern principles, close to the idea of social justice and social democracy.<sup>597</sup>

Obstruction – either active or passive – lasted until April 1908, focusing on the issue of the budget which threatened the ruling party with a constitutional crisis. In its first phase it was conducted by the Independents alone, albeit with the more or less tacit approval of the rest of the opposition, who insisted on unconditional replacement of the notorious minister of the interior, Protić. When at the end of May 1907 their demand was partly met, with Nastas Petrović becoming the new interior minister as part of a governmental reshuffle, the Independents ended their obstruction. The phrase with which party leader Ljuba Stojanović accompanied their statement ending the obstruction illustrates perhaps better than anything yet said the nature of the relationship now prevailing between the two Radical parties: 'Since the new government is again headed by the same man ... we are leaving today's session to signal our disgust.'<sup>598</sup>

In the autumn of the same year, the government once again came under sustained attack on the part of the whole opposition, which extended its protest beyond the assembly. This was caused by the murder in September 1907 – in prison and in the presence of the new interior minister, Nastas Petrović – of the leader of the anti-conspiracy movement, Milan Novaković.<sup>599</sup> The first intervention of the new parliamentary session was Dragiša Pečić's cry: 'Down with the murderer!', directed against Nastas Petrović.<sup>600</sup> The assembly was postponed the same day, while the 'united opposition' organised a protest rally that led the government to

597 *Parliamentary proceedings*, 1906–1907, 13.3.1907, pp. 3487–8, 3496–8, and 3565.

598 *Parliamentary proceedings*, 1906–1907, 27.5.1907, p.3932.

599 See on this 'The Era of Monism' below, p. 325.

600 *Parliamentary proceedings*, 1907–1908, 6.10.1907, p.8.



place the army on alert and even bring in additional troops from the interior.<sup>601</sup> During such time as the assembly was not in session, and in preparation for new general elections, local elections were held that came to be remembered as 'bloody' because of the malpractice and widespread use of violence that accompanied them. It was a 'Radical onslaught that also included broken heads', writes Dimitrije Đorđević.<sup>602</sup>

The opposition also supplied evidence indicating that party government in Serbia was being transformed into a party state. 'Today, in the ministry of justice, one must show a fusionist membership card before gaining a rank or higher promotion. A young man must declare his readiness to join the party of the Old Radicals if he is to get a job there', stated Dragoljub Joksimović.<sup>603</sup> 'While the other parties' clubs have to hire private venues, the Radical club meets gratis in the assembly building, with free lighting (and heating in winter), service, etc.', wrote *Nedeljni pregled*. 'This comes from the Radicals' habitual identification of their party with the nation, and its club with the national assembly. Since what matters in the last instance is what the majority *wants* (in Mr Stojan Protić's theory), and since the majority is the Radical Party, then this party is the same as the national assembly', the Serbian conservatives used to explain.<sup>604</sup>

It was clear right from the opening day of the 1907 parliamentary session that the government would find it hard to work with an assembly in which the opposition parties were increasingly uniting, as a community

601 T. Kaclerović spoke in the assembly, on 17.7.1908, about 'the famous proclamation of the *united opposition* to the Serb people' against 'the forced postponement of the assembly' (italics OP). *Parliamentary proceedings*, emergency session of 1908, p.258. On placing the army on alert on this occasion, see D. Joksimović, *Parliamentary proceedings*, 1907–1908, 7.3.1908, p. 130. See also D. Đorđević, *Carinski rat*, p. 433.

602 'It was only then', adds Đorđević, that Pašić 'holding in his hands both the municipalities and the police, could venture without fear into general elections.' D. Đorđević, *Carinski rat*, pp.412, 433. According to the parliamentary opposition, many people were wounded and some even killed during these elections. *Parliamentary proceedings*, 1907–1908, 22.11.1908, p.55.

603 *Parliamentary proceedings*, 1907–1908, 1.2.1908, p. 611.

604 *Nedeljni pregled*, no.10, 1908, pp.168–9.

of interests dedicated to removal of the Radicals from power. 'Resign!', was the cry with which Jaša Prodanović concluded his speech during the general debate on the budget.<sup>605</sup> In March 1908 the Independents too the start of the second phase of obstruction quite formally. This time, also formally, they were promptly joined by the other opposition parties, showing in this way that they too had begun to see the Independents as a party of opposition. The Radicals, wrote *Nedeljni pregled*, close to the Progressives, 'have subjugated the whole state to their party; holding firmly to the motto that the party is more important than the state, they take Serbia to be a milch cow in the exclusive possession of the National Radical Party.' This is why 'the *opposition* [italics OP], which believes Mr Pašić's continued hold on power to be fatal for the country', has decided to use obstruction as a means to obtain dissolution of the assembly and the holding of new, free elections.<sup>606</sup>

Faced with united action on the part of the opposition in the assembly, Pašić and his most loyal Radicals again tried by recalling the past to turn at least some of the Independents against a political agreement with the Liberals and Conservatives. It was an agreement with 'reactionaries led by Veljković', forged in order 'to abolish present-day freedoms and civic rights by all means available', Stanko Petrović warned the Independents.<sup>607</sup> The kind of freedoms that Serbia enjoys, argued Pašić, 'are lacking in nations which are more advanced and cultured than us. Our freedoms are on a par with the freedoms of France and Belgium; our freedoms are on a par with the freedoms that exist in republics and in England... Serbia has laws protecting free elections that practically no other country has...' These 'popular freedoms' were won by the Radical Party, 'when the fathers of our current oppositionists were in government'; the Independents, by uniting with such 'oppositionists' were choosing 'the path of reaction', Pašić insisted.<sup>608</sup>

605 *Parliamentary proceedings*, 1907–1908, 24.1.1908, p. 479.

606 *Nedeljni pregled*, no.2, 1908, p.35.

607 *Parliamentary proceedings*, 1907–1908, 30.1.1908, p. 578.

608 *Parliamentary proceedings*, 1907–1908, 24.3.1908, pp. 581–4.

Such appeals met with no response, however, and the opposition was united in demanding dissolution of the assembly and the holding of new elections, warning that a new assembly would not be able to function unless it had been elected in free elections. Faced once again with the absence of a budget, hence also with a constitutional crisis, Pašić's government had to give in and agree to new elections.

Deeply convinced that elections conducted by the Radical Party would not be free, the opposition demanded a caretaker government [to supervise elections], and appealed to the king in the interest of constitutionalism and legality to use his constitutional prerogatives to withdraw his confidence in the majority government.<sup>609</sup> In connection with this, on the eve of the start of their obstruction, the Independent paper *Odjek* relativised the majority principle, on the grounds that a minority that had been placed 'outside the law' had the right not only to obstruct the work of parliament but even to make a revolution.<sup>610</sup> At the height of the obstruction designed to achieve dissolution of the assembly, the Independent Party – arguing that there was no parliamentarism without free elections – made it very clear that elections should be conducted either by itself alone or by a coalition government.<sup>611</sup> The Radicals' response to this re-opened once again the debate on the desirability of homogeneous governments. This time round, however, it was no longer limited to internal party negotiations, but was taken up in public in a polemical manner as a basic issue of Serbian

609 Convinced that the obstruction was bound to lead to new elections, the president of one of the district committees of the Independent Party wrote on 16.3.1908 to Ljuba Stojanović that the committee's view was that the Independents of that district should not take part in the upcoming elections, if these were held under Pašić's government. This was because 'during the last elections the people were overtly intimidated by the police and the municipal government'. 'But if you could bring about a situation in which the government could be formed by neutral people, who would allow the people to choose freely as you did during your government, then we could proceed freely and tranquilly to new elections.' ASANU, 12576.

610 *Odjek*, nos.51, 53 and 54, 28.2 – 4.3.1908.

611 *Odjek*, no.76, 28.3.1908. On the question of electoral government and the king's role in its formation, see 'The Era of Monism' below.

parliamentarism. The theoreticians of the two Radical parties – Protić and Prodanović – entered the fray, with the former defending the homogeneous and the latter the coalition type of government.

According to Protić, homogeneous government forms the very essence of a parliamentary system, and the best proof of this was that: ‘as is well known, England has for a long time been under single-party government. Without a strong and homogeneous government, relying on a secure, numerically large enough and constant majority, the country cannot progress, because no major or important question could be resolved properly and in good time.’ Though he did not state it explicitly, it is clear from Protić’s explanation that he thought a coalition government to be a weak government, because his starting point was that a coalition could not achieve the political unity necessary for a government to be effective. A few days after the elections had been announced, Protić wrote in *Samouprava* that coalition governments ‘cut at the very root of parliamentarism.’ Responding to criticism of elections conducted by Pašić’s party government, on the other hand, he alleged that the Radical Party had won elections under conditions of ‘almost general suffrage, elections based on the secret ballot, and with full freedom of public speech and for voters ... with election committees absolutely independent of the political authorities, with electoral rolls the content and control of which are also absolutely outside the influence of the state’s political authority ...’ ‘I don’t know what Mr Jovanović meant to say ... with the phrase “we shall not have fully free elections for a long time!”’, wondered Protić, referring to the view expressed by Slobodan Jovanović.<sup>612</sup>

In contrast to Protić, Prodanović did not view the choice between homogeneous and coalition governments as a basic question of parliamentarism as such, but as a practical question of the individual parliamentary system. He believed that the choice between these two types of government depended primarily on the existing political conditions in a given

612 Stojan Protić, *Odlomci iz ustavne i narodne borbe u Srbiji*, Belgrade 1911, pp. 42–3, 48, 54, 58.

country, and that the ultimate choice was determined by the nature of the political parties and the degree of political maturity of public opinion to be found in the country.

A homogeneous government makes sense where, as in Great Britain, the country with 'the greatest civic liberties', the electoral body takes a principled stand on important issues, and where important party members 'feel free to differ from their leaders', argued Prodanović, having in mind the characteristic elasticity of British parties and their relatively frequent divisions and regroupments. Party members there were bound together not by 'personal ties' but by programmes, which is why there was none of 'this constancy of party relations ... what passes here for "party discipline"'. So a government there, albeit homogeneous, can never be 'a "strong government" in Stojan's sense', and the opposition has no reason to worry that the same government will remain forever. 'If Pašić were an English statesman, not even a beggar would follow him after all his proven misdeeds... because the people there follow principles, whereas in Serbia Pašić's supporters either follow the trough or are silly and ignorant', was Prodanović's response to Protić's defence of homogeneous government on the eve of the 1908 elections.<sup>613</sup> 'Until such time as every party accepts that principles are more important than personalities' – Prodanović repeated his conviction at the end of 1911 – 'it will be difficult to keep homogeneous governments within the bounds of law and public morality.'<sup>614</sup> The special reason that in Serbia's case not only justifies but even demands coalition government, argued Prodanović, is the absence of electoral freedom. 'Serbia is not England', he repeated, 'so the opposition has no cause to worry that elections will not be free.' 'Coalition is the best medicine' against the 'political evil' of electoral fraud, which was why the Independent Party held the position that a caretaker government, made up of all or at least the most important groups in the assembly, would create in Serbia the necessary conditions

613 *Odjek*, no.122, 28.5.1908.

614 *Parliamentary proceedings*, 1911–1912, 26.10.1911, p. 5.

for a truly parliamentary government, argued Stojanović on behalf of his party.<sup>615</sup>

Prodanović's basic starting point was thus the following: parliamentarism could not be reduced – as Protić did – to the question of parliamentary majority and the government's effectiveness. A majority government was for him parliamentary only if its majority derived from free elections, and if it administered the country in accordance with principles rather than naked party interests. Convinced, as was indeed the whole opposition, that the Radical government satisfied neither of these two requirements, so that while undoubtedly a majority government, it was not also a parliamentary one, he saw coalition as the only way out. In Serbia, only a coalition government could prevent 'replacement of the king's personal rule with that of a single party', insisted Prodanović.<sup>616</sup>

Whereas Prodanović, guided by the political experience of his own minority party, relativised the majority principle, Protić, speaking in the name of the government party, absolutised it. It is true that he did not in principle contest the importance of the requirements of which Prodanović spoke; but he did not question their existence in Serbia, and was particularly adamant in rejecting any suggestion that elections were not free. Guided by the interests of a government with an unassailable majority, i.e. the interests of his own party, he denied the mass of evidence that went against him, which permitted him to reduce the essence of parliamentary government to the majority principle. From this position, and especially in a situation in which the existence of a majority party was no longer contested, it seemed legitimate to focus debate on the question of the government's stability and effectiveness, and to demonstrate with relative ease the superiority of homogeneous over coalition government.

615 *Odjek*, no.123, 29.5.1908.

616 *Parliamentary proceedings*, 1911–1912, 26.10.1911, p. 5.

## II MULTI-PARTY GOVERNMENT WITH A DOMINANT PARTY 1908–1914

### 1. The elections of 1908 – emergence of a third major parliamentary group

The opposition's struggle for a caretaker government [to supervise elections], and linked to this its defence of coalition, aimed in the spring of 1908 to persuade the king to act against the majority Radical party. The attempt failed: the king refused to heed the opposition's appeal and on 31 March 1908 signed a decree dissolving the assembly, following which Pašić's government organised new elections on 18 May 1908.

The Independents' increased cooperation with the other opposition parties in the assembly, especially during the spring of 1908, created a public impression that the opposition might fight the forthcoming elections together.<sup>617</sup> A mood in favour of this apparently began to spread among the Independent Party membership too. Letters received by Ljuba Jovanović spoke 'enthusiastically' about the joint obstruction, and also contained proposals for the creation of 'a strong bloc made up of all three opposition parties' that would 'show Europe that Serbia knows how to defend its freedom.'<sup>618</sup> A united opposition bloc did not materialise, but the Independents nevertheless reached a partial election agreement with the Liberals and Progressives. The president of the party's main committee, Ljuba Stojanović, instructed the local committees to enter into an electoral

617 *Nedeljni pregled*, no.2, 908, pp. 38–9.

618 ASANU 12209/2. There had been earlier ideas, linked to the municipal elections of November 1907, about an election agreement between the Independents, the Nationals and the Progressives. ASANU 12431.

agreement for the second round in seven towns with 'the united opposition of the Nationals and the Progressives'. On this 'depends', the missive stated, 'the survival of this corrupt regime', i.e. 'the fall of the government and the fusionist party'. All party members would doubtless follow the main committee's recommendation, wrote Stojanović, asking that the names of any recalcitrants be sent to the main committee: 'we will see then what is to be done with people who claim to be members of our party yet work against its interests.'<sup>619</sup> It was quite clear that the idea of close cooperation with parties of the former regime was no longer considered illegitimate in the Independent ranks.

**TABLE 4. Results of the 1908 elections**

1) in reality; 2) under the constitution of 1888; 3) under the single-quotient system

	Party	Rad.	Ind.	Lib.	Prog.	Coal. Lib./ Prog.	Peas.	Soc.	Other
In reality	% of votes	44,1	31,2	4,1	2,9	16,3	0,6	0,8	0,0
	number of seats	84	48	7	3	17		1	
	% of seats	52,5	30,0	4,4	1,9	10,6		0,6	
	diff. % votes and % seats	+8,4	-1,2	+0,3	-1,0	-5,7	-0,6	-0,2	0
	number of seats	70	55	6	3	24		2	
Constitution of 1888	% of seats	43,8	34,4	3,8	1,9	15,0		1,2	
	diff. % votes and % seats	-0,3	+3,2	-0,3	-1,0	-1,3	-0,6	+0,4	0
	number of seats	72	53	6	4	24		1	
Single- quotient	% of seats	45,0	33,1	3,8	2,5	15,0		0,6	
	diff. % votes and % seats	+0,9	+1,9	-0,3	-0,4	-1,3	-0,6	-0,2	0
	number of seats	72	53	6	4	24		1	

619 ASANU, 12542. Analysis of the electoral results in seven towns (Smederevo, Aleksinac, Pirot, Vranje, Leskovac, Požarevac and Užice) shows that, with rare exceptions, the followers of the three parties faithfully obeyed the agreement. The united opposition won in 4 of the 7 towns (Smederevo, Aleksinac, Požarevac and Užice), while in the remaining three towns the Radical Party candidates won with tiny majorities.



The results of the 1908 elections (see Table 4) confirmed anew the exceptional stability of the political divisions within the electorate between the Radicals (75.5 per cent) and the non-Radicals (24.7 per cent). For the first time, however, no tacking of Radical voters between the two Radical parties was recorded. The relationship of forces displayed in the previous elections stayed virtually the same, with the difference that both parties increased their share of votes by a little over 1 per cent, so that the Radicals took 44.1 per cent and the Independents 32.2 per cent. This showed that the Radical masses had finally accepted the fact of the party's division. The process of choosing between two Radical parties had been completed, with the Old Radicals winning the battle for leadership among Serbia's Radicals.

Although it was too early for an opposition bloc to emerge, the idea of electoral coalition between the Liberals and Progressives had fully matured, and in practically all electoral constituencies these two parties came out with joint lists. This, undoubtedly the most important political fact created by the 1908 elections, was a direct consequence of the electoral system.

The Liberals and the Progressives were separated by important ideological and doctrinal differences. The former favoured general suffrage, a single-chamber parliament and a politically neutral king, while the latter preferred a property census and a two-chamber parliament. In regard to the crown, the Progressives advocated in principle and in their programme the theory of an active role for the king, but in their parliamentary practice they increasingly inclined towards a monist position. What the two parties had in common, however, was the fact that their political influence, limited at all times, had definitively weakened after the May coup, because of their association with the previous regime. In this sense their shared premise, as they themselves stressed, was 'anti-Radicalism'. The Progressives understood this not only in a political-practical sense, but also ideologically and doctrinally; while for the Liberals – whose programme and positions on individual issues of parliamentary life was close to the Radical left – it signified above all a struggle against Radical hegemony in general and against the emergence of a party state in particular, which in Serbia was

associated mainly with the Old Radicals. At all events 'anti-Radicalism' of one sort or another never ceased to be the main motto of both Liberal and Progressive party policy.

Finding themselves after 1905, and especially after 1906, overshadowed by a virtual war between the two Radical parties, they tried with success to assess objectively their place on the Serbian political scene and to adapt their political tactics accordingly. Their good grasp and practical experience of an electoral system whose non-proportionality further weakened their political influence induced them to wage a stubborn public battle against it, in the political and scholarly spheres alike, while simultaneously seeking to adapt to it. Seeking to neutralise its negative effects without abandoning their programmatic positions, they saw in the creation of an electoral alliance a way of correlating in some way their representation in parliament with their electoral support, and by doing so gradually eroding the omnipotence of the two Radical parties. 'The evident electoral harm that Art.92 has done to all anti-Radical parties has forced the Progressive and National leaders to seek salvation in a mutual accord. What once appeared impossible, and during the last elections could be realised only in a few places, will this time be applied country-wide', wrote *Nedeljni pregled*, 'sincerely' hailing the agreement initiated precisely at the start of the obstruction, i.e. in preparation for new elections.<sup>620</sup> The possibility of threatening Radicalism appeared to them all the more realistic given that, after the elections of 1906 and especially during the two years of Pašić's government, it seemed increasingly likely that the Serbian Radicals had finally split into two parties, of which one – the Independents – would henceforth be in a need of a political ally. During the joint obstruction in the spring of 1908, moreover, it was widely expected that the Independents would seek such an ally precisely in cooperation with the Liberals and the Progressives. 'Having reached its high point, Radicalism is starting to decline rapidly. Its decomposition is a fact,' wrote *Nedeljni pregled* with much enthusiasm. 'An anti-Radical majority is no longer unthinkable. It

620 *Nedeljni pregled*, no.2, 1908, p.36.

may not happen now, nor next time round. But if this state of affairs continues, sooner or later it will come about.<sup>621</sup>

The outcome of the overall electoral coalition between the Liberals and the Progressives was indeed encouraging: with their 23.3 per cent, which was in fact a little less than at the previous elections, the two parties gained 6 additional seats. By winning 27 seats – 20 for the Liberals, 7 for the Progressives – which amounted to 16.9 per cent of the total number, they managed to erode significantly the previous non-proportionality of their representation, achieving an increase in the number of their deputies from 18 to 27 with practically the same – or indeed a somewhat smaller – percentage of votes in relation to 1903. At the same time, the increased proportionality in practice of the electoral system as a whole reflected positively also upon the proportionality of the largest party's representation. Albeit gaining a somewhat greater percentage of votes than in the previous elections, the Radical Party lost seven seats, six to the Liberal-Progressive coalition and one to the Independents. The relationship of forces in the parliament elected in 1908 was thus as follows: Old Radicals 84, Independents 48, Liberals 20, Progressives 7, and Socialists 1 seat. The Peasant Accord with its 0.6 per cent failed to gain a seat, and was thereby formally removed from the Serbian party scene. The party structure of the parliament elected in 1908 was thus basically the same as in 1906: multi-party, with one party by far the strongest. The differences, however, were not minimal or unimportant. On the one hand, the strongest party – the Radicals – was considerably weakened, while on the other a new and well-defined parliamentary force – the Liberal-Progressive coalition – emerged as a significant addition to the opposition benches. The latter was the only parliamentary group to emerge considerably strengthened from the 1908 election campaign: representation of the Liberals and Progressives had increased by nearly 6% in relation to 1903. Both these facts – the weakening of the strongest party and the appearance of a third major party group – would prove significant factors in Serbia's future political and parliamentary life.

621 *Nedeljni pregled*, no.4, 1908, p. 70.

However, despite the increase in de facto proportionality, the electoral system continued to favour in large measure the biggest party (by as much as 8.4 per cent), substantiating once again the relevance of the observation made by Independent deputy Živojin Hadžić about how the changed electoral system had influenced the possibility of homogeneous governments being formed in Serbia since the May coup. For the Radical Party was once again able to govern on its own, which would not have been possible if a largest remainder system had been applied – in which case it would have won only 70 seats – nor if the single quotient had been applied in accordance with the 1903 constitution, in which case the Radical Party would have gained 72 seats.

During the two years of Pašić's government, the Independent Party had spent much of its time trying to bring down the government in order to obtain new and free elections. The fact that the new elections too were to be conducted by the Radical Party was viewed with much misgiving, and the Independents repeated their determination to recognise the new assembly only if it had been freely elected. The municipal elections that Pašić's government conducted in November 1907 gave rise to strong doubts as to whether the general elections would be free; while the electoral campaign, accompanied by physical violence including murders, attested that the country had not advanced beyond 1906 in regard to electoral freedoms. 'The bloody and barbarian fusionist regime is once again shedding blood', wrote *Odjek* about the electoral campaign of May 1908.<sup>622</sup> Numerous examples of heavy pressure were cited in the press, as well as in reports sent in by Independent Party members on the ground. Will there ever come a day, one Independent wrote to Ljuba Stojanović, 'when people will be able to attend the rallies of their choice, sign the list of their choice, and vote for

622 *Odjek*, no.115, 19.5.1908. At an election rally of the Independent Party held in Aleksandrovac, the police provoked a disturbance, in order as the Independents believed to kill some of their leaders. In the ensuing fight there were dead and wounded. On the 'bloodshed in Aleksandrovac', see *Parliamentary proceedings*, emergency session of 1908, 10.7.1908, p. 25.

the person of their choice?’<sup>623</sup> As always in Serbia, wrote *Nedeljni pregled*, so this time too electoral freedom was reduced to ‘unbridled depravity, unbridled cheating, and unbridled mockery of a sacred principle.’<sup>624</sup> During the credentials debate, the elections were called a ‘robbery’,<sup>625</sup> and the minority on the credentials committee stated that the electoral irregularities had been so grave that the elections ‘should ... be declared null and void’. The reasons were to be found in ‘the terrible pressure placed by the state authorities on citizens ...to vote for the candidates of the ruling party’, and in the widespread tampering with the electoral registers.<sup>626</sup>

Tampering with the electoral registers was most frequently cited as the reason for contesting the electoral results. Vojislav Marinković, who belonged to the minority on the committee, insisted that ‘in practically all towns’ the electoral registers ‘in no way’ reflected the actual state of affairs. The municipal authorities had well ‘mastered the craft’, said Marinković, of how to ‘falsify electoral registers.’<sup>627</sup> ‘Gogol’s dead souls were to be found in many places during the elections’ wrote *Nedeljni pregled*. Most important, this view was not just that of the opposition, but prevailed also in the majority party. According to the committee majority, the electoral registers were so inaccurate that, if one were to take this into account, most mandates would ‘have to be invalidated.’<sup>628</sup> The majority believed, however, that the mandates should not be invalidated, because new elections on the basis of the same registers would be equally dubious. In their view, the solution lay in introducing into electoral law stronger guarantees for the accuracy of electoral registers.<sup>629</sup> Slobodan Jovanović argued that the assembly could not invalidate seats on account of the inaccuracy of the

623 ASANU, 13020. See also 12860, 12754, 12884.

624 *Nedeljni pregled*, no.11,1908, p.180.

625 Milan Marjanović, *Parliamentary proceedings*, emergency session of 1908, 12.7.1908, p. 125.

626 *Parliamentary proceedings*, emergency session of 1908, 10.7.1908, pp. 24–5.

627 *Parliamentary proceedings*, emergency session of 1908, 12.7.1908, p. 132.

628 *Nedeljni pregled*, no.11, 1908, p.180.

629 *Parliamentary proceedings*, emergency session of 1908, 10.7.1908, pp. 11, 24–5.

electoral registers, because the lawmakers had placed disputes of this nature under the authority of the courts, given that they had to do with the right to vote.<sup>630</sup>

The problem with the electoral registers was that they were drawn up by the municipal authorities, or rather by the municipal courts. It is true that the decisions of the latter concerning any eventual complaints by individuals were subject to a right of appeal to a court of first instance; but in the period between the legal closing date for lodging a complaint and finalisation of the electoral register by the court of first instance on the basis of the complaint lodged, the municipal authorities were in a position freely to alter the electoral registers, which they regularly did. 'The drawing up of electoral registers is an open wound of the Serbian electoral system,' wrote *Nedeljni pregled*, because it came under the municipal courts. This was the basic reason in fact why 'the victor in the elections [is] the one who runs the municipalities.'<sup>631</sup> A report submitted to the assembly by the majority on the credentials committee stated that 'the inability to control the work of municipal administrations after the final day for the publication, completion and correction of registers has allowed party municipal administrations dishonestly to introduce fraudulent voters and remove legitimate voters.'<sup>632</sup>

The majority, however, while admitting this fact, simultaneously denied any possibility that the ruling party had gained from these malpractices more than had other political parties; they argued consequently that, so far as the government was concerned, 'the recent elections were completely free.' 'This is quite evident, as evident as the fact that we are Serbs and that we find ourselves in the assembly,' declared Marko Trifunović, who

630 S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, II/1906, pp.331-2.

631 *Nedeljni pregled*, no.5,1908. p.85, and no. 11, 1908, p. 180. See likewise S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, X/1911, pp. 311-12.

632 *Parliamentary proceedings*, emergency session of 1908, 10.7.1908, p.11.

as deputy minister of the interior had overseen the elections.<sup>633</sup> The opposition treated this generalisation of the problem as hypocrisy, however, because it overlooked the fact that the municipal administrations were the product of municipal elections, which like general elections were organised by the government, not the opposition. It was precisely the behaviour of the ruling party and the state apparatus that called into question the municipal elections conducted by the government at the end of 1907, which the opposition treated as the first act of the 1908 elections. The Radicals – who ‘do not know what the state is, but are better than anyone else at devising the various small ways with that secure a popular majority’ – began, therefore, ‘to prepare for the elections of 18 May 1908 with municipal elections in December 1907, notorious for their ugly abuse and irregularities.’ Nikola Pašić ‘was given his majority already last year with the municipal elections’, judged *Nedeljni list*.<sup>634</sup>

Given that no one but the Radical Party considered the elections of 1908 to have been free, the obstruction initiated in the spring of 1908 by the united opposition with the aim of securing free elections should have continued. This, nevertheless, did not happen, because before the start of the credentials debate the Independents came to an agreement with the ruling Radicals, following which Pašić resigned and a new government was formed on 7 July 1908 by politicians belonging to the moderate wing of the Radical Party and headed by Pera Velimirović. After an agreement reached between the two Radical parties on 11 August, three ministerial posts were allocated to the Independents, thus turning Velimirović’s government into a coalition. It was left to Ljuba Stojanović to explain this outcome in the assembly. The Independent Party had stated in advance of the assembly’s dissolution, said Stojanović, that it would continue the obstruction if the assembly were not freely elected. The elections were not free and should be invalidated, both because of ‘numerous irregularities and pressures and the spilling of blood in Aleksandrovac’, so the obstruction had continued.

633 *Parliamentary proceedings*, emergency session of 1908, 17.7.1908, p. 248.

634 *Nedeljni pregled*, no.5, 1908, p.85 and no.11, 1908, p.180.

The Independent Party had nevertheless decided to end the obstruction, because it wished to enable the country to overcome 'the constitutional crisis', and also because the government included 'people who, we believe,' will turn 'party officials into state officials' and enable new and free elections to be held. As for the agreement on the joint government, the Independent Party had agreed to a coalition because it wished through common work 'to revive faith in the rule of law', and to put an end to 'political intolerance between parties and with it party-based persecution. We shall have peace in the land': thus did Ljuba Stojanović explain his party's decision, stressing that the new assembly's mandate would be limited, and that the most important part of the new government's programme was to hold free elections in the very near future.<sup>635</sup>

The opposition reacted with great bitterness to the Independent Party's conduct. Stojanović's declaration, appealing as it did to 'patriotic' reasons, was very 'strange', said the Progressive deputy Andra Đorđević, adding: 'On the contrary, patriotic reasons ... demand that the authority of the law, which is democracy's only authority, be finally established in our country.'<sup>636</sup> The deal between the Independents and the Radicals was 'immoral', stated the Socialist Triša Kaclerović. 'It is nothing but a commercial deal ... dishonouring legality and the national assembly', and which is 'destructive of confidence in the national assembly and in elections'. The agreement that the Independents had reached with a party whose majority they had declared illegal was simply incomprehensible, argued Kaclerović; such an agreement was 'a true political monstrosity'. The Independent Party bore enormous responsibility for this, because as the largest opposition party it had betrayed a struggle jointly engaged on behalf of principles and 'against the malignant Radical administration.'<sup>637</sup>

635 *Parliamentary proceedings*, emergency session of 1908, 11.7.1908, pp. 28–9.

636 *Parliamentary proceedings*, emergency session of 1908, 12.7.1908, p.124.

637 *Parliamentary proceedings*, emergency session of 1908, 17.7. 1908, p. 256, and 18.7.1908, p. 397.



Despite the Independents' assurances that one of the first steps of the joint government would be to hold free elections, the opposition remained dissatisfied, and as it turned out rightly so. The elections took place not a few months later, as promised, but on 1 April 1912. Thus an assembly whose deputies had only 'conditionally' been confirmed, and which the Independents themselves had claimed 'did not have the right to function like other assemblies',<sup>638</sup> lasted longer than any other elected under the new regime, almost to the end of its constitutional mandate.

The 1908 elections thus resulted in the formation of a coalition government. The basic reason was undoubtedly the Radical Party's fear of the obstruction, which thanks to the inability to pass the budget threatened a constitutional crisis. But the Independents owed the compliancy of the Radical Party, hence its participation in the government, also to the growing strength of the united Liberal-Progressive opposition. With the loss of 7 mandates, 6 of which had gone to the latter, Pašić's government was reduced to a majority of only 4 deputies, which was not enough under conditions of an acute sharpening of party conflicts, and a calling into question of the legitimacy of the assembly and the government.<sup>639</sup> The Independents did not deny the possibility of continued cooperation in the assembly with the Liberal-Progressive group, the effects of which the Radicals had already felt. For, even without obstruction, the considerably weakened Radicals faced an unpalatable choice between sharing power with the Independents and leaving them to join the rest of the opposition, which entailed the risk of confronting with their weak majority a united opposition bloc, the emergence of which no longer appeared quite so impossible as before. In this sense, therefore, although the government had won a majority in these elections too, and strictly speaking could have

638 *Odjek*, no.213, 13.9.1908.

639 For a different view, see D. Đorđević, *Carinski rat*, p.460. According to Đorđević, 'In view of the relatively equal strengths of the Radical and Independent parties, the only parliamentary solution lay in a joint, coalition government.' It is necessary to recall here, however, that in these elections the Radicals gained 84 and the Independents 48 parliamentary seats.

remained in power, it could nevertheless be said in 1908 to have fallen at the ballot box – in practice if not formally – for the first and as it turned out the only time.

The period of coalition government that began in 1908 lasted until June 1911. Pera Vladimirović's government did not enjoy the true support of its own majority, so was from the start in open or concealed crisis. The Radical leaders, especially Pašić and Protić, saw this government as an imposition, and used their control of the deputies' club to obstruct its work almost openly.<sup>640</sup> Such a government could not last long, so following long negotiations an agreement was reached, among all political parties bar the socialists, in February 1909 at the time of the annexation crisis: namely, that – provided Pašić was not minister of foreign affairs and Protić was not minister of the interior – a concentration government would be formed under Stojan Novaković. The government was 'unusually formed from the representatives of all political parties in our country', as prime minister Novaković himself described it, adding that it had resulted from a common understanding that 'the present moment imperatively demands accord at home and protection of Serbian interests abroad.'<sup>641</sup> In a situation marked by inflamed patriotic feelings, there were no great conflicts between the government and the assembly, and the relations between the parties were pretty pacific, if one omits the violent attacks on the only Socialist deputy, Triša Kaclerović, because of his consistent anti-war stand.<sup>642</sup> Novaković's government lasted until October 1909, when it gave way to a government of the Radical and Independent parties headed by Nikola Pašić.<sup>643</sup> This particular government – as we shall see – was the first and

640 See on this 'The Era of Monism' below, pp.[ 373–5].

641 *Parliamentary proceedings*, 1908–1909, 12.2.1909, p.776.

642 In early March 1909, during the budget debate, the Liberal deputy Živojin Rafilović physically attacked Kaclerović, who was against a large army budget, calling him 'traitor', 'spy', 'cattle', 'scoundrel'. *Parliamentary proceedings*, 1908–1909, 6.3.1909, p.1195.

643 On Stojan Novaković's government, see D. Đorđević, 'Obrazovanje i raspad četvorne koalicije u Srbiji 1909. godine', *Istorijski časopis*, 11,1960.

only true coalition of the two Radical parties.<sup>644</sup> Its break-up, followed by the return of the Radical Party to power in June 1911, marked the final separation of the two Radical parties and the beginning of serious collaboration between all the minority parties bar the Socialists.

### **A. CHANGING RELATIONS BETWEEN AND WITHIN PARTIES 1908–1912**

The Radical-Independent coalition caused a significant shift in relations between the parties, as well as ferment within them. The Liberals and the Progressives felt cheated. Their joint action with the Independents, which should have brought about free elections and the weakening of the Radical Party, ended in unfree elections and peace between Independents and Radicals, i.e. a reinvigorated Radicalism. Their dissatisfaction broke out with full vehemence, however, during the single year of Pašić's coalition government, which used its enormous majority of 132 seats to conduct a reform of almost the entirety of legislation in all the most important fields. It was clear that the leaderships of the two Radical parties had reached a compromise on the most significant state and political issues facing the country, which caused deep dissatisfaction among the other parties, because of the arrogance and indifference they meanwhile showed towards the assembly minority. The opposition complained: 'This is not an agreement on a state programme', but rather one based on the motto: "I give to you, you give to me."<sup>645</sup>

The response of the Liberal-Progressive opposition was to grow still closer. Cooperation between the two parties was increasingly reinforced, tending to transform an electoral coalition provoked by the voting system into an openly anti-Radical union. Their coalition was for the first time proclaimed openly and formally in response to the municipal and county elections called for the beginning of 1910. In contrast to their previous electoral cooperation, which though generally accepted was nevertheless

644 See 'The Era of Monism' below, pp. [379–84]

645 Radovan Filipović, *Parliamentary proceedings*, 1910–1911, 12.1.1911, p.13.

left to be decided by county and town party heads, this time the leaders of the two parties, Stojan Ribarac and Stojan Novaković, sent out on behalf of their main committees a circular to local committees instructing them to join forces at the forthcoming elections.<sup>646</sup> Within these two parties – and most visibly among Progressives belonging to the party’s conservative wing, represented by Živojin Perić – the idea of a closer union, even of organisational unity, began to take root. Vukašin Petrović, close to Perić’s circle, expressed the belief that it was time to create a new party;<sup>647</sup> and at a meeting of the Progressives in Kragujevac, held in February 1910, Perić declared: ‘Our union with the Nationals is the beginning of a concentration of all anti-Radicals’, which ‘we hope’ will lead to ‘the creation of a strong anti-Radical party’, and thereby also to ‘the victory of legality and political morality.’<sup>648</sup> The intention to form a closer union was confirmed by several papers that were launched with this aim in mind.<sup>649</sup> Signs of the new closer cooperation were visible also in the assembly. The deputies belonging to the two parties described themselves as ‘anti-Radicals’, and as ‘the National-Progressive group’; and the declaration in March 1910 of one of the Liberal leaders, Borivoj Popović, about the withdrawal of both parties from the budget debate was the first joint statement issued in the name of ‘the National-Progressive group’ in the assembly.<sup>650</sup>

The idea of an organisational link culminated, it seems, in the autumn of 1910. In the month of October it was decided at the annual meetings of both parties ‘that the two parties become one, with a single programme and party organisation.’ However, the main committees of the two parties, which conducted the negotiations in this regard, came up against insurmountable programmatic and ideological obstacles. The Liberal Party, according to its president Ribarac, had been deviating ‘continuously to the

646 *Nedeljni pregled*, no.1,1910, pp. 700–702

647 *Nedeljni pregled*, nos.13–14, 1910, p.194.

648 *Nedeljni pregled*, no.6, 1910, p.90.

649 *Nedeljni pregled*, no.8, 1910, p.126 and no.12, 1910, p.192. The papers in question are *Zajednica* and *Iskrena reč*.

650 *Parliamentary proceedings*, 1909–1910, 24.3.1910, p.2577.

left' ever since the coup d'état of 1893.<sup>651</sup> In keeping with this orientation, it proved unwilling during the negotiations with the Progressive Party to give up its demand for universal suffrage and a single-chamber parliament. The Progressives, on the other hand, while ready to concede on the question of general suffrage, could not surrender one of the basic articles of their programme: a senate. Thus although it was agreed to continue negotiations about a union,<sup>652</sup> the earlier enthusiasm soon evaporated, especially among the Liberals. Responding to a provocative remark made by Prodanović about the political alliance between Ribarac and Perić, the former replied: 'Mr Perić, i.e. Mr Novaković's political group, is merely our electoral ally.'<sup>653</sup> At this time, in fact, Perić could no longer be identified with Stojan Novaković's Progressive Party. During the period of the 1908 assembly he and that party had divided clearly and publicly both on the subject of the political system and internal state organisation as well as on foreign-policy issues. For unlike Perić the Progressives supported a parliamentary system of government, while in foreign policy they were increasingly in sympathy with Pašić's orientation towards Russia, whereas Perić firmly upheld the view that the solution of the Serb national question should be sought in association with, and by eventual integration into, Austria-Hungary. In 1914, this position would lead Perić and his co-thinkers to leave the Progressive Party and create their own Conservative Party. Ribarac seemingly did not acknowledge this difference, however, and felt it necessary to distance himself from both Perić and the Progressive Party as a whole. An organisational linkage was thus not achieved either then or later, and the basic political differences between the Liberal and the Progressive parties were with time to become ever more visible, especially after the Balkan Wars and in connection with the administration of the newly gained territories. But this did not in any way endanger their

651 *Parliamentary proceedings*, 1907-1908, 17.1.1908, p.350.

652 *Nedeljni pregled*, no.21, 1910, pp.311-12.

653 *Parliamentary proceedings*, 1910-1911, 17.11.1910, pp.6-7.

electoral alliance, which continued to prove itself a stable and increasingly important force in parliament.

As for the ruling parties, they underwent strong internal upheavals during the period of the coalition, which in both cases led to the appearance of dissident currents. The agreement had met resistance in their respective party clubs, and after 1909 the dissatisfaction gradually acquired the character of latent splits. Indiscipline surfaced once again among the Radicals, but this time round it was not – as before 1906 – the result of non-alignment, or rejection of the finality of the party split, but arose on the contrary from resistance to any cooperation with the other, competing Radical party. During the whole period of joint government, many influential deputies of both parties – though more frequently Independents rather than Old Radicals – refused to support the government's proposals, until at the end of May 1911, during the vote on a draft law, the government's majority was reduced from 132 to three votes.<sup>654</sup> The elections of 1912 showed that the Radical-Independent government had caused significant upheavals in both parties, which weakened them considerably.

During the period of the coalition, a four-member group of dissidents was formed among the Radicals, headed by Aleksa Žujović and made up of the most ardent opponents of power-sharing or indeed any cooperation with the Independents.<sup>655</sup> In the course of 1911 Petar Mišić, one of the five officer conspirators retired in 1905 and elected to parliament as a Radical in 1908, also distanced himself from the party. Although marginal for as long as the accord that had secured a huge majority for the government lasted, following the break-up of the coalition and the formation of a ho-

654 *Parliamentary proceedings*, 1910–1911, 4.5.1911, p. 8. Independents who during the period of joint government frequently voted against its proposals included: Sima Katić, Gaja Miloradović, Ž. Hadžić, Mih. Ranković, Đoka Marković, Milija Batinić, Milutin Stanojević, Mih. Radivojević. Of the Old Radicals, the following frequently failed to support the government: Aleksa Žujović, Nikodije Miletić, Maksim Sretenović, Melentije Božović, and Miloš Ćosić.

655 In addition to Žujović, the group included also Miloš Ćosić, Nikodije Miletić and Maksim Sretenović.

mogeneous Radical government this group of dissidents was to become a decisive factor in the assembly majority, which thanks to its small numbers was unable to sustain the government without their support.

The dissatisfaction was still greater and more serious among the Independents. The retreat of their leaders from the promise given when obstruction was initiated, which according to one Independent had run through the people 'like an electric current', caused great disapprobation both among the membership at large and on the parliamentary benches. The leadership was warned that the agreement and joint government could bring about 'the party's demise', because the people would equate it 'in terms of political honesty' with 'the fusionists'.<sup>656</sup> The Independent Party should not 'willingly share the infamy of their dirty deeds'. 'It is better to seek agreement with Turks and sultans than with these robbers, thieves and traitors', wrote an Independent to Ljuba Stojanović.<sup>657</sup> In the assembly itself, rejection of the agreement took the form of frequently voting against the government, defection from the deputies' club, and even resignation from the party.<sup>658</sup> The discontent grew especially under Pašić's coalition government, when the party leaders were accused of having lost their earlier will to fight, of giving up on democratic principles, and of 'deceiving the people'. It was necessary for this reason and 'in the name of morals and public opinion', the Independent dissident Živojin Hadžić stated in November 1910, to dissolve the assembly and appear before 'the people's court'.<sup>659</sup> The discontent gained fresh impetus in September 1910, when the interior ministry was once again given to Stojan Protić, whose earlier occupancy of the post was the main cause of the Independent obstruction in 1907. 'Mobilisation of police officials' had returned, noted the dissatisfied Independents. Jaša Prodanović, Sima Katić recalled, had spoken at the end of 1907 about 'the suffocating atmosphere surround-

656 ASANU, 13020 and 12804; see also 12851.

657 ASANU, 12209/1-3.

658 Simo Katić, Gaja Miloradović and Živojin Hadžić left the Independent club; the last-named also left the party.

659 *Parliamentary proceedings*, 1910-1911, 10.11.1910, p.11.

ing Pašić. 'I don't know ... if the air around Mr Pašić has been purified in some way, but what I can say is that the people who used to say that are now sitting with him at the same table.'<sup>660</sup> The discord between the old and the new party policy was particularly visible on the issue of reform of the assembly standing orders, which according to Stojan Protić's proposal was inspired among other things by the experience of the 1907–8 obstruction. The party members grasped better than their leaders the great risk that this posed to the party: of on the one hand being discredited among its own supporters, given the unpopularity of the proposed legal solutions; and that on the other hand a change in the political situation might make the Independents victims of a law that they themselves had approved. An Independent from Aleksinac warned Ljuba Stojanović in November 1910 that Pašić and Protić, using the proposed law on the press and in particular the new assembly standing orders, would finally succeed in 'destroying the opposition', with the help of the Independents. And once they had again gained power in the near future, they would obliterate the Independent Party too. Such a coalition deprived the party of its *raison d'être*, and unless it was promptly broken the party was 'condemned to die. It is already dying (which is a fact, because we in the provinces see better).'<sup>661</sup> Similar accusations about the loss of their 'own individuality', and about their identification 'with the fusionists', were levelled at the Independents also by the Socialist Triša Kaclerović, the coalition's greatest critic in the assembly. 'They are no longer the Independents of 1906, resolute and implacable ... you have undergone a complete metamorphosis ... you have no political identity', argued Kaclerović bitterly.<sup>662</sup>

As for the leaders themselves of the two Radical parties, joint government brought hardly any change in their mutual relationship. Nor was the government of October 1909 an exception in this respect. The effectiveness

660 *Parliamentary proceedings*, 1910–1911, 19.1.1911, pp. 13–15.

661 ASANU, 12979.

662 *Parliamentary proceedings*, 1910–1911, 23.11.1909, p.729, and 5.12.1909, p.1070.



of this government, which managed to pass a large number of key laws within a short time, did not also mean that association was bearable or that cooperation came easily. 'For God's sake let me leave my post...I cannot bear it longer', the minister of economy, Jaša Prodanović, complained in June 1910 to his party leader, Ljuba Stojanović, begging that he be allowed to retire. 'They neither want to administer, nor to attend assembly sessions, nor to join assembly committees, nor to read laws on time... Nor can their lawyer-like explanations convince me ... nor do I have the will ... to persuade them,' elaborated Prodanović.<sup>663</sup> The Radicals, for their part, did not hesitate to stress the great virtues of homogeneous over coalition governments under this government too, and to cite this as the main argument in favour of a first-past-the-post system, which they openly advocated, during the passing of the new electoral law. As *Nedeljni pregled* had foreseen already at the start of 1908: 'Until such time as they can form a homogeneous government, and they have over 80 deputies in parliament, no cabinet will rest on solid foundations.'<sup>664</sup> Indeed, three years after the elections whose results had forced them to accept a coalition, the Radicals had another attempt at ruling on their own. Stojan Protić was the first to resign, promptly followed by the prime minister, Nikola Pašić.<sup>665</sup> On 25 June 1911 the coalition government was replaced by a purely Radical one, headed by Milovan Milovanović.

It became evident even before the coalition's break-up that the overall relationship between the parties, including that between the Radicals and the Independents, had lost none of its former intolerance. On the contrary, mutual recrimination now took an even more brutal form. From the end of 1909 on, there was increasing talk about a phenomenon that marks one of the darkest periods of Serbian party life: widespread political terrorism.<sup>666</sup>

663 ASANU, 12783/4.

664 *Nedeljni pregled*, no.1, 1909, p.4.

665 This fact was stressed by J. Prodanović, *Parliamentary proceedings*, 1911–1912, 26.11.1911, pp. 1–2. Prodanović was speaking in the context of ascribing sole responsibility for the breakup of the coalition to the Radicals.

666 See Dragoslav Janković, 'Pokušaj sociološkog objašnjenja hajdučije u Srbiji',

The Liberals and the Progressives cited in the assembly numerous examples of political murders, most of which according to them had been committed by Radicals in the countryside. 'The president of the Radical youth in Srednjev killed five of my friends from Srednjev in the course of ten days', attested the Liberal leader Ribarac.<sup>667</sup> According to the Progressive Radomir Filipović: 'Many National and Progressive leaders have been murdered... in the county of Valjevo and Podrinje'.<sup>668</sup> Despite the joint government, Independents too fell victim to this terror. In October 1910 there was an attempted assassination of the Independent deputy Milan Lazarević, which led the Independents themselves to address the issue of political terrorism in the assembly. They cited numerous murders of their prominent members – 'our leading members', as they described them – including the former deputy and municipal head Ilija Banković. The Independents almost directly charged their coalition partners, the Radicals, of being responsible.<sup>669</sup> Following the break-up of the coalition, political terrorism seemingly became even more widespread, so that during November and December 1911 a number of parliamentary sessions were given over to this vicious aspect of Serbian political life. Opposition speakers did not differ among themselves in the gravity of their accusations. 'The opposition parties are treated as if they were beyond the law', said Voja Veljković, while his party colleague Mihailo Đođević asked: 'Who in this country is safe enough to engage in politics?' 'My party has lost a whole series of prominent people in Valjevo county', and 'has no more victims to offer to your

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*Pravna misao*, 1940, pp.487 ff.; also Milutin Šešić, *Radikali u Srbiji 1881–1912*, Novi Sad 1920, pp. 5–6. See also N. Stanarević, *Dvadeset godina Liberalne stranke*, p.43.

667 *Parliamentary proceedings*, 1909–1910, 3.12.1909, pp. 992–3.

668 *Parliamentary proceedings*, 1909–1910, 12.1.1911, p.11.

669 D. Joksimović and the victim of attempted assassination, Milovan Lazarević, *Parliamentary proceedings*, 1910–1911, 23.10.1910, p.3, and 28.10.1910, pp. 7–8. Lazarević accused the Radical Aleksa Žujović, or rather his friends, recalling that several years before 'a prominent man and our friend' was killed in the Parcan municipality, and that it was said 'by the whole area' that he had been 'eaten by Mr A. Žujović's friends'.

party terror.' 'It seems that we are turning our state into the mythical Saturn who eats his own children,' said Đorđević.<sup>670</sup> 'When the Radicals are killing their political opponents, with whom they agree in regard to the state and social order... what will they do to the Social Democrats... when we become a threat, when we have won over broad layers of the popular masses... The time when they will start to kill us too does not lie far ahead,' commented Triša Kaclerović.<sup>671</sup> 'We who say that political murders exist do not do so lightly,' stated Milorad Drašković, who had himself been threatened with assassination, quoting a number of examples.<sup>672</sup>

## 2. The 1912 elections: consolidation of a new party system

If homogeneous governments with a weak majority could perhaps survive in conditions of bi-partyism – which is by no means established, because in the period concerned, 1905–6, the court played an important role in the making and breaking of governments – a weak or minimal majority was quite inadequate for a homogeneous government to survive under conditions of multi-partyism, when the opposition could unite against it. Though this was clear already in 1908, in 1911 the Radicals nevertheless tried once again to govern on their own. In no time at all it became evident that a homogeneous government based on the 1908 election results was unsustainable. The Milovanović government, formed after the break-up of the coalition, was sustained in parliament not through the support of its own majority – on which it was practically impossible to rely after the departure of the five Radical dissidents from the parliamentary club – but thanks to 'great restraint' on the part of the Independent opposition, which according to Milorad Drašković adopted this tolerant attitude 'because of

670 *Parliamentary proceedings*, 1911–1912, 10.11. and 14.11.1911, pp.8, 10.

671 *Parliamentary proceedings*, 1911–1912, 15.11.1911, p.10.

672 *Parliamentary proceedings*, 1911–1912, 18.11.1911, p.15, and D. Joksimović, 1.12.1911, pp. 27–8.

worrying developments ... in international politics.’<sup>673</sup> So when the Independent Party’s parliamentary club changed its position at the end of the year, and declared that because of ‘the majority’s lawlessness’ and ‘violations of the basic principle of parliamentarism’ it would henceforth vote against all government proposals ‘without engaging in a debate about them’, the Milovanović government’s survival was brought into question, leading in January 1912 to its resignation.<sup>674</sup>

Following the resignation of the Milanović government, the king first offered the mandate to Ljuba Stojanović, with a view to his forming a coalition cabinet involving either all parties or the two Radical parties alone. Bearing in mind the coming elections, the Radicals resolutely rejected any possibility of a coalition, so the mandate was again offered to Milovanović.<sup>675</sup> With its weak or rather unstable majority, the Milovanović government was no longer willing to risk the possibility of fresh attempts to form a coalition, or even possibly a minority Independent, government; so, disregarding the fact that new elections were in the offing, it decided to dissolve the assembly, thus once again ensuring that elections would take place under the Radical Party’s control. The assembly was dissolved on 1 February, and early elections called for 1 April 1912 – only a few months before the end of the regular parliamentary term.<sup>676</sup>

The snap elections called by the Milanović government were illegitimate in the eyes of the opposition, which judged this move to be a manoeuvre, in other words an abuse of the right of dissolution. According

673 M. Drašković, *Parliamentary proceedings*, 1911–1912, 5.10.1911, p.15.

674 M. Drašković, *Parliamentary proceedings*, 1911–1912, 14.12.1911, p.6.

675 Jeremija Živanović, ‘Jovan Skerlić kao politički čovek’, *Srpski književni glasnik*, 61/1940, p.580. Pašić wrote a letter to Stojanović in which he decidedly rejected a coalition-based government that would prepare the elections. See also V. Marinković, *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p.116. Lj. Stojanović then resigned from his party’s central committee and from the party itself.

676 According to the constitution (Art.100), the four-yearly period of an assembly elected in early elections should run from the following September regardless of whether it had already been constituted.

to the Independent deputy Mihailo Radivojević, it was improper to call early elections just before the end of the assembly's regular term, adding that the king himself had not been able to get the Radicals to wait 'a few more months' until the constitutionally prescribed date for regular elections.<sup>677</sup> The meaning of an appeal to the people, noted Vojislav Marinković, was not to win a majority for implementing some 'mysterious affairs of state', but to allow the voters to decide in the event of a basic conflict between the government and the opposition.<sup>678</sup> Another reason for the opposition to question the legitimacy of this election was the fact that the Radical Party, by refusing to have the joint Radical-Independent government organise the elections, had broken the agreement made with the Independent Party at the time of the coalition's formation in 1908, to which the Radicals owed the fact that the 1908 election results had been accepted and a constitutional crisis averted, thus allowing them to remain in power. Their conduct was all the more incorrect in that the stated agreement had been reached in the presence of the king, stressed the deputies of the opposition, coming not just from the ranks of the Independent but also from the other parties.<sup>679</sup> The force of this argument lay in its accurate assessment of the situation: all Serbian parties were equally aware of the great – and in their experience decisive – advantage enjoyed by the governing party in an election campaign.

Milovanović cited his principled opposition to the idea of caretaker governments as the reason for rejecting a coalition caretaker government. From the standpoint of the theory of parliamentary government, Milovanović's explanation was not only acceptable but also fully valid. When Marinković ascribed to him the rejection of coalition government as such, Milovanović – who in 1888 had indeed written that a coalition government was an 'absurdity' in a parliamentary system – denied this

677 *Parliamentary proceedings*, emergency session of 1912, 4.5.1912, p.1.

678 *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p.117.

679 Ljubomir Đorđević, a Liberal, and D. Pečić, *Parliamentary proceedings*, emergency session of 1912, 5.5.1912, p.1.

assertion, stressing the conceptual difference between a coalition and a caretaker government. 'I ... criticise only a coalition government formed in order to conduct elections,' explained Milovanović. 'Both homogeneous and coalition governments can conduct elections. Neither can be excluded in principle from this, nor are they being excluded.' But 'elections should be conducted' by 'governments which, having organised the elections, wish to govern. This holds for both homogeneous and coalition governments,' he argued. He cited two reasons in favour of his position. To agree to a caretaker government meant first to 'compromise' state power, because it would concede that 'the laws of the land cannot ensure free elections'; and secondly it meant openly violating the principle of collective ministerial responsibility, because the government would be formed by 'people ... lacking a sense of unity,' concluded Milovanović.<sup>680</sup>

While convincingly defending his positions from the standpoint of both state interest and respect for the rules of parliamentary government, Milovanović could not defend himself against the charge that it was under his 'protectorate' that the Radical Party had pledged in 1908 that elections would be conducted by the coalition government. Even more significant was the fact that he could not respond to the kind of comment which, bearing in mind that electoral freedoms in Serbia were being seriously violated by the executive, questioned the value of purely theoretical arguments. This time Voja Marinković took upon himself the role of a defender of constitutional government, citing reasons commonly advanced by the Independents. Marinković argued that caretaker governments were naturally unknown in Britain for the simple reason that in that country the electorate was wholly independent of the state authorities, and because it was widely accepted there that the opposition stood an even better chance than the government in elections. In Serbia, on the other hand, the government always won and the opposition always lost elections, so that the

680 *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p.123.

last thing that Serbia should copy from Britain was the absence of caretaker governments in that country, insisted Marinković.<sup>681</sup>

According to a widely shared impression expressed during the credentials debate, in 1912 the electorate was subjected to police pressure considerably less than in 1906 and 1908. Nevertheless, during this debate the opposition frequently denied that the elections had been free. There were three reasons which made the 1912 elections unfree in the opposition's view: faulty electoral registers, various forms of pressure exerted by the municipal authorities, and corruption.

'The party in control of a given municipality removes all the people who don't belong to it from the electoral register': Triša Kaclerović repeated the charges heard also during previous elections, and which this time too – as in 1908 – the victorious majority did not contest.<sup>682</sup> The 'most scandalous' electoral registers were compiled in Belgrade, where the Socialists were 'simply massacred', insisted Kaclerović, recollecting that the ruling party itself had admitted to 90 'false voters' in that municipality. The tax offices too were included in this game, he added; they 'simply refused to accept our people's tax returns', or estimated their taxes to be '5 or 6 *pare* lower' in order to deny them the right to vote. Altogether, concluded Kaclerović, 'the drawing up of electoral registers in Belgrade is the ugliest political business in the country'; the main responsibility for this belonged to the Independents, who had held the Belgrade municipality continuously since 1903 – alone until 1910 and afterwards together with the Radicals.<sup>683</sup> Vojislav Marinković also spoke about the problem of electoral registers in general, and especially in Belgrade. Each year the Belgrade municipality 'in the most ruthless manner' ejected 'a mass of citizens from the electoral registers', attested Marinković, who was one of those treated in this manner. According to him, among the 14,000 registered voters there

681 V. Marinković, *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, pp. 116–17.

682 Miloš Trifković, *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, pp. 80–81.

683 *Parliamentary proceedings*, emergency session of 1912, 16.5.1912, pp. 7–8.

were at least three or four thousand who did not have the right to vote, while simultaneously between one and two thousand rightful voters had been removed from the electoral register.<sup>684</sup>

In 1912 as before, the manipulation of electoral registers was not the only form of electoral abuse practised by municipal authorities. The opposition was convinced indeed that the ruling party, albeit easing the police pressure, relied even more this time on loyal municipal bodies, and especially mayors, who – as Ivan Pavićević said – were ‘the first, the most important and the weightiest authority for the broad voting masses.’<sup>685</sup> The pressure of the local authorities on voters, according to the opposition, was in fact so great that it practically rendered meaningless the principle of free election in all its elements, including secrecy of the vote. That secrecy of the vote in Serbia guaranteed the freedom of elections was something that only those ‘who don’t know our police, our mayors and our people’ believed, argued the Liberal Radoslav Agatonović. ‘But to claim in the assembly today, before us and before a world that knows our people well, that secrecy of the vote guarantees today free use of electoral rights, would be quite humorous, grotesque in fact. There is not one but a hundred ways to circumvent it, the most frequent being the simplest: threatening those of whom it was known that they would not vote for the Radical Party with “trumped up charges”, if they were found near the polling station on election day. Many people were also saying: “I can’t come...they’re threatening me, they’ll torch my hay, set my hut alight”’, Agatanović reported to the assembly.<sup>686</sup> Triša Kaclerović too believed that secrecy of voting in Serbia was an ‘illusion’ that ‘should be exploded’, and quoted ways in which it was negated in practice. The municipal president or the mayor, said Kaclerović, would tell local officials: ‘We can win the quotient only if 200 or 300 vote

684 *Parliamentary proceedings*, emergency session of 1912, 16.5.1912, pp. 11-12.

685 *Parliamentary proceedings*, emergency session of 1912, 4.5.1912, p.19.

686 *Parliamentary proceedings*, emergency session of 1912, 5.5.1912, p.44.



for us. If we don't get that many, it means that you've betrayed us, and then you've had it.'<sup>687</sup>

Was there any sense in talking about freedom of elections in Serbia until it had changed from being a party state to being a legal one, wondered former Independent minister I. Pavićević. 'There is a rule ... that applies to Serbia: whoever has the government also owns the state; whoever has power also owns freedom,' argued Pavićević with evident resignation. 'What is a legal state?', he went on to ask, and replied: 'A legal state' was a state in which 'laws apply to all citizens equally.' 'Serbia as ruled by you is in my view not such a state,' Pavićević told the Radicals. Stojan Protić, he continued, was guided like Louis XIV by the motto: 'L'état, c'est moi.' And not he alone: 'He represents you and you are his accomplices.' 'Under you, the situation is always semi-normal, semi-exceptional.' 'We must follow a different path, if we want Serbia to become a legal state': Pavićević thus concluded his intervention in the credentials debate of 1912.<sup>688</sup>

A new question posed in the 1912 assembly in connection with the freedom of elections was that of corruption, which in the judgment of many deputies had now proved to be a most serious threat to the principle of free elections. The Independent deputy Jovan Skerlić, from the party's extreme left, spoke most frequently about this issue.

For Skerlić, however, the debate about electoral corruption provided merely an opportunity to open up the issue of corruption as one of principle, and to link it with the problem of parliamentarism, i.e. with the modern representative system in general. His view was that the main source of corruption in politics generally, hence also at election times, was that Serbian deputies were allowed to maintain private business links with the state. He stated that in the previous assembly there had been more than thirty deputies in this position. 'One cannot do business with the state and act as a national deputy at the same time,' argued Skerlić, thereby broaching the issue of incompatibility and giving it the content it has in

687 *Parliamentary proceedings*, emergency session of 1912, 16.5.1912, p.9.

688 *Parliamentary proceedings*, emergency session of 1912, 4.5.1912, pp. 18–21.

modern states. To pass a law on incompatibility was essential, he suggested, drawing attention to the fact that under the new conditions this could not be limited to state officials, but must include also those with private business links with the state.<sup>689</sup> According to Skerlić, this issue was being treated in the same way as forty years earlier and as if ‘the bureaucratic question’ was still in existence, so that parliamentary seats were denied to ‘wretched little clerks’ but not to state contractors, concession holders, members of state financial foundations, etc. The great power of money in politics – argued Skerlić, calling this phenomenon ‘bankocracy’ – was pernicious, especially in countries like Serbia characterised by poverty and an undeveloped understanding of political freedoms.<sup>690</sup>

Although Skerlić refrained from citing individual examples, he nevertheless showed that he had in mind above all the Radical Party. Corruption did exist and was a great evil, Miloš Trifunović agreed with him, but none of the parties – including the Independents – was ‘shining, innocent and pure.’ ‘The electorate as a whole displays more or less the same characteristics.’ It would be a mistake to think that ‘there are such great differences ... between the parties ... in regard to character, inclinations, habits, virtues and faults. The electorate has the same inclinations and virtues.’ The failings of the electorate ‘are not the failings of the Radicals, of a single party, but of all parties’, concluded Trifunović, in a speech addressed in the first instance to Skerlić and the Independent Party.<sup>691</sup>

The results of the 1912 elections (see Table 5) showed clearly the content and significance of the processes unfolding within the individual

689 Skerlić would reopen the issue of incompatibility in the assembly again in March 1914, arguing that it should be legally regulated *Parliamentary proceedings*, 1913–1914, 6.3.1914, pp. 1271–3. See also J. Živanović, *op.cit.*, p. 585.

690 *Parliamentary proceedings*, emergency session of 1912, 5.5.1912, pp. 71–4. See also J. Živanović, *op.cit.*, pp 580–86, and Slavenko Terzić, ‘Jovan Skerlić u Narodnoj skupštini 1912.’, *Istorijski časopis*, 29–30, 1982–1983, pp. 457–75. The Independent Party was not happy with Skerlić’s references to ‘bankocracy’. J. Živanović, *ibid.*, p. 583, and S. Terzić, *ibid.*, p. 470.

691 *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, pp. 80–85.

parties, as well as in the relationship between parties following the coalition government's formation in 1908. The most striking fact highlighted by these electoral results, albeit not the most significant, was the change in the relationship of forces between the two basic political groups: Radicals and anti-Radicals – the latter meaning the Liberals and Progressives, who this time too presented joint lists in most electoral units. The percentage of those who voted for the two Radical parties dipped below 70 per cent for the first time since the coup. Out of 68.2 per cent of those who actually voted, the Radicals and Independents together won 69.8 per cent, which was 5.5% less than in the 1908 elections. On the other hand, the Liberal-Progressive electoral body displayed also in these last elections held in the Kingdom of Serbia its almost perfect stability, showing a rise of 1 per cent on the previous elections.

As for the two Radical parties, there was a further change in the balance of forces between them, once again at the expense of the Independents, although this time not in favour of the Old Radicals, at least not directly. The latter, together with the dissident lists (4.3 per cent), won the same number of votes as in the 1908 elections: 44.1 per cent; while the Independent vote fell by 5.5 per cent, giving them only 25.7 per cent of the votes. In contrast to the first and in a sense decisive electoral defeat of 1906, the voters who deserted the Independent Party this time did not go over to the Old Radicals, but made another political choice. For a significant number of Independent voters, this other option was the Socialist Party, which in 1912 stood for the first time in the countryside and experienced a significant electoral jump by winning 5.3 per cent of the total number of votes.

The multi-party character of parliament now became more pronounced. Of 166 available seats, the Old Radicals gained 91 (54.8 per cent), of which 7 went to the dissidents; the Independents gained 41 (24.7 per cent); the Liberals and Progressives together gained 32 (19.3 per cent), of which the Progressives took 13 and the Liberals 19; and the Socialists gained two. A high degree of non-proportionality (nearly 11 per cent)

remained only in the case of the largest party, the Radicals – in its favour of course – while the representation of the Independents was for the third time in a row almost perfect. The Liberals and the Progressives were once again losers, but this time less than in previous elections, and not nearly as much as had been the case before their entry into a wider coalition. Between 1903 and 1913 their percentage of the vote remained practically unchanged in all elections; but their representation in parliament grew from an initial 11.2 per cent (with 23.8 per cent of the vote) to 19.3 per cent (with 24.3 per cent of the vote) at the end of this period. The Progressives, being a very small party, profited especially from the coalition. To judge by all accounts, their voting body grew at the expense of the Liberals, but the increase in the number of Progressive deputies – from 1 in 1903 to 13 in the assembly elected in 1912 – could be achieved only in coalition. On the other hand, the percentage of Liberal seats – setting aside the 1908 elections – either fell or remained the same despite the increase in the percentage of joint deputies, which points to a gradually weakening of this party in the 1903–12 period. It should nevertheless be stressed that the relationship of forces between Liberals and Progressives did ultimately show the former to have a clear advantage.

The new electoral decline of the Independents, the strengthening of the Old Radicals – if one includes among them the dissidents – to over 40% of the electorate, and the stable albeit gradually rising percentage of votes for the Liberal-Progressive coalition, indicated the persistence of a tendency first demonstrated in part as early as the 1906 elections. The weakening of the Independent Party that started at that time ended with its decline from the 38.4 per cent of votes won in the 1905 elections to only 25.7 per cent of votes in 1912, and with its effective equalisation within the electorate with the Liberal-Progressive coalition. The latter became a permanent parliamentary fact, and the Independents now had only 1.4 per cent of votes more than it.<sup>692</sup> As the proportionality of the Liberals' and Pro-

692 The percentage of votes won by the coalition discussed here also includes votes for the separate Liberal and Progressive lists (altogether 9.2 per cent).

gressives' representation continued to increase, the two opposition groups drew closer in strength also within parliament: the Independents held 24.7 per cent of the seats, the Liberals and Progressives 19.2 per cent. Thus a new party system – the first foundations of which had been laid by the sharp decline of the Independents in the 1906 elections, and which had acquired a clear profile with the appearance of a comprehensive Liberal-Progressive electoral coalition in the 1908 elections – with these elections became an unquestionable reality. The division of the electoral body between two Radical parties of approximately equal strength, whose mutual struggle for power excluded all others, was now consigned to the past. One of them, the Independent Radical Party, was on its own no longer a serious alternative to the Radicals, and could no longer participate in the struggle for political power outside a well-defined and strong political alliance. Alongside it there now existed another opposition group of approximately equal strength: the Liberal-Progressive electoral union. At the same time, the Radical Party had for the third time proved that it was the strongest, indeed the dominant party, since under the conditions of the existing electoral system it had been able to win a majority in parliament: a minimal or very small one perhaps, but nevertheless one large enough to allow it to form a government on its own.<sup>693</sup> Parliamentary practice thus over time saw the formation of a system characterised by a relatively

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It makes sense to proceed like this, because they did not compete with each other in places where the two parties appeared with separate lists in the elections, given that only one or other party presented a list. Sartori treats such election coalitions, formed by parties that do not compete with each other in the elections, as a single party. He does so, of course, only for the purpose of classifying party systems. G. Sartori, *op.cit.*, pp. 187–8.

693 According to G. Sartori, a system with a predominant party exists when one and the same party manages over a longer period of time – at least three times running – to win an 'absolute majority of seats'. Regarding the length of time during which this relationship of forces persists, Sartori opts for four consecutive elections as being sufficient to allow one to speak unreservedly about a system with a predominant party, or three consecutive elections as a sufficient indication of the emergence of such a system. G. Sartori, *op.cit.*, pp.196, 199.

weak dominant party, and two relatively strong minority parties or party groupings of approximately equal strength. It is important to bear in mind here, of course, that the possibility of an organisational merger between Liberals and Progressives did not seem likely; but this was not of essential importance from the point of view of functioning of the institutions, since their electoral coalition – adumbrated as early as 1905 – proved to be a permanent option for the two parties, which after all did not differ much in parliament in their attitude to the government. As such, this coalition to a large extent determined the direction of the party system's evolution in the period following the elections of 1908.

Although the party composition of the 1912 parliament was more representative than before of the structure of the electorate, the reform of the electoral system carried out in 1903 proved this time again to be the decisive factor for the parliamentary regime's functioning at the level of relations between assembly and government. The Radical Party, which not counting the seven seats won by the dissidents had 84 deputies, could continue to govern on its own, which it did – albeit with a majority of just one deputy. Had the largest remainder system been revived together with the 1888 constitution, however, a homogeneous government would not have been possible this time either. For the Radicals would have gained at most (i.e. together with the dissidents) only 78 seats (47 per cent), the Independents 43 (25.9 per cent), the Liberals and Progressives 37 (22.3 per cent) and the Socialists as many as eight seats (4.8 per cent). Neither would the system with a single quotient, i.e. that prescribed by the 1903 constitution, have created the required majority for a homogeneous government – or rather a homogenous government would have been possible with the Radical dissidents included in the majority, but it would have had a majority of only two (see Table 5).

A new victim of the existing electoral system appeared in the 1912 elections. This was the Social-Democratic Party, which won 5.3 per cent of the votes but only 1.2 per cent of parliamentary seats, thus practically equalling the Liberal-Progressive coalition in respect of its deviation from

proportionality (see Table 5). This party owed its earlier quite proportional representation to the fact that its voters were concentrated in the towns, the only places where the party presented its electoral lists up to 1912. In the 1912 elections, however, it put up candidates also in the countryside, which brought it a significant gain in the number of votes, but not a corresponding rise in the number of parliamentary seats. Thanks to the provision of Art. 92 on transference of votes, those given to the Socialist Party were for the most part added to the biggest party list, usually the Radical one.

The crisis undergone by the Radical Party during the time of the coalition was not without consequences. The party's dissidents won a significant number of votes, which additionally underlined the preponderance of the total number of votes won by the opposition over those won by the ruling party. The Radicals formed a homogeneous government with actually less than 40 per cent of the votes. The opposition pointed to this as proof that the Radical Party had in fact been defeated in the 1912 elections. It was 'in a phase of rapid decline, which can only serve the happiness and progress of the fatherland', commented Radoslav Agatonović with satisfaction.<sup>694</sup> The opposition would be able to claim it was stronger than the Radical Party only when the Independents entered elections 'in the bloc', replied the Radical deputy Bogdan Janković. But, he added, the Independents 'clearly cannot, or don't want to, join the bloc.'<sup>695</sup> 'It is true' that the opposition as a whole had won more votes, replied Milovanović in the same vein, but it was not united, and 'until you join forces...we shall be the majority.'<sup>696</sup> Milovanović's reply was correct, but the majority that the government had won in these elections was such that its continued survival appeared practically untenable.

694 *Parliamentary proceedings*, emergency session of 1912, 5.5.1912, p.42.

695 *Parliamentary proceedings*, emergency session of 1912, 5.5. 1912, p.38.

696 *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p.124.

**TABLE 5. Results of the 1912 Elections**

1) in reality; 2) under the constitution of 1888; 3) under the single-quotient system

	Party	Rad.	Rad. diss.	Ind.	Lib.	Prog.	Coal. Lib./ Prog.	Soc.	Other
In reality	% of votes	39,8	4,3	25,7	6,0	3,2	15,1	5,3	0,5
	number of seats	84	7	41	9	5	18	2	
	% of seats	50,6	4,2	24,7	5,4	3,0	10,8	1,2	
	diff. % votes and % seats	+10,8	-0,1	-1,0	-0,6	-0,2	-4,3	-4,1	-0,5
Constitution of 1888	number of seats	72	6	43	7	4	26	8	
	% of seats	43,4	3,6	25,9	4,2	2,4	15,7	4,8	
	diff. % votes and % seats	+3,6	-0,7	+0,2	-1,8	-0,8	+0,6	-0,5	-0,5
Single-quotient	number of seats	79	6	41	8	2	26	4	
	% of seats	47,6	3,6	24,7	4,8	1,2	15,7	2,4	
	diff. % votes and % seats	+7,8	-0,7	-1,0	-1,2	-2,0	+0,6	-2,9	-0,5

The seven Radical dissidents, who had gone into the elections with separate lists, insisted on their dissident, anti-government stance in the assembly. 'The Radical Party and the current government are two quite different concepts ... like heaven and earth.' The new government, they believed, was not much better than the previous one, which Aleksa Žujić described as a government in which the Radical-Independent 'love ... had made even the streets stink'.<sup>697</sup> Pera Jovanović, one of the most prominent members of this group, who himself insisted that the reason why the 'Radical Protestants' had appeared was 'a most immoral coalition government', explained that he and his colleagues were in principle against 'coalition governments', and could not accept the 'toleration of the opposition' practised by the Milovanović government. Speaking in the name of those who had voted for him, he demanded that the Radical Party form a government that would enjoy the support of all Radicals, i.e. also of the Radical dissidents. His group would not support the government until then, ex-

697 *Parliamentary proceedings*, emergency session of 1912, 16.5.1912, p. 17, and 25.5.1912, p. 16.



plained Pera Jovanović, because 'our Radical people ... demand a Radical regime.'<sup>698</sup> Unlike the Independents, who expressed disapproval of their party's policy during its coalition with the Radicals by leaving the party and turning to other political options, the dissatisfied Radicals remained with their party as dissidents, demanding a return to the party's hard-line policy of before 1908.

Milanović's government thus had to admit, albeit unwillingly, what the opposition had been insisting upon all along, which is that its majority in the assembly was reduced to a single vote. The governmental majority and the opposition stood in a ratio of 84 deputies to 82, noted interior minister Marko Trifković.<sup>699</sup> The opposition did not treat even this majority as legal, insisting that two seats were 'pure frauds.'<sup>700</sup> In the view of the minority deputies, a government with a minimal and moreover fraudulent majority should promptly resign. Pašić's government, recollected Radoslav Agatonović, had resigned in 1908 when it enjoyed a bigger majority. 'Is this the principle of state law that Mr Marjanović as a law professor teaches to his students?', the Liberal deputy asked.<sup>701</sup>

The problem of its majority was not the only sign of the government's weakness. Following Protić's resignation soon after the elections, it contained no prominent party member. It was evident that the government did not have the support of its party leaders, which explains why its parliamentary majority was contested. Having grasped the fact that the centre of power had moved away from the government, hence also from the assembly, the opposition attacked this phenomenon as unparliamentary, which was why Veljković invited the government 'to pick up its cap and

698 *Parliamentary proceedings*, emergency session of 1912, 25.5.1912, pp. 10-11.

699 *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p. 110.

700 Voja Veljković, *Parliamentary proceedings*, emergency session of 1912, 12.6.1912, p. 18. The whole opposition was convinced this was so. One of the seats came from Pašić's list, which included 100 false votes. Substantial evidence was produced of this being so, but the seat was nevertheless confirmed. *Ibid.*, 26.5., pp. 11-24.

701 *Parliamentary proceedings*, emergency session of 1912, 5.5.1912, p. 49.

go home'.<sup>702</sup> The death of the prime minister Milovan Milovanović on 18 June 1912 only accelerated the arrival of the party leadership on the scene: after a short-lived government headed by Marko Trifković, a homogeneous Radical government was formed on 30 August 1912, in which Pašić was both prime minister and minister of foreign affairs, and Protić was minister of the interior. Even after this, however, the Radical dissidents remained outside the assembly majority, with a rather unclear attitude towards the government.

The most significant aspect of the 1912 election results was undoubtedly the new decline of the Independent Party among the electorate. In its prolonged quest for an identity of its own, this party moved between the original Serbian Radicalism and the bourgeois left. The Independent leaders had long believed that, with the Socialists being so very weak, they could become the only relevant party of the left on the Serbian political scene, by combining a patriarchal form of Radicalism with a relatively modern socio-economic programme.<sup>703</sup> They experienced their first defeat in 1907, when it became clear that a significant majority of the Radical masses, with or without a belief in the original principles of the Radical Party, identified Serbian Radicalism with their historic leader, Nikola Pašić.

After this the Independent leaders insisted more than ever on a modern understanding of democracy – as a social, not just a political category – and stressed their ideological and political adherence to the notion of solidarity. In 1908 Prodanović asserted with pleasure that 'the best and most respected Socialists ... are joining us', while Joksimović argued that the Independents and the Socialists had 'grown closer to each other' – something that Kaclerović categorically denied – but that whereas the Socialists threatened, the Independents 'were to an extent realising the socialist programme'. This was why 'the better sort' – Jovan Skerlić and Kosta Jovanović

702 *Parliamentary proceedings*, emergency session of 1912, 12.6.1912, p. 18.

703 S. Jovanović himself stated that he called Lj. Stojanović 'Lenin'. S. Jovanović's letter to J. Cvijić of 16.2.1918, ASANU, 13484/507.

– were leaving them and ‘coming to us’, Joskimović concluded.<sup>704</sup> Skerlić ‘should join Mr Lapčević’, Milan Milovanović commented on Skerlić’s viewpoint regarding the influence of money in politics. ‘Mr Lapčević is more logical, when he says that private property should be abolished because it is the source of all evil. Mr Skerlić is quite illogical, when he wants to recognise private property and yet deprive it of all influence in social life’, concluded Milovanović.<sup>705</sup>

Having identified itself as the political left, the Independents naturally viewed the Socialists as competition. So the first indications that the Social-Democratic Party would orient itself towards the countryside in the following elections – contained in Kaclerović’s speech in the assembly in December 1909 – caused trepidation and resistance among them.<sup>706</sup> According to Kaclerović’s testimony, during the election campaign of 1912 the Independents mounted a highly improper agitation against the Socialists.<sup>707</sup> However, the electoral defeat that the Independents suffered

704 *Parliamentary proceedings*, emergency session of 1908, 18.7.1908, p. 390, and 19.7. 1908, p.406; see also *Parliamentary proceedings*, 1909–1910, 5.12.1909, p.1069. There were many examples among the Independents of professed sympathy for, and feeling of ideological closeness to, the Socialists. ‘I know, comrade Lapčević, that private property is the main evil; but today we have private property throughout the world’, stated Aleksa Nešić. *Parliamentary proceedings*, 1907–1908, 12.3.1908, p. 285. ‘There are many issues on which we could perhaps reach an agreement, but there are also matters, the essential matters, on which we could not’, above all the separation of church from state, stated Aleksa Ratarac. *Parliamentary proceedings*, 1905–1906, 12.12.1905, p.1049. During the elections of 1906, the local committee of the Independent Party in Piroć instructed its members to vote for the Socialists. *Parliamentary proceedings*, emergency session of 1906, 13.7.1906, p. 208.

705 *Parliamentary proceedings*, emergency session of 1912, 7.5.1912, p.122.

706 *Parliamentary proceedings*, 1909–1910, 5.12.1909, p.1070. Joskimović stressed the ideological inconsistency of this step, insinuating that what was involved was the transformation of a party of principles into a party chasing seats.

707 The Independents argued that the Socialists had sold out to ‘the fusionists’, that they were ‘German lackeys’ and ‘foreign agents’. *Parliamentary proceedings*, emergency session of 1912, 28.5.1912, pp. 7–8.

in 1912, precisely at the hands of the Socialists, proved the accuracy of the warnings that, by joining in government with the Old Radicals, the Independent Party would lose its identity and therewith also its *raison d'être*. In sum, what underlay the process of decline of the Independents among the electorate was the problem of identity of their party, which neither succeeded in its original ambition to become identified with Serbian Radicalism, as understood by the Serbian masses, nor was sufficiently convincing as a party of the modern left in competition with the Social Democrats.

### **3. Preparations for the 1914 elections – association of the minority parties and signs of a new bi-partyism**

The party struggles, quietened during the Balkan Wars, revived in the second half of 1913 after a declaration by Milorad Drašković in May 1913 that the parliamentary club of the Independent Party 'considers the minister of the interior to be a dishonourable man', and would henceforth treat him 'as such'.<sup>708</sup> This attack on Protić inaugurated a latent obstruction of parliament by frequent absences from its sessions, which by the end of the year led to a united demand by all the opposition parties that the assembly be dissolved and new elections held, as a necessary test of confidence in the government's policy after the end of the Balkan Wars. At the beginning of 1914, the Independents, Liberals and Progressives made a joint decision to end their participation in the work of the assembly. Faced with the formation of an opposition bloc, Pašić's government resigned. The opposition, headed by the Independent Party, once again argued the need to form a caretaker – minority or coalition – government; but its efforts proved unsuccessful as before, and at the end of May Pašić's government was given a new mandate.<sup>709</sup> On 10 June 1914 it dissolved the assembly

708 *Parliamentary proceedings*, 1912–1913, 29.5.1913, p. 619.

709 Vojislav Vučković, *op.cit.*, pp. 187–8.

and announced new elections for 1 August 1914, which were not held due to the outbreak of war.

As in 1908, this last dissolution of the assembly in the Kingdom of Serbia, with the announcement of new elections, was the result of a joint struggle waged by all opposition parties against the majority Radical government. As in 1908, this time too the opposition's basic criticism of the government's policy was that the Radical Party was openly placing its own interests before those of the state, thus turning Serbia into a party state. 'An oligarchy of a few men' held 'the whole country in its hand', insisted Jovan Skerlić in the assembly in February 1914. Today's Serbia, said Skerlić, did not have 'a parliamentary regime or a party regime, but a partisan regime. The state council, the courts of appeal and cassation, the local courts, the state administration, and the schools too, have all come under the control of this partisan regime... People who do not belong to the government party are denied state employment.' 'Just as Louis XIV said: "L'état, c'est moi" , they might say: "I am Serbia"', he declared, describing the rule of the Radical Party in the same manner as his party colleague Ivan Pavićević had done two years earlier. Citizens were divided into two classes: those to whom 'everything is allowed' and 'those who are not with us', he concluded, supporting the united demands of the opposition for new elections.<sup>710</sup> The Radical Party, insisted the Independent *Odjek*, had introduced 'an obligatory party card' for state officials: citizens could become state officials only 'after they have passed through a party purgatory'. 'The government has so far managed to enlist the police in the party's service', and is now 'ruthlessly recruiting the judiciary too to serve the party'. 'The minister of justice is trying to break a record these days ... by allowing judges too to show their servility towards the party before being appointed.' Finally, *Odjek* continued, the Radicals were trying hard to win over the army as well, so that 'the military commander' like 'the county head' would have to carry 'a party card'. 'The government deputy Čeda Kostić', wrote *Odjek*,

710 *Parliamentary proceedings*, 1913–1914, 26.2.1914, pp. 1068–9.

‘said literally in the assembly yesterday: “The army must support the party in government”.’<sup>711</sup>

Full of optimism, and convinced that the Old Radicals were nearing the end of their time in power, the Independents judged their party to be ‘on its deathbed’. It was ‘looking for medicine in the methods of its youth’, and printing daily lists of new members and ‘declarations about joining the great National Radical Party’, or about loyalty ‘to the grave’, wrote *Odjek*, describing this as a ‘nauseating and pitiful...rerun’ of a ‘likeable phenomenon’ from ‘the early, fighting days of the Radical Party.’<sup>712</sup> The Radical Party erred, argued Skerlić, if it thought that it could continue to live by ‘recalling the past’, or ‘off its historical capital’. ‘Now that the war is over, Serbia is entering a period of democratic and fundamental reforms, which the Radical Party is incapable of conducting’, Skerlić’s call for dissolution of the assembly and the holding of new elections concluded.<sup>713</sup> He was convinced, as was indeed the whole opposition without exception, that the Radical Party’s unbroken string of election victories should be ascribed to its unbroken rule. ‘The Radical Party wins elections, because it is in government.’ Skerlić was convinced that once it fell from power, it would ‘gain no more than forty seats.’<sup>714</sup>

Although the arguments that the opposition used against the government were not new, the struggle that it conducted in seeking new elections in the autumn of 1913 and the spring of 1914 differed considerably from the one it had waged in 1907 and 1908. This is true both in respect of the arguments it offered in favour of the assembly’s dissolution, as well as in the political seriousness of its intervention this time. As early as October 1913, Milorad Drašković, demanded on behalf of the Independent Party – in a separate opinion on the assembly address – that dissolution of the assembly should be followed by elections not for an ordinary assembly,

711 *Odjek*, no.106, 6.5.1914. *Odjek*’s quotations cannot be checked, due to the absence of parliamentary records for sessions held after 10.3.1914.

712 *Odjek*, no.97, 25.4. 1914.

713 *Parliamentary proceedings*, 1912–1913, 26.2.1914.

714 *Parliamentary proceedings*, 1912–1913, 8.2.1914, p. 716.

but for a grand national assembly, on the grounds that it was necessary to revise the constitution in order to secure the requisite legal basis for organising the territories gained by Serbia in the Balkan Wars. Immediately after Drašković, the same demand with the same motivation was posed by Vojislav Marinković on behalf of the Progressive Party; and on 17 October 1913 Stojan Novaković together with a few of his party colleagues submitted a formal proposal to the assembly that revision of the constitution be placed on the order of business. He said that this was rendered 'absolutely necessary and unavoidable' not only by the enlargement of the state territory, but also because the fact that the 1903 constitution had been adopted in exceptional circumstances, and that its content had expressed a political compromise reached in 1888 rather than in 1903, 'made it imperative that the people be consulted on this once again.'<sup>715</sup> This was not the first formal proposal for initiating the revision procedure – hitherto it had usually been done in the assembly by Socialists and Liberals – but in contrast to the previous ones, which had remained more or less unanswered, Novaković's proposal marked symbolically the first serious broaching of the question of constitutional revision in the Serbian assembly since the May coup. The demand for revision of the constitution, backed mainly by reference to the need for legal organisation of the new territories, would henceforth remain on the assembly's order of business. In March 1914, moreover, Drašković transmitted to his party's main committee an assurance by Nikola Pašić that the Radical Party too was coming round to the view that 'resolution of the constitutional issue was on the agenda', and that it should be addressed together with all other parties.<sup>716</sup>

The seriousness of the opposition's intervention in the assembly of 1913–14 was further increased by the fact that a united opposition bloc of all parliamentary parties bar the Socialists had become unquestionable.

715 *Parliamentary proceedings, 1912–1913*, 11 and 17.10.1913, pp.110, 112, 223–4.

716 See Drašković's communication at the meeting of the party's main committee on 16.3.1914 about the meeting he and Davidović had had with Pašić, held at the latter's request. ASANU, 13252.

The municipal elections held in January 1914 showed that electoral coalition had become an almost universally accepted method of party struggle in Serbia, and that it was producing significant results. As Dragiša Lapčević commented in February 1914, the new municipal elections unlike all preceding ones involved a 'compromise' in nearly all municipalities. This showed that 'the popular mood has changed, and that the current government does not command a majority among voters', said Lapčević, repeating his party's demand for quick elections.<sup>717</sup> That the united opposition had become a reality was clear soon after the new government under Pašić was formed, when the main committee of the Independent Party took the decision, for the purpose of struggle 'against the government and its majority', that the party should continue to boycott the work of the assembly together with 'the Nationals and the Progressives' within an 'opposition bloc', and to begin negotiations with these parties on 'joint work in the event of new elections'.<sup>718</sup> At a conference of the Independent Party held on 8 June, the decision to enter into an electoral agreement with the Liberals and the Progressives 'wherever such an agreement is necessary and possible' was unanimously adopted, at Milorad Drašković's suggestion.<sup>719</sup> Pašić then tried to destroy the opposition bloc, by negotiating with the Progressives about an electoral agreement and later also about sharing power, indicating that the Radical Party itself counted on the possibility that it might lose the forthcoming electoral battle against the united opposition. As in 1901, the Radicals and the Progressives found common ground on the issue of constitutional reform and the introduction of a second parliamentary chamber.<sup>720</sup>

Thus the last act of the eleven-year parliamentary game in pre-war Serbia was the creation of an electoral bloc of all opposition parties (bar

717 *Parliamentary proceedings*, 1912–1913, 26.2.1914, p. 1032. See also, in the same vein, the Independent Mihailo Radivojević, p. 1054.

718 Minutes of the Independent Party's main committee on 30.5.1914, ASANU, 13252.

719 ASANU, 13252.

720 V. Vučković, *op.cit.*, pp 189–90.



the Socialists), aimed against the Radical Party. What result this might have brought about had the elections taken place cannot be known with certainty, but there are reasons to believe that the new party alignment would for the first time have enabled the opposition to win, and that Serbia would have acquired a coalition government against which the largest party – the Radicals – would have found itself in a minority. Had this happened, it would have signalled a new phase in the structuring of the party system.

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The short period of 1905–6, during which two general elections were held, bore all the marks of a typical two-party system: two big parties of nearly equal size alternated in government, alongside several small parties more or less without parliamentary significance.<sup>721</sup> The 1906 elections showed, however, that bi-partyism was only the first phase – and a short one at that – in the structuring of a party system that at the start of parliamentary life was *de facto*, if not nominally, monist. The two big parties were created by the division of a single one, whose dominant power was such that it actually prevented the possibility of governmental change. The division was not an act but a process, and indeed rather a slow one. Thanks to the profile of the party and its comprehensive nature, and especially because of its assumption that it was one with the people, this process bore the features of a primary emergence of parties. It was only after a great clarification of internal relations, which took place not with the organisational separation but considerably later in the elections of 1906, that the identities of the two parties became unquestionable. But by this time bi-partyism had become seriously impaired. Although up to 1906 bi-partyism did have all the external characteristics of the model, it is still for

721. According to Sartori, the elements of definition of a two-party system are as follows: a) the existence of a third party or third parties does not prevent one of the two big parties (or a long-standing coalition of parties) from forming a homogeneous government; b) the parties are of nearly equal size; and c) there is change, i.e. a realistic expectation that the opposition may come to power. Sartori, *op.cit.*, pp 186–8.

this reason difficult to speak of it as a system, rather than as a passing phase in the process of structuring of a party system under conditions of a parliamentary regime and a specific electoral system: a phase that could best be described as a departure from monism. At all events, following these elections bi-partyism – in the sense of alternation of the homogeneous cabinets of two large parties – never again returned to Serbia.<sup>722</sup>

It became clear as early as 1908, and even more so in 1912, that Serbian parliamentarism had entered an era of multi-partyism. In its outward features, it was a system with a predominant party which, having an absolute majority of seats, could form a homogeneous government. However, the parliamentary majority of the strongest party, though nominally sufficient to create homogeneous cabinets, was in reality too small to provide the government with stability and efficacy. As the Liberal deputy Mihailo Đorđević correctly noted, Serbia ‘entered a period of coalition governments’ after 1908 because the existing electoral system, despite its greatly favouring the strongest party, was not able to secure a homogeneous government. Đorđević made this observation while advocating a reform of the existing electoral system that would take into account, and provide support for, the fact of multi-partyism: i.e. consistently implement the constitutionally proclaimed principle of proportionality.<sup>723</sup> Had this been done, Serbian parliamentarism would undoubtedly have followed a different evolutionary path, although it is hard to predict which. What can

722 Serbian historiography, when judging the parliamentary regime of 1903–1904 and in this context the party system, declares without exception that a two-party system was in existence in Serbia at this time. See M. Popović, *Borbe za parlamentarni režim*, p.93; V. Vučković, *op.cit.*, p.184. Speaking of the last years before the war, Vučković states that the two Radical parties were ‘of approximately equal size’ in the assembly. D. Đorđević says more or less the same as Vučković, i.e. that the two Radical parties ‘were largely of the same strength’: *Istorija srpskog naroda*, p.139. Đorđević also adds that this conditioned ‘the creation of coalition cabinets’. See also for the same sense, and covering the whole period of 1903–14, D. Đorđević, *Parlamentarna kriza*, p.158. See also M. Coppa, *op.cit.*, p.451.

723 *Parliamentary proceedings*, 1909–1910, p. 2987.

be said for certain is that, under conditions of an electoral system with a high degree of proportionality like that envisaged by the 1888 constitution, in no case – with the exception of 1903 – would the electoral results have permitted the formation of a homogeneous majority government; while in the event of the single quotient having been applied, as envisaged by the 1903 constitution, a homogeneous government with a majority of just three seats could have been formed only in 1906. Nevertheless, the electoral system – established by a law that contradicted the constitution – would remain unchanged until the end, providing one party with an absolute majority of seats at every election. This majority did start to decline, however, after the elections of 1908, which undermined the position of the homogeneous government and opened if not the period of ‘coalition governments’ of which Đorđević spoke, then certainly a period of resolute struggle against homogeneous governments, which could be taken as the beginning of the end of the latter.

Given the relationship of forces between the individual parties within the electorate, on the one hand, and the existing electoral system on the other, the likelihood that the single-party rule of the Radical Party would last for a long while was considerable. It was favoured also by the experience of elections that had never resulted in victory for the opposition – the only two examples of the minority assuming power, in 1905 and 1906, being due to the will of the crown. One reason was undoubtedly the fact that the elections were not free, but another was in all probability the electorate’s inclination to vote for the existing government. As a result – from the arrival of the Radicals in power in 1906, and the drastically flawed elections conducted by Pašić’s government soon afterwards, right up to 1914 – the opposition never ceased to insist that the formation of a caretaker government composed of all, or at least the most important, parties represented in parliament was a precondition for free elections in Serbia. Since the opposition’s efforts to achieve this failed, the Radical Party – having by will of the king formed a minority government – organised on its own the elections of 1906 as well as all subsequent elections, and won every

one of them. When in 1911 Živojin Perić stated in the assembly that the penal code allowed the plotters to be punished for the king's murder at any time up to 1933, the Radical benches replied: 'That's how long we'll be in power.'<sup>724</sup> This was not simply an arrogant, self-confident remark made by a member of the ruling party; it was also a realistic estimate of the opposition's chances in the given conditions of mutating from a minority into a majority.

If the opposition could not do much to secure freedom of elections, however, this did not mean that its struggle against the homogeneous Old Radical government was hopeless. From 1906 on, the Radical Party commanded a strong yet nevertheless only a relative majority of voters, and the decisive factor ensuring its simple parliamentary majority – which in any case was weak or minimal – was the existing electoral system, which through its allocation of parliamentary seats gave it up to 14 per cent more than it actually polled in the elections. The electoral experience of the Liberal-Progressive coalition showed, however, that the non-proportionality in practice of the electoral system taken as a whole could be considerably reduced by means of an association of the smaller parties, which aroused the hope that this electoral tactic would make it possible to end the rule of the Radical Party, on the assumption of an identical or similar mood of the electorate. In view of this, in 1914 the Independents unhesitatingly decided to enter into an electoral agreement with other minority parties. The evolutionary process of Serbian parliamentarism, however, and with it the otherwise highly dynamic process of articulation of the parliamentary system, was arrested soon afterwards. So it remains an open question whether the tendency towards electoral association of the minority parties against the Radicals would have continued, and eventually have led to the creation of a new party group, thus opening the path to a new bi-partyism; or whether relations between the parties, hence also the articulation of the party system, would have taken a different course.

724 *Parliamentary proceedings*, 1910–1911, 17.3.1911, p. 24.

The idea of creating an opposition bloc against the Old Radicals was conceived in 1908. Already then, the prejudice of the Independents against any possible cooperation with the Liberals and Progressives was evidently beginning to retreat before Realpolitik in practice. The Independent leaders, after all, were getting signals from their members of a serious change of mood towards the former enemy parties. As potential partners, the Liberals and Progressives appeared increasingly – and the Radicals decreasingly – acceptable. The initial process of their rapprochement was nevertheless suspended for a time, when the Independents entered into an agreement on division of power with the Radical Party instead of joining the opposition bloc. The experience of their joint government with the Radicals was of two kinds. It told the Independent Party first that, for the Radicals, coalition was an essentially unacceptable form of government; secondly that cooperation with the Radical Party meant only a loss rather than a gain of political authority among the electorate. Moreover, as they themselves changed from being pretenders to the heritage of the ‘great national Radical Party’ to becoming one of several minority parties, albeit the strongest among them, there was no longer any doubt that coalition – the principle of which they had after all always defended – had become their only path to power. Having failed with the Radicals, the Independents opted for a coalition against them, in association with other parties which openly called themselves ‘anti-Radical’, and which only a decade before had been passionately informed that the Independent Party would never support their struggle against ‘our Old Radical brothers.’ It is difficult to tell what the response of the Independent electorate would have been had the elections of 1914 been held; but it is certain that the party’s elite had then for the first time calculated that a clear and firm distance from the Old Radicals was in the interest of the Independent Radical party. This of itself testified that the political divisions fixed in the days of the Obrenović dynasty had in the meantime faded; and that attitudes to the regime prior to the May coup were no longer the basic criterion of political orientation.

## SECTION TWO

### **Ministerial Responsibility**

# I THE ERA OF DUALISM – STRUGGLE FOR AUTONOMY OF THE CONSTITUTIONAL INSTITUTIONS OF GOVERNMENT 1903–1906

The May coup placed royal power in Serbia in a new position, essentially different from the one it used to occupy. In real political life the limits of the monarch's power, derived from the May coup, were for the first time in the history of the Serbian monarchy both stronger and narrower than those actually envisaged in the constitution. The crown's constitutional prerogatives, which by their number and significance made the king the predominant factor of government in relation to the assembly, were not in harmony with political facts that on the contrary marginalised royal power. With the May coup, in short, the political position of the Serbian crown was considerably undermined.

The space for free exercise of King Peter's constitutional prerogatives was doubly restricted: on the one hand, by the national assembly's self-perception as the sovereign will; on the other, by the conspirators' evident ambition to play the role of political arbiter. The new regime in reality began its life without the king, through the cooperation of two factors: a legal one represented by the national assembly, or the political parties, and an illegal one personified in the officer plotters. Peter Karađorđević was fully aware of both these facts, which – as two sharply counterposed and conflicting political tendencies – essentially determined the political reality

created in Serbia by the May coup. Nevertheless, with his long-standing ambition to occupy the royal throne,<sup>725</sup> he did not hesitate to express his readiness to accept them as such, which must have placed him in a difficult position, one as contradictory as political reality overall.

Immediately after the murder of the last Obrenović, and before the assembly had convened, Peter Karađorđević gave an interview to a Geneva paper as claimant to the throne in which he expressed his attachment to liberal institutions, stating that he would rule in accordance with the 1888 constitution and would respect the will of the assembly. He criticised the institution of the senate, though, which he judged to be an aristocratic institution. In Peter Karađorđević's words, Serbia needed 'freedom and democracy', not aristocratic institutions.<sup>726</sup> Responding to the telegram in which the assembly informed him that he had been elected King of Serbia, Peter pledged to be 'a defender of popular freedoms and the most fervent constitutional guardian of the national assembly's rights.'<sup>727</sup> The day after he had sworn loyalty to the constitution, King Peter stated in his proclamation: 'I wish to be a true constitutional king of Serbia.'<sup>728</sup> During the following months, and even in the first years of his reign, Peter made a string of such declarations about his sincere and unwavering loyalty to constitutionalism and parliamentarism.

Peter's words appeared all the more convincing in that, while expressing his loyalty to constitutionalism and liberal institutions, he distanced himself from the plotter's deed. In the aforementioned interview, given after the murder of King Alexander, he stated that 'Serbian soldiers have more noble tasks to perform than killing their sovereigns'. However, while

725 V. Kazimirović cites sources according to which Peter offered King Alexander Obrenović financial compensation for giving up the throne. V. Kazimirović, *op.cit.*, vol. 2, p.25.

726 The interview appeared in *La tribune de Genève* of 12.6.1903. MAE-AD, vol.3, report of the French consul in Geneva to the French foreign minister, Théophile Delcassé, on 23.6.1903.

727 *O izboru kralja*, p.28. See also *Memoari Jovana Avakumovića*, p.68.

728 *Memoari Jovana Avakumovića*, p.83.

one need not perhaps doubt the new king's personal sympathy for liberal ideas,<sup>729</sup> the sincerity of these last words, at least in relation to the murder of that particular sovereign, was placed in doubt by actions that Peter took before arriving in the country, and according to some sources by his own involvement in the conspiracy.<sup>730</sup> While in Geneva, he quite of his own volition promoted three of the conspirators – including one of the most important, Colonel Damjan Popović – to higher ranks. He did so, ignoring not only the fact that the constitution prescribed involvement of the relevant minister in every act of the crown, but also the circumstance that at that moment he was formally not yet king of Serbia. Following an energetic intervention by the government, Peter rescinded the promotions; but after his arrival in Serbia he continued to curry favour with the plotters.<sup>731</sup>

Having won his crown thanks to the conspirators, and with an assembly which made it clear that it saw him as its inferior, the new king was

729 Peter Karađorđević is portrayed in the [Serbian] literature as a man deeply loyal to liberal-democratic institutions. Dragoljub Živojinović writes that Peter had adopted the principles of liberal doctrine already as Grujić's student, and that even later he kept in touch with Velimir Jovanović. His well-known translation of J.S. Mill's *On Liberty* came from his early beliefs. D. Živojinović, *op.cit.*, vol.1, pp. 54–7.

730 The French envoy, seeking to explain in December 1903 why King Peter seemed definitively to lack the strength to free himself from the influence of the conspirators, reported that a possible reason lay in his own participation in the plot. He reported that it was being said in conspiratorial circles that documents about this existed, which they, the plotters – among whom Col. Mašić was prominently mentioned – were ready to publish if the need arose: MAE-AD, 15.12.1903, no. 151. V. Kazimirović cites Austrian sources according to which Protić had put out a story about the discovery of letters from King Peter that showed him to have taken part directly in the plot, *op.cit.*, vol. 2, p.49. At any rate, it seems beyond doubt that Peter Karađorđević knew about the conspiracy (see D.Živojinović, *op.cit.*, vol. 1, pp. 426–46).

731 The government was forced to send a telegram to the newly elected king in Geneva warning him about the illegality of the promotions put through. The King immediately withdrew them, after which the government announced in *Srpske novine* no. 203 that the rumours about the promotions were unfounded. See the testimony of the prime minister in *Memoari Jovana Avakumovića*, pp. 77–9.



additionally exposed to rumours about deals involving his throne, which continued to spread long after his arrival in Serbia.<sup>732</sup> On arriving in Belgrade, moreover, he was met with perfect indifference on the part of the citizenry.<sup>733</sup> Given all this, the king must have felt very insecure, which forced him 'to rely fully on the conspirators, and that part of the army which had brought him to the throne.'<sup>734</sup> As a constitutional factor, he had come under the dominance of an extra-constitutional political force, or – as political circles soon dubbed them – 'irresponsible factors'. The pressure that they exerted on the king acquired at times a despotic form. One such case, frequently quoted in political circles, involved forcing the king to withdraw decrees that he had already signed and publicly announced on the appointment of royal adjutants and orderlies, and later also of the court chamberlain. The conspirators accompanied this brutal cancellation of the constitutional role of ministers, people said, by tearing up royal decrees.<sup>735</sup> The king 'has fully tied his fate to that of the conspirators, he stands and falls with them' – such was a friend's opinion noted down by

732 The Montenegrin prince Mirko was often mentioned in this context, as well as Milan Obrenović's illegitimate son George II (P. Todorović, *Dnevnik*, pp.352, 375–6), while the Independents seem to have considered as late as 1906 the possibility of replacing Peter Karađorđević on the throne by a British prince. D. Đorđević, *Carinski rat*, p.38.

733 The only welcome, apart from the formal one, that the king received on his arrival in Belgrade came from the army. The people were quite indifferent. See report of the French envoy of 14.6.1903, MAE-AD, vol.3, no.35. See also D.Đorđević, *Carinski rat*, p.37. This attitude towards King Peter went on for a long time. The first anniversary of his arrival on the throne was celebrated without enthusiasm and most coldly, reported the French envoy. MAE-AD, vol.4, no.64, 16.4.1904.

734 D. Đorđević, *Carinski rat*, p.39.

735 *Narodni list*, no.232, 27.8.11903. See also the report of the French envoy on 15.12.1903, MAE-AD, vol.3, no.151. In the first case, immediately before the distribution of *Srpske novine*, the type was destroyed; and in the second case the decree was published, but the initial distribution of the official paper was stopped. Protić, who was minister of the interior at the time of this incident, denied subsequently that the decrees had been torn up. *Parliamentary proceedings*, 1905–1906, 15.10.1905, p.167.

Pera Todorović in his diary.<sup>736</sup> Bearing in mind the de facto power that the conspirators wielded over Peter Karađorđević, the French envoy to Belgrade concluded in one of his many highly accurate and analytical reports on the political situation in Serbia after the coup: 'The king will need a great deal of energy, which he does not seem to have, or independence, which he also does not seem to have, in order to succeed in breaking with those who have put him on the throne.'<sup>737</sup>

The conspirators, for their part, instead of retiring as soon as parliamentary institutions began to function, displayed a growing inclination to act as political arbiters. The rise in the political authority of the Old Radicals, brought about by the first elections and considerably strengthened by renewed party unity, combined with internal Radical reconciliation itself to imbue the assembly with a new political strength, the authenticity of which was hard to challenge, despite unquestionable abuses of authority directed against supporters of the minority parties during the elections. The government formed after the elections by the temporarily reconciled Radicals had behind it virtually the whole assembly: out of 160 deputies, only 19 remained in opposition. This government no longer included the conspirators. This betokened a serious shift of the centre of political power away from the court, or the royal circle, to the assembly, which was completely under the sway of the Radicals. The conspirators naturally understood this as a threat to their own political ambitions, which they had no intention of surrendering. That is why, soon after the first elections, some of them started to entertain the notion of bringing down the government, changing the constitution, or even introducing military dictatorship. The king, however, feeling insecure on the throne, showered them with privileges and was himself, it seems, inclined to seek guarantees for his crown outside the constitution.<sup>738</sup>

736 P.Todorović, *Dnevnik*, p. 376.

737 MAE-AD, vol.4, 18.1.1904, no.4.

738 See the French envoy's reports, MAE-AD, vol.3., 29.9.1903, no.138; and 15.12.1903, no.151.

Nevertheless, the king did not prevent Pašić's entry into government in January 1904, nor his becoming prime minister in the following November, even though Pašić did not hide his intention of separating the conspirators from the king and depriving them of effective political power.<sup>739</sup> The fall of Sava Grujić's government in November 1904, and the formation of a homogeneous Radical government headed by Pašić, marked the true beginning of the functioning of a parliamentary system. Thanks to the split of the Radicals into two parties, a multi-party system was no longer just a nominal but also a true feature of the Serbian assembly, and the question of the government's majority was placed on the agenda. As a result, the government's political responsibility before the assembly also became a real category of constitutional practice. The way in which the change of government had occurred – rejection of a proposal by the assembly majority that one of the deputies be put on trial, as well as a formal declaration by the club of Independent deputies that they would loyally support a new government and thus secure for it a parliamentary majority – was merely a symbolic act in this regard. Although the issue that had left the government in a minority was a trivial one, and the true reasons for the fall of the government were quite different (as discussed above), the change of government was directly linked solely to the question of the assembly majority, and represented the first practical manifestation of endorsement of the majority principle, in accordance with the demands of parliamentary practice and procedure.<sup>740</sup>

It was this last circumstance, together with the fact that Pašić's acquisition of the premiership marked the final return of the Old Radicals to the centre of political life, which prompted the conspirators to enter into an open political struggle: a struggle that thus became one for dominance over the state between constitutional and extra-constitutional factors, or more precisely between the political parties on the one hand and the plotters

739 Kazimirović, *op.cit.*, vol.2, p.38. See also on this the French envoy to Belgrade, MAE-AD, vol.4, report of 19.2.1904, no.10.

740 See the section 'Parties and elections' above, p. 254.

on the other. In this struggle, the latter would not cease to entertain extra-constitutional ways of solving the conflict, for which at certain moments they had the king's support.<sup>741</sup> Nevertheless, the limits of the constitutional – and in the last instance the parliamentary – system remained preserved. For the conspirators did not at any moment take power into their hands, but instead used the king to achieve their political aims. The struggle would be fought, in fact, over whether the king would remain under the control of the conspirators, and use his prerogatives under their pressure and in their political interest; or whether he would be freed from their control and, being himself without political ambitions, leave the parties – i.e. a responsible government – to conduct the affairs of state. The struggle between constitutional and extra-constitutional political forces thus acquired the form of a conflict over parliamentary principles, i.e. over the issue of choosing between dualism and monism.

In this as in all its other elements, the process of articulation of Serbian parliamentarism was strongly, or rather decisively, marked by the division of the Radicals into two parties and their mutual relationship. Although they both in fact wished to free parliamentary life from the conspirators' pressure, the Radical and the Independent Radical parties would each in their mutual struggle for power seek assurance and support outside the assembly, which meant acknowledging not just an active role for the crown, but *de facto* also the political will of the conspirators. A not insignificant problem here was that of the assembly majority, which bedevilled all governments up to the elections of 1906.

741 It was said in political circles that the king did not agree with the Grujić-Pašić government, and that he had decided to replace it, after which he would suspend the constitution, dissolve the assembly and hold fresh elections that would result in a government of the Liberals and Progressives. MAE-AD, vol.4, 12.6.1904, no.43.

## 1. The government crisis of 1905 – ascendancy of the crown

That political decision-making would not be solely a matter of the assembly and the government, i.e. that the government's fate would not be left solely in the hands of the parliamentary majority, became clear as soon as the first serious political question was raised in the autumn of 1904: the question of an armaments loan, known also as the gun issue. The king's initial agreement with the position of Pašić's government that the weapons should be purchased in France, and that accordingly the loan would be negotiated with the latter, vanished under pressure from the conspirators, who wished Serbia to buy the arms from Austria-Hungary.<sup>742</sup> For the conspirators had been promised by Austro-Hungarian diplomats that if they acquired the arms from Austria-Hungary, Vienna would accept the act of 29 May.<sup>743</sup>

Although of immense foreign-policy significance, the gun issue was not presented to the public as a choice between French and Austrian weapons, but as a question of whether it was necessary to conduct parallel gun tests before coming to a decision. A decision in favour of a test was in the political interests of the conspirators and the king, given that Škoda guns were supposed to be better. But it could also be defended on the grounds of logic, which argued in favour of a comparison between the quality and the price on offer. On the other hand, the rejection of parallel tests demanded by the government could be defended on political grounds: that it was absurd to buy weapons from a potential enemy, even though they might be better and cheaper. Pašić's government, however, fearing a strong condemnation by the court, avoided this argument by linking the issue of armaments to that of the loan, and this in turn to a loan for railway construction – in other words, by evoking primarily economic reasons. This weakened the strength of the government position, all the more since

742 D. Đorđević, *Carinski rat*, pp. 61–7.

743 D. Đorđević, *Carinski rat*, p. 76.

both the Independents and the Liberals – i.e. nearly the whole opposition – favoured parallel tests. ‘Matters should have been made clear from the start...Guns are not bought from a potential enemy’, said Voja Marinković, leader of the Progressives – the only political group to side with the government against parallel tests – in criticising subsequently the handling of the gun issue by Pašić’s government.<sup>744</sup>

In order to achieve their aim, the conspirators began putting pressure on the king to remove Pašić from government, while simultaneously opening a campaign against him in the press. The campaign signalled an open interference of the court in political matters, because it was led by the king’s private secretary, Živojin Balugdžić, one of the civilian conspirators.<sup>745</sup> Pašić’s government accepted the challenge, and – seeking to separate the king from the conspirators – began to warn the public through its journals of extra-constitutional activity on the part of individuals from the king’s circle, at the same time focussing its attack on Balugdžić.<sup>746</sup> ‘Having sworn to bring down the government, Mr Balugdžić is doing all he can to keep his word,’ wrote *Samouprava*.<sup>747</sup> The government carefully avoided linking the issue of extra-constitutional political influence with the conspirators; not wishing to identify them, it called those who were imposing themselves as an extra-constitutional political force ‘irresponsible factors’ – a name by which the conspirators would henceforth regularly be known in the Radical press. To those who unhesitatingly identified the ‘irresponsible factors’ as the conspirators, however, the Old Radicals would reply that the conspirators ‘did not nor would interfere ...in political matters, because they know full well that their position and profession prevents them from doing so.’

744 *Parliamentary proceedings*, 1906–1907, 10.10.1906, p. 128; *Dnevni list*, no.10, 10.1.1905.

745 B. Kazimirović, *op.cit.*, vol.2, pp 37–45.

746 Pašić spent hours with the king in order to separate him from the conspirators and win him over. D. Đorđević, *Carinski rat*, p.65.

747 *Samouprava*, no.7, 21.1.1905.

‘By God, Mr Pašić, how come you can lie so sacramentally!’, commented Pera Todorović on such writing in *Samouprava*.<sup>748</sup>

The efforts exerted by Pašić’s government to halt the conspirators and free the king from their influence failed. In January 1905, in a conversation with the officers, the king openly and emphatically declared himself against the government’s position on the issue of parallel gun tests, saying that they were necessary. When a Belgrade paper published this statement by the king, no official denial followed. In this way the king himself, by-passing the ministers, used the press to intervene in a political conflict, in contravention of both the rules of parliamentary behaviour and the spirit of the constitution. Most important, however, was the fact that Pašić’s government gave in to the court’s pressure, deciding itself to support parallel tests. Informing the assembly of this ten days later, Pašić explained the acceptance of parallel tests by the government’s wish to free itself of ‘various suspicions and imputations’. This decision on the government’s part had removed ‘all differences between His Majesty and the government, and, I believe, the national assembly too’, stated Pašić.<sup>749</sup>

Those who ‘had spent weeks violating common sense by presenting public accountability’ as something that threatened ‘the survival of the whole constitutional and parliamentary order’ accepted ‘at yesterday’s cabinet meeting’ that parallel tests would be conducted before finalising the loan. The Radicals would ‘insist from tomorrow on that parallel tests had always been their ideal, that only traitors and agents of foreign firms could have been against them’, commented Živojin Balugdžić on the government’s move.<sup>750</sup> The Progressive leader Vojislav Marinković criticised Pašić’s government for agreeing to parallel tests in a similar fashion, albeit from the opposite political position. Those who ‘were the first to sound the alarm against the irresponsible factors’ – stated Marinković, crediting the Old Radicals with opening the issue of the conspirators’ political influence

748 P. Todorović, *Dnevnik*, p.406.

749 *Parliamentary proceedings*, 1904–1905, p.1352.

750 *Štampa*, no.22, 22.1.1905.

– had faltered, and the defence minister, who only a month earlier had been willing to buy guns without tests, was now insisting that ‘one should buy not even chickens without tests.’<sup>751</sup>

Retreating under the pressure of the king and the conspirators, Pašić nevertheless demanded satisfaction: Balugdžić’s removal from the post of secretary to the king.<sup>752</sup> With this aim in mind, he provoked a government crisis – after the government had already decided to agree to parallel tests – by submitting his resignation on 23 January, a resignation that he withdrew a few days later after the king had agreed to remove Balugdžić. Informing the assembly that the crisis was over, the government explained in a declaration on 28 January that the crisis had been caused by ‘the well-known campaign in the press,’ which had undermined ‘public belief in the strictly correct course of our constitutional and parliamentary system.’ The government had withdrawn its resignation at the king’s request, but only after the king ‘had sharply condemned the aforementioned campaign.’ According to Pašić, therefore, the January crisis had not arisen from any conflict between the government and the king or the conspirators.<sup>753</sup>

The parliamentary crisis that opened in January 1905 originated with the very formation of Pašić’s homogeneous government in November 1904, given that the armaments issue was already actual then, and that the government was opposed by both the court and the Independent opposition without whose support its life hung by a thread. During all this time, the assembly was entirely sidestepped as a political factor. In January 1905, at the height of the ‘well-known press campaign’ of which Pašić spoke, an Independent deputy stated informally that the assembly

751 *Parliamentary proceedings*, 1906–1907, 10.10.1906, p.128.

752 Pašić’s demands about removal of the conspirators, the aim of which was to neutralise the king, were even then more ambitious, but they had still not become a public issue of current politics. On Pašić’s intentions towards the conspirators at this time, see D. Đorđević, *Carinski rat*, p.72.

753 *Parliamentary proceedings*, 1904–1905, 28.1.1905, pp 1295–6. *Srpske novine* published a communique expressing the king’s distress with the campaign conducted by Balugdžić. D. Đorđević, *Carinski rat*, p.66.



should know 'what the whole thing is about,' but his remark was left unanswered.<sup>754</sup> As for the armaments loan, this matter was raised in the assembly for the first time in Stojan Robarac's interpellation of 24 January, which opened the question of the government's responsibility for the king's interference in political issues and his open disagreement with the government. Immediately after this interpellation was read out, the assembly was told that the government had submitted a 'motivated resignation' to the king, but its contents were not divulged. In the subsequent explanation, however, which the government gave to the assembly only after the crisis had ended, 'the press campaign' was cited as the cause of the resignation. 'This means that the press can bring the government down. This is a new type of parliamentarism,' was Volja Veljković's cynical response to the government's declaration.<sup>755</sup> His party colleague Ribarac was more precise: a sharp political struggle between the government and the extra-constitutional factors was taking place in the country, yet the assembly knew nothing about it. The government had resigned, but without telling the assembly, which was in session, what had caused the crisis. 'The crisis continues and evolves ... and the assembly knows nothing about that either. The crisis has been overcome and the assembly ... does not know what set it off or how it was ended.'<sup>756</sup>

What Pašić avoided saying about the causes of the crisis while he was in government, he said less than a year later, when he found himself in opposition. Responding to Ribarac, who in December 1905 repeated his criticism of the course and solution of the January crisis, Pašić now stated unhesitatingly that the latter had been caused by 'those irresponsible factors, whom I removed and so the crisis ended. The assembly did not ask me about it at the time; if it had, I should have answered.' Pašić thus confirmed the truth of Ribarac's inference that, although the assembly was in session, the governmental crisis was initiated and resolved outside it; and

754 Sima Katić, *Parliamentary proceedings*, 1904–1905, 21.1.1905, pp. 1268–9.

755 *Parliamentary proceedings*, 1904–1905, 28.1.1905, p.1296.

756 *Parliamentary proceedings*, 1904–1905, 31.1.1906, p.1353.

that this did not happen in public view – ‘due to the well-known press campaign’, as Pašić explained in January 1905 – but at the court, or more precisely in a struggle with the conspirators.<sup>757</sup>

Pašić gave this explanation of the January crisis as having been caused by a conflict between the government and the conspirators at a time when the conspirators issue, in both its internal and its foreign-policy aspects, had become quite acute; and when the political parties in their public debates, including here the assembly sessions, were competing to stress their own roles in the struggle against the ‘irresponsible factors’. Pašić’s reply to Ribarac was meant to indicate that in January 1905 his government had triumphed over the conspirators, won over the king, and in this sense saved the parliamentary principle. Matters stood quite differently, however. Pašić owed his survival in government at that time to having actually given in to the king and the conspirators: i.e. to the fact that his government, instead of resigning, had surrendered its position on one of the most important political issues of the day and adopted that of the court.<sup>758</sup> Balugdžić’s removal from the position of secretary to the king was undoubtedly the first significant success by the political parties in separating the conspirators from the king, in which Pašić and his party did on the whole play the most important role. However, the governmental crisis had not erupted over the issue of Balugdžić, but over the issue of the country’s armaments, on which the political positions of the government had collided with that of the king backed by the conspirators. And the victory had been won not by the government, but by the king, i.e. the conspirators. For the latter, the armament question was so important that they planned, together with the king, to bring down the government and instal a neutral, ‘business’ government that would submit to them.<sup>759</sup> This became superfluous, however, because the aim was achieved with Pašić’s government, which gave up its original position. Balugdžić’s removal – which, in reality, was more

757 *Parliamentary proceedings*, 1905–1906, 10.12.1905, pp. 1030–31.

758 See in this regard P. Todorović, *Dnevnik*, p.408.

759 D. Đorđević, *Parlamentarna kriza*, p.165.

formal than real – was only a concession on the part of the king permitting Pašić to remain in power by creating the impression of victory over the ‘irresponsible factors’.<sup>760</sup>

It was precisely this – the fact that Pašić remained in power by surrendering his own position on one of the most politically important issues of the day, rather than the fact that the king had unhesitatingly adopted a position of his own on this political issue – which makes the manner of the solution of the crisis unparliamentary. It would be difficult, therefore, to accept the conclusion put forward for the first time by Milivoje Popović, that ‘the principle of parliamentary rule emerged strengthened and confirmed from this crisis’; and even less that the victory of ‘the parliamentary system was final and lasting, because there was no further repetition of such attempts’.<sup>761</sup> On the contrary, the king had publicly clashed with the government on a most important issue and won, while the latter – rather than resigning because of a political disagreement with the king, which would have accorded with the principle of dual ministerial responsibility – had adopted the position of the court without consulting with the assembly. The mood of the assembly was tested only later, when the government submitted a proposal for a special loan for the parallel tests. The proposal was actually adopted, but only thanks to the support of the opposition, because many of the deputies of the majority were against it.<sup>762</sup>

The governmental crisis of January 1905 was the first serious political and parliamentary crisis after the May coup. Its causes, evolution and manner of resolution did not testify only to the undoubted but also

760 Though dismissed, Balugdžić continued to enter the palace through a side door and exert a strong influence on the king. D. Đorđević, *Carinski rat*, p.71.

761 M. Popović, *Borbe za parlamentarni režim*, pp. 97–8. See also Kazimirović, *op.cit.*, vol.2, pp.25, 36–45. D. Đorđević characterised the resolution of the crisis as a compromise, which would perhaps be the most accurate judgement in a political sense. *Carinski rat*, p.73. However, looking at the resolution of the crisis from a parliamentary point of view, Đorđević too adopted the view that the government and the assembly had won. *Istorija srpskog naroda*, p.154.

762 *Parliamentary proceedings*, 1904–1905, 15.2.1905, pp. 1713–19.

predominantly political role of the king, i.e. of those who exercised decisive influence on him. In that sense, it offered little hope for consolidating the parliamentary principle under the new regime. The significance of the crisis, however, lay in another fact too, which created a different picture of the future of the parliamentary order. This relates to the position and practical political behaviour of the opposition parties at that time, which expressed loyalty to the constitutional order and respect for the principle of parliamentary government. For Pašić's government won support for its resistance to the conspirators' involvement in politics not only from the very weak Progressives, who agreed with the government on the armaments issue, but also from the Independents and the Liberals, who on this issue agreed with the court. In talks to which the king had summoned them, seeking their advice on the governmental crisis caused by Pašić's resignation, the Independent leaders Nikola Nikolić and Jaša Prodanović had told the king on behalf of their parties that it was 'unfortunate' that 'people close to the court were waging a campaign against the government', and that the king should 'remove those people' and 'retain Mr Pašić as head of government'.<sup>763</sup> The Independents even accused the government in the press of excessive timidity in resisting Balugdžić, and of being 'humbly silent' before him.<sup>764</sup> It was the Liberals, however, who proved to be most principled at this time. They were the first after the coup to open in the assembly the crucial question of the parliamentary regime in a monarchy: the role of the crown, and the crown's relationship to the government and the assembly.

Even before the actual crisis broke out, the Liberals had resolutely and clearly presented their own position on this issue in November 1904, during the debate on the assembly address, and would subsequently uphold it more or less consistently. Their position was as follows: the king had to remain outside politics in Serbia after the coup. 'The national assembly ... has nothing in common' with those who 'advocate and demand that the

763 J. Prodanović, *Parliamentary proceedings*, 1906–1907, 13.3.1907, p.3493.

764 *Dnevni list*, no.10, 23.1.1905.

king should depart from his existing – in their view passive – role, and become what they call an active political factor.’ If he were to become active, as he had been in the past, argued Veljković, than he too would assume responsibility, in which case ‘the dignity of the king’s position ... would become unsustainable. Up to now the usual way to overcome such situations was dynastic change.’ But in order of political crises to be resolved by cabinets rather than by kings being replaced, warned Veljković, ‘it is absolutely necessary that the king never and under no conditions descends to the ranks of the political fighters.’ Those who think differently ‘will find no support in any party or faction in the national assembly’, concluded Veljković, demanding that the assembly should adopt this position as its official ‘view of constitutionalism’ and include it in the address to the king.<sup>765</sup>

When in January 1905 the king’s own position on the issue of arming the country became public, which contrary to the government’s position supported gun tests, Veljković’s definition of the crown’s position under the new regime was challenged to its foundations. So the Liberals placed this issue once again on the agenda, demanding, this time in the form of an interpellation, that the government clearly specify its own position. Stojan Ribarac’s interpellation, submitted to the assembly on 24 January 1905, asked the government two questions: first, was it its view that the king’s conduct was in harmony with his position as a constitutional monarch; and secondly, was the political position of the government in accordance with the king’s view, and if not how ‘was it going to align its view with His Majesty the King’s contrary declaration?’<sup>766</sup> Believing the king’s role to be most important for articulating the new regime, and being firmly committed to a purely monist position, the Liberals accordingly decided to use it to open the question of governmental responsibility. But prime minister Pašić’s reply, which came a week later, in practice prevented a debate on this issue. The government had in any case ‘decided to conduct the tests’, declared Pašić, thus presenting the government’s change of position as in-

765 *Parliamentary proceedings*, 1904–1905, 9.11.1904, p.32.

766 *Parliamentary proceedings*, 1904–1905, 24.1.1905, p. 1288.

dependent of the king's view. Rather than replying to the question on how the government understood the king's constitutional role, moreover, he read out a statement on how the king himself understood that role. 'The king does not think that his own personal views should decide the business of the state, because he does not wish to invest his views with such political force that they might open the door to a personal regime' – such was the king's message to the assembly. His opinion on parallel tests had been conveyed in a private conversation, and was not intended to be made public, explained Pašić.<sup>767</sup>

Although it was quite clear that in this concrete case the king's 'personal view' was indeed intended to 'decide the business of the state,' all Ribarac could do was ask 'why, then, such an attack in the government journal on parallel gun tests, hence also on the king's view, and why it is only now that the government says it has no problem with it, indeed itself agrees with it?'<sup>768</sup> Robarac's interpellation nevertheless did have an important consequence, from the point of view of recognition of the parliamentary principle under the new regime, and of its articulation in line with the monist precept. For the king's declaration addressed to the assembly, contained in Pašić's reply, had the weight of an official interpretation of the king's constitutional role from the highest quarter – the king himself – and signalled his formal recognition that the crown had to be politically neutral under the new regime.

767 *Parliamentary proceedings*, 1904–1905, 31.1.1905, pp.1351–2.

768 *Parliamentary proceedings*, 1904–1905, 31.1.1905, p.1353.

## 2. Crisis and change of government May 1905 – the principle of balance

The Pašić government's acceptance of the parallel tests, 'under pressure', was only tactical in nature, and the government continued to work on the armaments issue in accordance with its original intentions. At the end of March 1905 it rejected the parallel tests, despite the king's protests, and by the end of April the finance minister Laza Paču had signed a loan agreement in Paris.<sup>769</sup> This did not as yet mean, however, that the Old Radical government had won a final victory over the king on this matter. A failed attempt on its part to manipulate the assembly in order to increase its majority brought about its fall and a change of government, which meant that the loan agreement, not yet having been approved by the assembly, fell through.

Pašić's government, unsure of the support of the assembly majority, which was fragmenting on the issue of the loan, decided to provoke a governmental crisis over a quite secondary issue, with the intention of using the anticipated new mandate to dissolve the assembly and hold new elections.<sup>770</sup> Convinced that this stratagem would work, the government began to prepare for elections, leaving them to interior minister Protić, who had already proved his great talent for conducting such business in his own party's favour.<sup>771</sup>

Since the regular session had already ended, the government had to recall the assembly for an emergency session in order to achieve its aim. This proved to be a highly fortunate circumstance, because the issue of the

769 D. Đorđević, *Carinski rat*, pp. 73–9.

770 There were many opponents of the government's loan among the majority deputies, and it was widely expected that the government would fall on this issue. It is clear that 'serious obstruction' threatened on the issue of the loan, wrote the Liberal paper *Srbija*, no.1, 2. 6.1905, and no.4, 7.6.1905. 'The pathetic majority scattered, not wishing to vote for the worst loan', wrote subsequently the Independent Party's *Odjek*, no.274, 25.11.1905. See also D. Đorđević, *Parlamentarna kriza*, p. 160.

771 D. Đorđević, *Parlamentarna kriza*, p.160.

majority could be posed at preliminary sittings before the assembly had actually been constituted, without having to wait and before political questions could be dragged in. With this calculation in mind, the government recalled the assembly for an emergency session on 8 May, and instructed its deputies to vote against the majority's candidate when electing a speaker.<sup>772</sup> The opposition, which understood the government's intention, tried but failed to foil it by abstaining, or by voting for the candidate of the majority.<sup>773</sup> The candidate of the Old Radicals, Aca Stanojević, was elected speaker, but only by a relative majority in the third round, which the government interpreted as a declaration of no confidence and immediately submitted its resignation to the king.<sup>774</sup> Pašić informed the assembly of the resignation on 10 May, justifying it on the grounds that the government was in a minority. In accordance with the usual parliamentary procedure, he asked the assembly not to meet until the governmental crisis had been resolved.<sup>775</sup>

This was the second successive fall of a government in parliament. As in the previous case – the fall of Grujić's government – this time too it was provoked not by a government proposal, but by one from the assembly majority; but for its own reasons the government took this as sufficient proof of a lack of confidence and resigned. Moreover, as in November 1904, there was no political issue at stake in May 1905. Instead of testing the assembly's confidence on the armaments question, which did need to be resolved, the government – whose majority was indeed dubious – avoided

772 D. Đorđević, *Carinski rat*, p.79.

773 The Liberals voted with blank papers. See on this Ribarac, *Parliamentary proceedings, 1905–1906*, 14.10.1905, pp. 156–7.

774 According to Art. 15 of the standing orders, if no candidate won an absolute majority of votes, the speaker became the one who had won a relative majority, but only after the third round. A. Stanojević refused to assume the position, however, citing the manner of his election. Voting was not repeated until the end of the parliamentary session for the new president or his permanent deputies, so the assembly was presided over by an ad hoc president, Ignjat Lukić.

775 *Parliamentary proceedings*, emergency session of 1905, 10. 5. 1905, pp.3–4.



bringing this issue before the assembly, wishing first to win a majority in new elections.<sup>776</sup>

On the day after the government's resignation, the leaders of the Radical, Independent and Liberal parties were invited to the court for consultations about the governmental crisis, and according to the press they all agreed that the assembly should be dissolved.<sup>777</sup> This is precisely what the outgoing government had wanted, convinced that in such an event the king would ask it to stay on. The king, however, displayed hesitation and even resistance over dissolving the assembly, which prolonged the crisis. Eventually the king did agree that the assembly should be dissolved, and all that was left for him was to decide on the government's resignation – whether to accept it or to demand its retraction. The Independents had agreed to a caretaker government under the Old Radicals on condition that Stojan Protić would not be included, because of his abuse of power.<sup>778</sup> They were also, like the king, ready to accept a coalition-based caretaker government. Meanwhile, the Radical Party 'did not depart from its rigid stance that Pašić's cabinet, *pur et simple*, should be entrusted with the dissolution of the assembly and appeal to the people.'<sup>779</sup> The conspirators then 'successfully threw their influence over the king behind the Independents', so that when the crisis was resolved on 16 May a minority Independent Radical

776 On the fall of Grujić's government, see the section 'Parties and elections' above, p. 254.

777 D. Đorđević, *Parlamentarna kriza*, p. 162. Stojanović insisted, however, that as one present at the meeting he had defended the view that dissolution should take place only if it proved impossible to form a government from the existing assembly. *Parliamentary proceedings, 1905–1906*, 22.10.1905, p. 278. It should be recalled here that Stojanović had frequently, if not always consistently, displayed his principled reservations towards dissolution as a way of solving governmental crises, and that his opposition at the stated meeting must have been primarily of a principled nature. It would have been impossible, in fact, to create a new government from the existing assembly, given that the Radicals refused to enter into a coalition.

778 D. Đorđević, *Parlamentarna kriza*, p.167. See also S. Protić, *Odlomci*, p.11.

779 *Politika*, no.532, 7.7.1905.

government, headed by Ljubomir Stojanović, found itself in charge.<sup>780</sup> The new government promptly dissolved the assembly on 17 May, called for elections to be held on 10 July, and announced that the newly elected assembly would convene on 25 July 1905. The Independent Party won the elections and continued to govern until April 1906, when it was replaced by a minority government headed by Pašić.

In this way the game with the parliamentary institutions that the ruling Old Radicals began in May 1905 led to a new activation of the court, then to their own replacement by a minority government. Pavle Marinković was right when, reflecting subsequently on the crisis and commenting that its outcome had been decided by the conspirators, he blamed the government of the day for this. Pašić had simply been 'unable' to rely on the parliamentary institutions. Instead of asking for dissolution of the assembly, he had left 'the choice to the crown,' noted Marinković. 'He was punished for his error: he lost the government and soon afterwards also the majority.'<sup>781</sup>

The Radicals gave a different account of the course of the crisis, seeking to explain its outcome by the improper, or rather unparliamentary, behaviour of the parliamentary opposition on the one hand and the crown on the other, while simultaneously denying that their own side had engaged in any manipulation of the assembly. According to Pašić, the government had called an emergency session of the assembly in order to present it with its proposal about the loan. However, 'the Independent and Liberal parties had reached an agreement and voted against the Radical candidate, in other words against the government.'<sup>782</sup> Realising that 'an agreement had been reached against it in the assembly... the government asked the king to dissolve the assembly, or otherwise accept its resignation.' The king did not adopt the government's proposal, but gave the mandate to the In-

780 D. Đorđević, *Parlamentarna kriza*, p.167.

781 *Parliamentary proceedings*, emergency session of 1906, 11.7.1906, pp 152–3.

782 See the reply by S. Ribarac rebutting Pašić's account. *Parliamentary proceedings*, 1905–1906, 14.10.1905, pp. 156–7.

dependents, argued Pašić. Leaving others to criticise the king, he placed the whole blame on the Independents: 'The Independent Party, rushing to form a minority government ... opened the path to non-parliamentary governments', insisted Pašić.<sup>783</sup> Protić had a similar, albeit more combative, explanation for the crisis: 'The government's proposal to dissolve the assembly was accepted, so it had no reason to resign. The government was dismissed, although its proposal had been accepted', argued Protić, omitting the actual resignation from his account of the crisis.<sup>784</sup> Nastas Petrović, for his part, went even further than Protić, saying straight out that 'the government did not resign'.<sup>785</sup> Thus Pašić maintained that the resignation was conditional, Protić added that the government had no reason to resign, while Petrović stated explicitly what Pašić and Protić had hinted at – which is that there was no resignation.<sup>786</sup> The Radicals vigorously defended the contention that the resignation had been offered to the king only in case their demand for dissolution of the assembly was not accepted, since as we shall see this provided them with a basis for arguing that the Independents came to power in 1905 in a non-parliamentary manner. It is important to stress, therefore, that the Radical leaders' allegations are disproved by the facts: on 10 May 1905 prime minister Pašić formally informed the assembly that the government had submitted its resignation to the king, and

783 *Parliamentary proceedings*, 1905–1906, 14.10.1905, pp 152–3.

784 *Parliamentary proceedings*, 1905–1906, 17.10.1905, p.188. Protić wrote on several occasions in *Samouprava* that the resignation was placed 'at the disposal' of the king only in the event that the request for the dissolution was not granted. See *Odlomci*, pp. 6–8, 17.

785 *Parliamentary proceedings*, 1905–1906, 17.10.1905, p.180.

786 The Radicals set about creating an impression that there was in fact no resignation soon after submitting the resignation, while the crisis remained unresolved. As soon as they realised that they might not get a new mandate, they decided not to mention the resignation in public. According to D. Đorđević, the type of the party organ in which the resignation had been published was changed, and the subsequent printing of the same issue made no mention of it. D. Đorđević, *Parlamentarna kriza*, p.162.

that its resignation was motivated by its loss of a majority, but made no reference to dissolution.<sup>787</sup>

The change of government in 1905 – through the criticism that this provoked from the start, and the answers provoked by such criticism – brought to the fore some of the most important questions pertaining to Serbian parliamentarism, questions that would long continue to be the subject of public debate in Serbia. The first issue was the influence exerted by the conspirators, or extra-constitutional factors, on the work of the constitutional bodies; and then there was the role of the king in parliamentary practice. These were the key questions involved in the articulation of the political regime established by the 1903 constitution, which in one form or another would remain open throughout this period.

From a political point of view, the manner in which the May crisis was resolved came under fire because of a widespread conviction that the conspirators had played a decisive role in the king's eventual decision to offer a mandate to the Independent Party. Practically no one doubted this fact, and the Independents were forced throughout their year-long government, and even later, to listen to serious accusations from all sides to the effect that they had been handed power by the conspirators and were 'under their protection'; that their government was 'sitting in Damnjan Popović's pocket'; that it had been put there 'by favour from on high', as a government of 'the court regime' – a 'court government.'<sup>788</sup>

787 Referring to the allegations by Pašić and Protić, Đorđević concludes that 'it was a case of two resignations: an unconditional one before the assembly, and a conditional one before the king'. D. Đorđević, *Parlamentarna kriza*, p.162. This explanation cannot be accepted, however, if only because resignation before the assembly is legally impossible. Moreover, there is no evidence of a 'conditional' resignation before the king, apart from the Radical leaders' *subsequent* accounts. M. Popović argues that it is not fully known whether the Radicals had asked for dissolution together with the resignation or only later, after they had realised that the Independents would accept the mandate. *Borbe za parlamentarni režim*, p.99. This, however, is of no significance, because, as Popović himself agrees, it is incontestable that the resignation was submitted.

788 P. Marinković, *Parliamentary proceedings*, emergency session of 1906,

The Old Radicals surpassed all other parties in stressing the contribution of the conspirators to the Independents' arrival in power. Acting for pragmatic reasons, fighting for their own political authority and seeking to destroy that of the Independents, having lost power they spoke not just insistently but also directly and openly about the conspirators' political ambitions; and in doing so they did more than anyone before to exacerbate the problem of the conspirators' influence on the king, and through him on the administration of the state. The conspirators issue, as a question of the functioning of state constitutional bodies, was now definitively posed as a current political issue, and the Radicals – who were its first victims – undoubtedly deserve most credit for this.

The Radicals saw the Independents' arrival in power as a 'sign of a new reaction', as a precedent that would permit 'reactionary elements' – by which the Radicals meant the Liberals and the Progressives – 'to gain power tomorrow .. on the same basis, as a result of which we shall be bossed about by opponents we have fought bitterly against for thirty years.'<sup>789</sup> 'These gentlemen known as irresponsible factors', warned Mihailo Minić, 'have started to meddle too openly in the affairs of the state.' They 'were begging us in alleys to help them with at least ten deputies, saying that the Independents were their allies, that the Nationals agreed with them ... in order to bring down Pašić's cabinet, which they have now finally managed to do.' 'The irresponsible factors ... are presenting their bill to the Serbian state, asking to be paid for what they did not earn ... it is a large and sickening bill. It even goes, indeed, against the honour of the highest factor', stated Minić.<sup>790</sup> According to Nastas Petrović, the collapse of the Radical

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22.7.1906, p.1396; Ž. Rafailović, *Parliamentary proceedings*, 1905–1906, 3.3.1906, p.1682; the Socialist M. Marinković, *Parliamentary proceedings*, 1905–1906, 12.12.1905, p.1044. See also Dragan Lapčević, *Parliamentary proceedings*, 1905–1906, 9.12.1905, p. 989, and Triša Kaclerović, *Parliamentary proceedings*, emergency session of 1908, 18.7.1908, p.399.

789 Jakov Čorbić, *Parliamentary proceedings*, emergency session of 1905, 2.8.1905, p.60.

790 *Parliamentary proceedings*, 1905–1906, 17.10.1905, p.186.

unity rebuilt with so much effort was likewise due to the conspirators' quest 'to render impossible a strong government with a strong assembly majority'. 'Making use of what was done on 29 May and of their position ... they are starting to enter politics ... to exert pressure on parliamentary governments, they have started to bring down governments!' Petrović went so far as to suggest that the arrival of the Independents in power portended a coup d'état and suspension of the constitution. 'It seems we are about to repeat 1894', said Petrović, alluding to the arrival of the minority Liberals in power in 1982, after which Serbia was set on a track leading to the coup d'état. 'The irresponsible factors must leave the stage .. be removed', concluded this leading Radical, who would subsequently use his ministerial post to protect the conspirators' impunity by ordering the most prominent supporter of the counter-conspiracy movement to be murdered in his prison cell.<sup>791</sup>

Apart from the fact that the arrival of the Independents in power with the compliance of the extra-constitutional political factors had caused much political damage, insisted the Radicals, it represented also an openly unparliamentary act. Starting with the premise that Serbia had unquestionably opted for parliamentarism, the Radicals pressed their view that the 1905 change of government had been unparliamentary also in the form of a political accusation against the Independent Party. That is how the latter understood it too and, while upholding its commitment to the regime, it defended its arrival in power as being in perfect accord with parliamentary principle with the same passion and determination with which the Radicals argued the opposite. The political conflict between the two Radical parties as a result acquired the form of a contest over questions of principle for the parliamentary system, and concretely over the role of the crown within the latter.

The position of the Old Radicals was formulated and propounded by Protić, who had acted as the theoretician of Pašić's party over the past decade. Protić's starting position in judging the May crisis was monist:

791 *Parliamentary proceedings, 1905–1906, 15.10.1905, pp. 160–61.*

parliamentarism presupposes that all the crown's prerogatives have been transferred to a responsible government, which decides on how to use them quite autonomously. Even when deprived of a majority, the government has the right to decide on whether to resign or dissolve the assembly. If it opts for the latter, the king is not allowed to appoint another government to organise elections, but must leave that to the current government. Protić quoted the British example as the strongest argument in favour of his position. 'In England the current government regularly appeals to the people and conducts elections. This happens even when the government remains in a minority on some important issue', wrote Protić.<sup>792</sup> Elaborating this theory and applying it to the concrete case, Protić took his party's initial – and false – contention that Pašić's government had never actually resigned as an incontrovertible political fact.

The basic assumption defining his stance was as follows: the parliamentarism introduced in Serbia after 1903 was in fact of the British type, and not any earlier form of British parliamentarism but precisely the contemporary version, that which prevailed at the end of the nineteenth century and the start of the twentieth, namely cabinet government. So the constitution, which followed the British model, was to be interpreted in accordance with British constitutional conventions. Protić failed to take into account in such arguments the fact that even the formal preconditions of parliamentary government in Serbia were not the same as in Great Britain, since the Serbian king had the right to extend the budget by decree, which was not true for Great Britain, or indeed most other constitutional monarchies. As Slobodan Jovanović rightly noted in 1924, in his reflections on this crisis, the Serbian king, 'armed with the right to extend the budget by decree, is not obliged to demand of the parliamentary majority to agree in advance to a caretaker government based on a minority, because if the majority refuses to grant this government a budget, the king himself can do it.'<sup>793</sup> By referring to the letter of the constitution, Jovanović thus demol-

792 *Odlomci*, pp. 3–4.

793 S. Jovanović, *Iz istorije i književnosti*, vol.1, p. 438.

ished Protić's position that a caretaker government must be of the majority; but he failed to realise that, according to the 1903 constitution, the government need not be a majority government in any event, since the king had the right to extend the budget by decree not just in the event of dissolution, but also in the event of postponement, on which he also decides on his own, i.e. without the parliamentary majority, as discussed earlier.

Replying to critics who reminded him that according to the existing Serbian constitution the king was free to decide who would form the government, which might be composed not merely of an assembly minority, but also of 'people outside parliament', Protić retorted: 'There are those who believe that the constitutional and parliamentary dimensions can be separated to such an extent that they may end up in open contradiction. But ... a constitution and constitutional rule are a more complicated machine, and one must at all times look not just at the text, but also at the meaning, of this or that constitutional provision.' The meaning of constitutional provisions, argued Protić, is interpreted in accordance with constitutional custom, so that 'something need not be constitutional only because it appears in the text of the constitution.' 'This is why, in England, the constitution is not just the written law, but includes also constitutional conventions and constitutional practice.' *Quid leges sine moribus?* was a well-known rule that applied also in Serbia, argued Protić, rejecting any possibility that constitutional conventions other than those prevailing in Great Britain might apply.<sup>794</sup> In his 'Anglomania' – as Slobodan Jovanović called his obsession with British parliamentarism<sup>795</sup> – Protić did not differentiate between constitutionalism in Serbia and constitutionalism in Great

794 *Odlomci*, p.30.

795 S. Jovanović, *Sabrana dela*, 11, vol.1, Belgrade 1991, pp 436–7. Protić retained his fascination with the British constitutional system to the end of his life. He was guided by the British experience also later, in quite different circumstances, when – first in the name of his party and, after breaking with it (1920–21), in his own name – he sought a constitutional approach to resolving the national question in the Yugoslav state. See Olga Popović, *Stojan Protić i ustavno rešenje nacionalnog pitanja u Kraljevini SHS*, Belgrade 1988.



Britain. Constitutionalism in Serbia, as in Great Britain, was the same as parliamentarism, which again did not exist outside of British constitutional custom. Thinking in this way, Protić arrived at the paradoxical conclusion that the change of government in 1905 was in fact unconstitutional, because, despite complying with the positive precepts of the constitution, it was not in agreement with British constitutional conventions. Serbs are not Englishmen and Protić is not Gladstone, replied the opponents of this approach to the Serbian constitution. Protić, however, replied: 'we, like everyone else, have adopted a parliamentary system on the English model.'<sup>796</sup> The very subject around which different opinions clashed was for Protić beyond any dispute, something that needed no proof.

Admittedly during the course of the crisis, Protić – firmly convinced that when it ended government would remain in the hands of his party – did attempt, by proposing different possible ways to resolve it, to appear more flexible in his interpretation of parliamentary rules than he would be subsequently, when discussing the crisis from opposition. 'In constitutional and parliamentary states', he wrote on 14 May 1905, 'an appeal to the people is made, and can be made, only by the actual government ... or by a government from the parliamentary minority, if the crown has reason to believe and expect that it will win a majority in elections. The latter case arises when the crown disagrees on an issue with the majority, and itself wishes to appeal to the people.' Adding that this was a rare occurrence

796 *Odlomci*, p.4. The observation that the Serbs were not English nor Protić Gladstone is a paraphrase of a remark made during the time of Prince Milan by the Liberal politician Jakov Tucaković. As minister of the interior, Tucaković replied to the opposition's evocations of Great Britain and Gladstone: 'I am as much Gladstone as you are English'. S. Stanojević, *op.cit.*, vol.4, p.920. N. Stanarević ascribes this to another Liberal politician, Todor Tucaković: N. Stanarević, *Dvadeset godina Liberalne stranke*, p.53. It is more likely, however, that it was said by Jakov Tucaković, as testified to by S. Protić and B. Marinković, *Parliamentary proceedings*, 1909–1910, 17.5.1910, pp. 3111–12. The parallel was frequently used after 1903, but in the opposite sense, directed this time by the opposition to Protić as minister of the interior in order to counter *his* references to Great Britain.

and 'as a rule always avoided', Protić nevertheless cited it as a possible, albeit exceptional, method of resolving a crisis by parliamentary means.<sup>797</sup> Recognising, therefore, the crown's right to decide on dissolution, he consequently recognised also its right to appoint a minority government, thus adopting the position of the Independent Party.

This allowed Protić's opponents to question the authenticity of his exclusively monist position, from which he began to attack the Independent government immediately after the conclusion of the May crisis, and to pronounce his views on constitutionalism and parliamentarism unprincipled and over-politicised. It was clear that the governmental change of 1905 'in no way harmed constitutionalism or parliamentarism', wrote the Liberal *Srbija*, yet for the Radicals it amounted practically to a 'coup d'état'. 'This is because anything that deprives them of power is for them a coup d'état', preventing them from 'completing their many ventures in peace and without interruption.'<sup>798</sup> 'It seems that when you are in power you entertain one kind of theory, and when you are in opposition completely different ones.' 'It is your power, not parliamentarism, that is in question', commented the Independent deputy Milovan Lazarević on Protić's stubborn assertions, repeated by all Radicals without exception, that the Independent Party had acquired power by non-parliamentary means. Given what he had written, how could he possibly argue so strongly that the resolution of the May 1905 crisis had been unparliamentary?, Protić's critics demanded.<sup>799</sup> It is a matter of an 'exception', repeated Protić in July 1906, that appears only when 'very important and crucial matters are in question', on which there is 'a conflict between the crown and the government, or rather parliament', and when 'the mood of the country appears to be on the side of the king.'<sup>800</sup>

Were Protić's critics justified in pointing to the fact that at the start of the May crisis he too had defended the position of dual ministerial

797 *Odlomci*, pp. 2–3. Protić published this article in *Samouprava* of 14.5.1905.

798 *Srbija*, 23.6.1905.

799 Milan Lazarević, *Parliamentary proceedings*, 1905–1906, 12.10.1905, p.112; *Odjek*, no.133, 11.6.1908.

800 *Odlomci*, pp.24, 32.

responsibility, thereby showing inconsistency in his interpretation of the role of the crown in a parliamentary regime?<sup>801</sup>

The conclusion that Protić recognised the king's right of dissolution – hence also the rule that the government was responsible also before the king, who could consequently dismiss it even when it had a majority – undoubtedly follows from Protić's acceptance of the exception, which he defined as a situation when the crown came to disagree with the majority on 'an issue' and had reason to believe that new elections would confirm its own position. Moreover, defining in this way the exception to the rule that an incumbent government always decides about dissolution, Protić actually described the May crisis. This is confirmed by two facts. First, while agreeing that the assembly should be dissolved, Pašić's government and the king differed on a much more important issue, that which lay at the basis of the crisis: the question of the armaments loan. Secondly, the government's majority in parliament was itself divided on this issue, giving the king reason to believe that the minority – which actually agreed with him on the issue of the loan – would win the next elections, which is what did indeed happen. If he held to his theory of the exception, therefore, Protić would have to admit that the crisis had been resolved in a parliamentary manner. This would then signify that he adopted the position of dual ministerial responsibility, leaving no difference between him and the Independents.

Turning to the actual crisis, however, Protić abandoned the theory of the exception, or rather he defined the exception so narrowly that he in fact removed all doubt about his view of the crown as a passive constitutional

801 It is argued also in the most recent works, and precisely on the basis of the article in *Samouprava* of 14.5.1905, that Protić 'in principle allowed the king the right of dissolution'. Dragoljub Popović, 'Novakovićevo pismo Periću od decembra 1907. godine', *Stojan Novaković – ličnost i delo*, SANU symposium, vol.77, 1995, p.605. Popović stated this opinion while referring to Slobodan Jovanović's judgment according to which Protić's position was that the king's right of dissolution had been transferred to the government – a judgment which Popović believes to be somewhat exaggerated.

factor. The May crisis could not be treated as an exception to the rule that the assembly is dissolved by the incumbent government, he stated explicitly in his reply to Prodanović's comment that the Independent Party had gained power in precisely the conditions that Protić defined as exceptional. 'It would be an exception', stated Protić, 'had the crown and the government parted ways; but this did not happen, because the government's proposal on dissolving the assembly was accepted.' Therefore, he concluded, 'the current cabinet's assumption of the country's administration was unparliamentary.'<sup>802</sup>

Protić thus believed that the disagreement over the armaments issue could not be included among the 'certain cases' of disagreement between the crown and the government of which he had spoken. Moreover, he neglected the fact that the 1905 elections had handed victory precisely to a government of the minority. What case had Protić then had in mind, when he spoke about an exception? The answer is to be found in the continuation of that very article of May 1905 whose original definition of the exception had referred to dual ministerial responsibility. 'Do you or can you not understand that accepting the government's resignation means refusing the government's proposal that the assembly be dissolved, and that acceptance of the government's proposal that the assembly be dissolved negates the resignation, because it is then invalid?', argued Protić, relying on his party's (untrue) assertion that the resignation of Pašić's government had never actually happened. 'It is only *then* that the government can be dismissed, which the crown always has the right to do when it has no confidence in the government, and which we do not – nor may we – question', continued Protić.<sup>803</sup> Hence, if the king had refused dissolution, the change of government would have been parliamentary. Since the king had approved dissolution, however, he was obliged to retain the actual government in power, and to leave it to call for and organise the elections.

802 *Parliamentary proceedings*, 1905–1906, 16.10.1905, p.176 and 17.10.1905, p.188.

803 *Odlomci*, p.6, from *Samouprava*, 14.5.1905 (italics OPO).

Such, then, was the exception that Protić had in mind, as he confirmed in his aforementioned reply to Prodanović. This makes it clear that Protić, in insisting that the crown 'always has the right' to 'dismiss' the government when it has no confidence in it, by 'always' meant only in cases where the king and the government could not agree on dissolution. In all other cases, Protić did not recognise the king's right to dismiss the ministers. Acknowledging, therefore, ministerial responsibility before the crown, and simultaneously abandoning the ground of the exception to which he had referred at a certain moment, Protić defined which criteria the king had to adopt in reaching his decision on confidence: the only criterion allowed was disagreement on the issue of dissolution. Other reasons for the king's lack of confidence – e.g. in this concrete case, since the king had agreed to dissolution, his doubt in the capacity of the existing government to conduct free elections – Protić did not allow.

In doing so, however, he became mired in illogicalities. The king himself may be convinced that dissolution is necessary, but this does not automatically mean that the existing government enjoys his confidence. (In the concrete case, the opposition too agreed to dissolution, which played a decisive role in the king's decision to accept it.) Once the king's right to dissolution is accepted, however, it makes no sense to direct him which ministers he should choose to implement it. The right to dissolution assumes also the king's right to decide the issue of confidence in the government. Were it not so, the king would be bound to entrust dissolution of the assembly to a government that he did not trust – to ensure free elections, for instance – which would render his right of dissolution quite meaningless. The king either has or has not the right of dissolution. If he has it, then he also has the right to choose which government to entrust with the dissolution. One cannot recognise one without the other, if only because the moment his right to this constitutional prerogative is recognised, ministers appear in the matter as agents of the crown. As such they have to enjoy the king's confidence, and the king cannot be limited in any way as to his choice. Protić, in short, himself refuted his principled

recognition that the king himself decides on dissolution, stated in connection with the May 1905 crisis, because the manner in which he interpreted that right did not assume dual ministerial responsibility.

Ljuba Stojanović's government emerged as a de facto caretaker government, given that an agreement on dissolution had already been reached between the king, on the one hand, and all the political parties on the other. This fact was a main argument of the defence, and Protić was actually forced to fight not the idea of minority government *in abstracto*, but the idea of a caretaker government. It was at this target that he directed all the energy of his polemical mind. According to him, the very idea of a caretaker government, whose sole mandate was to announce and conduct elections, was contrary to the spirit of parliamentary government, because such a government had no programme of its own. 'In constitutional and parliamentary states, no one would ever think of demanding or suggesting that a bureaucratic or neutral or coalition cabinet should appeal to the people.' And he rejected arguments defending a caretaker government in the name of protecting electoral freedom, as a cover for 'anti-parliamentary aspirations in the name of neutral cabinets and freedom of elections.' This was because 'electoral freedom is guaranteed by the laws, freedom of the press, secrecy of the ballot, the constitutional rules. To demand more and above that means either to be ignorant of the nature of parliamentarism or to be seeking suitable forms for reactionary and unparliamentary purposes,' Protić concluded.<sup>804</sup> This is how Ljuba Stojanović's government had emerged, he would state later, and it had been a real 'comedy.'<sup>805</sup> He judged in the same way – as manipulation of the majority by the minority – the opposition's reference to the mood of 'public opinion', which was 'allegedly' against the elections being conducted by the Pašić cabinet, and particularly by himself as interior minister. 'What public opinion was against the government?,' asked Protić. 'Where were the rallies, the meetings, which had or would have declared themselves against the Pašić cabinet?' 'Nowhere,'

804 *Odlomci*, pp.3, 5.

805 *Odlomci*, p.53.

he replied. 'On the contrary, such rallies and meetings as had occurred in the country ... were in no way directed against the former government.' As for the press, 'it forms only part of public opinion, and a part that is often enough embroidered', conclude Protić,<sup>806</sup> who, despite such a view of public opinion in a parliamentary state, nevertheless demanded an exact copying of British parliamentary conventions at the level of relations between the constitutional factors of government.

Although the Independent Radical Party rejected as wrong the Radicals' assertion that the previous government had not resigned, it did not use this as the basis for defending its view that the change of government had been parliamentary. Arguing that their arrival to power had been a regular parliamentary act, the Independents – in contrast to the Radicals – openly endorsed the position that parliamentarism as a system assumes an active role for the crown. The essence of their position was as follows: parliamentary government does not exclude occasional intervention by the crown, provided that the majority principle remains unquestioned and in the last instance decisive. This means that the crown has in principle the right to disagree with the government, or the assembly majority, in which case the conflict is resolved by the electorate. Given that the king, not the government, decides on dissolution of the assembly, it is logical that he decides also on the composition of the government that will conduct the elections. At the same time, since the electorate is the final arbiter, it is most important to ensure the credibility of the electoral results, so that the only criterion which the king is obliged to respect in his choice of government is such guarantees as the latter may offer that the elections will be free. This consequently means that the idea of a caretaker government is not only legitimate, but also in keeping with the essence of the parliamentary regime, which assumes free elections.

This position, which came closest to the principle of balance of power, was in the first instance defended and expounded in the party's name by

806 *Odlomci*, pp. 11–12. Protić's suggestion that public opinion favoured the Radical Party was made before the elections took place, on 17 May.

Jaša Prodanović and the party leader Ljuba Stojanović. Their joint starting point was that in certain circumstances the king could not be denied the right to decide the government's composition and fate on his own, i.e. independently of the assembly majority. However, the arguments that they used to defend the change of government in 1905, and more generally the manner in which they defended the principle of the king's right to intervene in politics, showed a considerable difference between the two on this issue. Prodanović's basic, if not exclusive, reasons were to protect electoral freedom and the rights of the minority, while Stojanović's reasoning was more comprehensive and included, in addition to the right to appoint a caretaker government, other rights of the crown contained in the classical dualist concept of parliamentary government. To put it briefly, Prodanović's understanding of the rights of the crown was much more restrictive than Stojanović's, so that their commitment to the dualist form of parliamentary government could not be treated as identical.

There is no doubt, said Prodanović in response to Protić's criticism, that 'the parliamentary spirit' demanded that 'a group that is in a minority cannot govern'. This did not mean, however, that 'in special circumstances' it could not 'form a government, and conduct elections, and stay on in the event that it wins a majority, or depart if it does not.'<sup>807</sup> It was not at all illogical after all, argued Prodanović, that in the event that 'one government falls in the assembly, having failed to win the requisite number of votes' – which is what happened to the Radicals on the occasion of the election of the assembly speaker – the monarch 'should give a mandate to the group that he most trusts to conduct the elections.'<sup>808</sup> The parliamentary form was meaningless if the essence of the parliamentary system was not respected, and free elections were 'the main foundation and the most crucial element of parliamentarism', Prodanović would argue later, after further elaborating his defence of the caretaker government from the standpoint of the need to protect electoral freedom. 'There is no parliamentarism without

807 *Parliamentary proceedings*, 1905–1906, 16.10.1905, p.176.

808 *Parliamentary proceedings*, emergency session of 1908, 18.7.1908, p. 401.



free elections, whatever be the form in which a government may clothe its activities', stressed Prodanović.<sup>809</sup>

For Ljuba Stojanović, electoral freedom was a necessary condition of parliamentary government, from which followed the justification for a special caretaker government, irrespective of whether its composition was based on a majority or a minority. When the crown opted for dissolution, said Stojanović, its first and only duty was 'to guarantee electoral freedom', and he could offer the mandate to either the existing or a minority government, which was a 'secondary issue'; the only thing that mattered was that the government's composition 'would ensure that freedom'. 'I don't wish to speculate on the reasons that led the crown to offer us a mandate to conduct the elections; we accepted it in the belief that the people trusted us, and because we were strongly committed to organising completely free elections', stated Stojanović.<sup>810</sup>

Unlike Prodanović, who never failed to link the king's right of political intervention with the need to protect the principle of representation, Stojanović in arguing his position defended also crown prerogatives as such. To Protić's argument that in a parliamentary state dissolution is always a matter for the responsible government (the exception to this has already been discussed), he firmly replied: 'The right of dissolving the assembly belongs to the crown and to no one else.'<sup>811</sup> Such an unambiguous and unreserved recognition of the right of the crown to decide independently on dissolution could come only from someone committed to the concept of dual ministerial responsibility. For in recognising the crown's right to dissolve the assembly, Stojanović did not – like Prodanović – limit

809 *Odjek*, no.123, 29.5.1908. Parliamentarism cannot be reduced to government of the parliamentary majority – Prodanović would repeat this conviction after the war too. 'What makes a government parliamentary is that its majority in the assembly is a free expression of the popular mood.' Otherwise 'General Cincarmarković's 1903' government would also have been 'parliamentary', since it enjoyed a 'parliamentary majority'. J. Prodanović, 'Naš parlamentariizam', *Srpski književni glasnik*, no. 13, 1924, p.31.

810 *Parliamentary proceedings*, 1905–1906, 22.10.1905, p.278.

811 *Parliamentary proceedings*, 1905–1906, 22.10.1905, p. 278.

it to the case of a government losing the assembly's confidence, but also assumed the case of its losing the confidence of the crown. 'The crown has the inalienable right, if it disagrees with one government, to appoint another that will share its views and appeal to the people,' argued Stojanović.<sup>812</sup> He was even more categorical in his writing: 'Our social conditions,' he was convinced, 'are not such that a government enjoying a majority in the assembly is by that very fact able successfully to conduct the business of the state (as, for example, in England). In our situation, it is quite indispensable also to have the full confidence of the monarch. By the monarch's full confidence, I mean that the monarch must be completely free to intervene in all matters of state.' Stojanović thus did not question the idea of parliamentary government – ministerial responsibility before the assembly went without saying – but he understood it in accordance with the principle of a balance of powers. That Stojanović's advocacy of ministerial responsibility before the crown did not imply any departure from the parliamentary principle is testified to by his further considerations on the relationship between king and government, in which he advocated a consistent application of the principle of a government's collective responsibility, as well as a special role for the president of the ministerial council. 'Solutions to questions will come not from individual ministers, but from the whole of the ministerial council, which represents the assembly majority and the party, so that, in the event of a disagreement between government and crown, the government is ready to resign at any time. ... The monarch is to address all questions and comments on state matters solely to the president.'<sup>813</sup> Stojanović would remain faithful to his belief that in Serbia

812 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p. 50.

813 ASANU, 12255, notes by Lj. Stojanović without date or heading. The square brackets include the presumed ending of the abbreviated words. The tone in which Stojanović here records his ideas suggests that the notes were made at the precise time when he was prime minister, as the concept of a programme. As shown below, however, as prime minister Ljuba Stojanović would depart from one of the basic principles he advocated – the principle of collective ministerial responsibility before the crown. See below.

the king should play an active political role. A government resigns 'as soon as it comes into conflict with one or the other' – the assembly or the crown – and the monarch resolves his conflict with the assembly, or with the government, by dissolving the assembly. Stojanović said of the right to dissolution: 'Of all the monarch's rights, this one is most important.'<sup>814</sup>

Concerning the regularity of the 1905 change of government, both the Old Radicals and the Independents referred to the principles of parliamentary government – the former in contesting it, and the latter in defending it. As a result, both the monist and the dualist concepts of parliamentary rule came to be formulated as equally legitimate on the practical-political level in Serbia after 1903. Their authors had until recently been party colleagues, and the differences over the role of the crown that emerged between them in 1905 were related to their prior definitive organisational split.

It is true that their attitude to the constitutional issue had differed for some time. But if one could say of either wing of the formerly united party that, at a certain moment, it had for pragmatic or principled reasons endorsed the notion of an active monarch, this would apply only to the Old and not to the Independent Radicals. It was the Old Radicals who had opted for a compromise with the Obrenović dynasty, culminating in their active participation in the adoption – and later defence – of the 1901 constitution, while the Independents had actually rebelled against that compromise, and even split off as a result. At the time of the military coup the Old Radicals, in contrast to the Independents, had explicitly favoured the 1901 constitution over that of 1888, even though the latter gave the king fewer powers. Later on, and up to the May crisis, the Old and the Independent Radicals had not differed in their interpretation of the constitution, or more precisely both had been committed with equal sincerity to parliamentary rule, never raising any basic question in this regard.

But a change of government that was decided ultimately by the crown, and which led to the Independents winning the elections, in effect meant

814 Lj. Stojanović, *op.cit.*, pp. 15–16.

that the key issue of the relationship between the two parties – which after their organisational separation would preoccupy the bulk of the Radical electoral body – was resolved in favour of the Independents, and that the credit for this went to the king, who gave them the mandate to organise new elections. The Radicals were fully aware of the great advantages enjoyed by the party in government at election time. This naturally placed on the agenda the question of the king's role in the new regime, and crucially also determined the position that the Radicals and the Independents would adopt in relation to it. Generally speaking, the division of the Radicals into two parties, sealed in fact by the change of government in 1905, represented an event of the greatest importance for Serbian parliamentary life, in that their relationship would henceforth play a decisive role in articulating both parliamentary practice and the positions that the two would champion as their principled stances.<sup>815</sup> Concretely, the two parties would remain more or less faithful to the positions that they adopted at this time in relation to the role of the crown. Following the 1906 elections, moreover, when the Independents finally became a minority party, their belief in the necessity of the Serbian crown playing an active role would if anything harden. The Radicals for their part, after a brief foray into a theory of an active role for the monarchy, would return to their previous position favouring a totally passive king.

As for the other political parties, since as marginal parties they were at this time mere spectators in the struggle for power, they showed little desire to join the debate on the 1905 change of government from the standpoint of the theory of parliamentary government. The sporadic and brief remarks emanating from their ranks give the impression that, from a formal point of view, they did not view the Independents' assumption of power as a serious departure from parliamentary principles, and even

815 According to D. Đorđević, this was 'the most important event in Serbian history after 1903'. Đorđević rightly concludes that it 'influenced significantly the direction of Serbian parliamentarism as such'. *Istorija srpskog naroda*, p.139.

less questioned the constitutionality of the king's conduct.<sup>816</sup> To be sure, they did question both parliamentarism and even constitutionality, but from a different and wider standpoint. For what these parties insisted upon in connection with the 1905 change of government was the fact that parliamentary life as a whole, before and not only at the time of the crisis, proceeded under pressure from the plotters as an extra-constitutional political force; and that the responsibility for this was shared equally by the Old and the Independent Radicals, as the two ruling parties.

### **3. Independent Radical government – increased importance of the assembly and conflict with the monarch**

The emergence of the Independent government marked the opening of a new phase of the conspirators issue. Its rule began with a clear manifestation of the plotters' political power, continued under the sign of an increasingly aggressive display of the latter, and culminated in a de facto transfer of the royal prerogatives into the hands of the conspirators. This eventually led to the fall from power of the Independents and the arrival, in April 1906, of a new Radical government headed by Pašić. This had been a year in which not just the parliamentary rules, but even the constitutional system as such, were continually under challenge. The reasons for the plotters' fervent onslaught upon the institutions of constitutional government lay in the fact that the question of their position in the state was being posed in an ever more serious form. With the change of government in May 1905, occasional attempts to identify the conspirators as a serious obstacle to the establishment of constitutionality grew into criticism of a more widespread kind, because it came to be led by the Radical

816 The Progressive Andra Đorđević explicitly stated that the Independent government had 'indeed come to power by parliamentary means'. *Parliamentary proceedings, 1905–1906*, 18.10.1905, p.202. See also *Srbija*, 23.6.1905.

Party. This intensified to the utmost the domestic political aspect of the issue, and also created favourable conditions for questioning other aspects of it too, including that of foreign policy. The latter primarily concerned the restoration of diplomatic relations with Great Britain, which was refusing to recognise the new regime and making it clear that it would not do so, as long as the king's murderers continued to hold important state positions. Opening this issue thus also meant opening the issue of the plotters' continued occupation of high positions at the court and in the army. The danger thus derived from the fact that the problem of their position was tied to the problem of the regime's international recognition, a satisfactory resolution of which was impossible without removal of the plotters.

Yet although the real political importance of the assembly and government vis-à-vis the king had considerably weakened, the parliamentary form was nevertheless secured. It turned out, moreover, that the change of government in May 1905 was – from the standpoint of parliamentary practice – one of the most important events in the eleven years of Serbian parliamentarism. For it marked the start of an articulation not just of the political parties' positions regarding the role of the king, but also of parliamentary practice in all its other key elements. The change of government in 1905, and the ensuing elections, fully clarified the nature of the relationship between the Old and the Independent Radicals. Following this event, and regardless of individual inter-party transfers and attempts to renew party unity, they functioned as two clearly separate, mutually conflicting and increasingly antagonistic political parties. This fact played a key role in shaping the party system, as described above, as well as in structuring the relationship between the assembly and the government.

## A. THE KING BRINGS DOWN FOREIGN MINISTER JOVAN ŽUJOVIĆ

With the elections out of the way, Ljubomir Stojanović on 25 July 1905 submitted his government's resignation, which he justified to the assembly in the following terms: the government had been 'invited to assume the administration of the country in order to conduct elections', and its 'mission' had been 'completed now that the task has been done'.<sup>817</sup> The new, partly reconstructed government, formed on 30 July once again under Stojanović, derived from the elections and, in contrast to the previous one which had been formed at the king's request, relied also on the confidence of the parliamentary majority.<sup>818</sup> Stojanović's statement formalised the electoral nature of the government formed in May 1905, and in a sense bestowed official recognition on the Independent Party's position that a caretaker government was a legitimate form of parliamentary rule: a position that saw a caretaker government as a necessary supplement to the majority principle in the specific conditions of Serbian parliamentarism.

This was one in a series of actions by the Independent government – between the elections it had organised and its departure from power – that manifested its determination to govern as far as possible in accordance with the principles and rules of parliamentary government, as it understood them. The next act of this kind was opening the regular parliamentary session with a speech from the throne, as a typical parliamentary form of initial verification of the assembly's confidence in the government that the new elections had produced. During the eleven years of parliamentary practice, this was the only time that parliament opened in regular circumstances with a throne speech.<sup>819</sup> The debate on the speech,

817 *Parliamentary proceedings*, emergency session of 1905, 25.7.1905, p. 19.

818 In the new government Stojadinović was no longer minister of the interior, this position having gone to Ivan Pavićević. Dragutin Pečić joined the government as minister of justice and Milorad Drašković as minister of the economy.

819 A speech from the throne opened the first assembly elected after the coup, and the same was true of the 1904 session convened immediately after the coronation, the emergency session of 1912, and the regular one of 1913.

or rather on the assembly's address responding to it, lasted a full twelve days. The debate raised all the current political questions, and permitted all the parliamentary parties to clarify their positions on these. This was the first opportunity for the Serbian assembly to make clear its conception of a throne speech. All parties upheld the parliamentary position that a speech from the throne was an act whereby a government presented its programme to the assembly; and that the latter, by clarifying its view of that programme through its own address, declared – or withheld – its confidence in the government. The ruling Independent Party took the same view on this as the opposition. 'I think that every national deputy now knows that the speech from the throne and the address constitute a single governmental act', declared minister Vlada Todorović, and it was 'self-evident' that deputies 'may criticize them both.'<sup>820</sup>

One of the questions raised in the debate on the assembly's address was the restoration of diplomatic relations with Great Britain. It was posed by the Liberals, the same people who in the previous year had raised the issue of the crown's role under the new regime. Their own draft address, submitted in the name of the Liberal deputies' club by the latter's president, Borivoje Popović, insisted upon normalisation of diplomatic relations with Great Britain, and criticised the government for omitting this issue from the throne speech. Endorsing Popović's proposal that a position on this had to be included in the text of the assembly's address, the party's leader, Stojan Ribarac, likewise sent a 'strong reprimand' to the government and its majority, accusing them of 'burying their heads in the sand'. Ribarac supplemented his criticism with a question about the reasons for

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These last two were linked respectively to the start and the end of the Balkan Wars; the first saw no parliamentary debate, while the second was long and stormy, and like the one in 1905 had the character of position-taking on the current government's programme.

820 *Parliamentary proceedings*, 1905–1906, 14.10.1905, p. 154. See also An-dra Nikolić speaking in the name of the Radicals, Borivoje Pavlović speaking in the name of the Liberals, and Svetomir Nikolajević in the name of the Pro-gressives: pp. 87–8, 961, 981.



the severance of relations, and about whether the government knew the conditions for their restoration.<sup>821</sup>

The government did not turn a deaf ear. The foreign minister Jovan Žujović, stating that no conditions were posed and the government was 'unaware of any demands in the past', asked that 'this delicate issue' should not be hurried.<sup>822</sup> But the Liberal Party did not obey the minister's request, and on 31 October the party leaders Ribarac and Veljković submitted an interpellation to the minister, with the following questions: What was the cause of the severance of relations? what, if anything, had the government done about it? and were the press reports correct that the former Serbian envoy to Great Britain 'had made some proposals in this regard' at the Serbian court, but that these 'had led to nothing, thanks to the influence of people who had achieved power and wished to keep it.'<sup>823</sup>

The position of the plotters was threatened far more, however, by the fact that the same demands that the opposition had raised in the assembly, the government itself soon afterwards placed before the king. Žujović had accepted his ministerial post determined to make the normalisation of relations with Great Britain 'one of the main tasks of the ministry of foreign affairs'. When he demanded patience from the assembly, he believed that he would be able to realise this task without much delay. He proposed in November that the government should ask the king 'to remove a few of the officer plotters from the army', which would make it possible for the new regime to be recognised by Britain.

However, when at the end of that month the government tried to implement Žujović's proposal, the king refused to sign the decree. Žujović resigned in response on 28 November. It seems that the king had refused to sign the government's decree unwillingly, for he changed his mind on the following day. Žujović consequently withdrew his resignation. But he

821 *Parliamentary proceedings*, 1905–1906, 9.10.1905, p.78, and 10.10.1905, pp. 86–7.

822 *Parliamentary proceedings*, 1905–1906, 10.10.1905, p.94.

823 *Parliamentary proceedings*, 1905–1906, 31.10.1905, p.397.

then submitted a new one next day, because – as he wrote in his resignation letter – the king’s ‘agreement ...was withdrawn, or made subject to conditions to which I as the responsible minister could not consent.’<sup>824</sup> His resignation was accepted, and Colonel Vasilije Antić appointed as acting foreign minister in his place. The assembly was informed of this on 2 December without any explanation. Žujović later, when in opposition, described the ‘conditions’ that the king had posed in November 1905: namely, that either the officers should declare that they were retiring ‘of their own free will’, which was unlikely to happen; or the assembly should approve their retirement, which was unconstitutional, since ‘the disposition of officials’ was not one of the assembly’s prerogatives, explained Žujović.<sup>825</sup>

Žujović’s resignation showed, even more clearly than previous governmental crises, first that the king could not stand up to the plotters, secondly that in the parliamentary practice established by the new constitution political responsibility before the crown was self-understood. What made the case of Žujović’s resignation a threat to the parliamentary order, however, was not so much the fact that the king refused to countersign a bill, albeit a politically important one – because ministerial responsibility before the assembly can coexist with ministerial responsibility before the king – but the fact that the government did not choose to resign together with Žujović. The resignation was submitted by one of the most important ministers, on an issue of primary political importance, because of his disagreement with the king; yet the government, which supported the minister’s policy and had the support not just of the parliamentary majority but of the whole parliament for it – chose to disown its own minister before the king, and continued to govern. This was a grave violation of one of the basic principles of parliamentary rule – the principle of collective ministerial responsibility.

824 ASANU, 12398, 14–15; AS, JŽ – 2 and JŽ – 132.

825 *Parliamentary proceedings, 1906–1907*, 15.3.1907, p. 3580. See also *Odjek*, no.156, 8.7.1908.

The strongest condemnation of the ministerial crisis came from the ranks of the Liberal and Socialist opposition, addressing mainly the role played in it by the conspirators and only to a lesser extent its parliamentary aspect. The challenge to the constitutional order on the part of the officer plotters was so blatant, that in the face of it the question of parliamentary principles and rules understandably took a back place. 'The ambition of the people who say that they risked their lives on 29 May to save the fatherland – their ambition prevents this from being achieved', said the Liberal deputy Živojin Rafailović. 'If they fear for their lives, let's assure them that nothing will happen to them; but if it's thirst for power, then let's bring them down' – was Rafailović's militant cry. The Radicals' attachment to democracy was false, because 'they do not protest when state power is being usurped ... by men who are barred by the laws of the land from holding such power in their hands', argued the Liberal deputy Milan Petković.<sup>826</sup> 'The influence of the irresponsible factors is evident', argued the Socialist deputy Dragiša Lapčević. 'It is visible, it is tangible. Over the past few years, governments and ministers have been falling due to the influence of the irresponsible factors... over the past three years we have seen the irresponsible factors practically laying waste to the country. There is no doubt, gentlemen, that the irresponsible factors brought down Mr Pašić's government, that they brought the Independent Party to power, and that they will also bring down the government of the Independent Party', warned Lapčević. In his view, 'parliamentarism is not the alpha and omega of social and political life ... social transformation comes about through revolutions; but parliamentarism is better than oligarchy, parliamentarism is better than the power of irresponsible factors, it is better than the boot and the spur...'<sup>827</sup>

826 *Parliamentary proceedings*, 1905–1906, 10.11.1905, pp. 1019, 1025. The Liberals and the Progressives frequently treated the two Radical parties as one. They did this on purpose, convinced as they were that there was no difference of principle between the two parties, and that they were divided solely by a struggle for power.

827 *Parliamentary proceedings*, 1905–1906, 9.12.1905, p.989.

The Radicals, who had led the way in attacking the plotters over the advent to power of the Independents, were more moderate and less vocal than the rest in judging Jovan Žujović's fall, although they did not fail to note 'the pressure of the "irresponsible factors" that had forced the foreign minister's resignation.'<sup>828</sup> Removed from power through the intervention of those same factors, they appeared pleased that the new government too was falling victim to them. They practically gloated over the fact that the very people who – defending themselves from accusations that they had been brought to power by will of the plotters – only a month earlier had argued that 'the "irresponsible factors" are an invention of the Radicals'<sup>829</sup>, were now being hammered by those same factors. They used the gravity of the situation in which the government – and the parliamentary institutions as a whole – found themselves as proof of their theory that the Independents were to blame, since by causing the rift within the party they had opened the door to the 'irresponsible factors', and thereby imperilled parliamentarism. 'Whereas before it was kings who used to give us trouble', said the deputy Bogdan Janković, 'this time round it is the irresponsible factors... The Radical Party, which used to be a strong bastion against all reactionary governments ... is today fragmented and torn into two parties, neither of which can command a majority among the people.' There was 'much evidence' that 'you are largely to blame for this,' argued Janković addressing the Independents.<sup>830</sup>

The parliamentary aspect of Žujović's resignation was discussed in more moderate tones, although the opposition did not fail to identify the basic violations of the rules of parliamentary behaviour that this ministerial crisis had involved. The Radicals were especially critical of the fact that the minister had not fallen in parliament, which accorded with their theory that ministers were responsible solely to the assembly. The power

828 Nastas Petrović, *Parliamentary proceedings*, 1905–1906, 9.12.1905, p.994.

829 Živojin Hadžić, Independent deputy, *Parliamentary proceedings*, 1905–1906, 20.10. 1905, p.253. Similar remarks were voiced by several Independent deputies during the debate on the assembly address.

830 *Parliamentary proceedings*, 1905–1906, 9.12.1905, p.997.

of their criticism was weakened, however, by the fact that in the crisis of January 1905 their whole government had done the same as Žujović had just done – which Ribarac, who had criticised their conduct at the time, did not omit to point out once again. Like the Radicals, he too upheld the theory of a passive crown, believing that the fall of a minister outside the assembly was not a parliamentary act. Ribarac argued that the Radicals were right to criticise Žujović's fall on this score, but recalled that 'their government too, when resigning in January 1905, failed to inform the assembly either about the causes of the crisis, or about the means and conditions of its resolution.'

This ardent defender of the monist model of parliamentarism did not fail, however, to see in Žujović's resignation also a violation of the principle of collective ministerial responsibility. The government of 'Mr Stojanović erred in failing to support Mr Žujović on this issue, and to fall together with him,' argued Ribarac.<sup>831</sup> The other two parties – the Social Democrats and the Progressives – were in full agreement with him on this. It was the government's duty to support their colleague in matters that were of such importance that they 'demand either unanimity, or a reshuffle, or a new government,' noted Dragiša Lapčević, adding that such issues certainly included 'the influence of the irresponsible factors on the affairs of state.'<sup>832</sup> The Independents had 'made a mistake,' Pavle Marinković would later say, when they 'sacrificed their colleague' and allowed him, a foreign minister, 'to be isolated.'<sup>833</sup>

831 *Parliamentary proceedings*, 1905–1906, 10.12.1905, p. 1030.

832 *Parliamentary proceedings*, 1905–1906, 9.12.1905, p. 989.

833 *Parliamentary proceedings*, emergency session of 1906, 22.7.1906, p.396.

#### 4. Crisis and replacement of the government April 1906 – ascendancy of the crown as a challenge to the principle of responsible government

Following Žujović's fall, Ribarac and Veljković, having had no reply, withdrew their interpellation about diplomatic relations with Britain and submitted a new one of the same nature on 3 December, this time to the prime minister, Ljuba Stojanović. According to the government's decision, the reply to this interpellation was to be given on 25 January 1906.<sup>834</sup> But the government, unable to comply, avoided this by manipulating the assembly's right to decide its order of business. After a long debate, during which the government was accused of abuse of the assembly, violation of standing orders and imperilling the deputies' basic rights, the Liberals announced a policy of obstruction and left the assembly.<sup>835</sup> The Radicals, joining them in their obstruction, left the assembly together with them, as did other deputies of the opposition. Left without a quorum, the assembly could not decide the order of business for the following session, and the same situation repeated itself during the following days.<sup>836</sup> The agen-

834 *Parliamentary proceedings*, 1905–1906, 3.12.1905, p.937.

835 According to Article 90, the assembly, after first consulting with the minister, specifies the day when the interpellation will be answered. On that day the assembly is obliged to place a reply to the interpellation on the order of business. If the interpellation is not placed at the top of the agenda, however, it depends on other points – the points preceding the interpellation – when and whether the reply to the interpellation will come up on that day.

836 The standing orders did not envisage the possibility of deciding the order of business without the necessary quorum made up of half the constitutionally established total number of deputies. The amendments and additions to the standing orders of March 1911 added a rule to the group of prescriptions designed to limit the possibility of obstructing the work of the assembly, according to which, in the absence of the quorum necessary to determine the day's order of business, the speaker could decide to proceed with the old agenda for the following session (Art. 43 of the standing orders of 1911). This did not mean, however, that the new agenda could be decided without a quorum.

da included a political issue of existential importance for the country: i.e. deciding what position it should adopt on the difficult and humiliating demands fulfilment of which Austro-Hungary was making a condition for concluding a trade agreement with Serbia. Finding it impossible to make this decision in view of the obstruction, Stojanović's government resigned after a month, on 22 February 1906.<sup>837</sup> On 1 March of the same year the Independent Party formed a new government, after having increased its majority by winning over two deputies who had until then sat with the Old Radicals. The premiership was taken by Sava Grujić, one of the two Old Radical defectors.

This was the first instance of obstruction, and also the first time under the new regime that the assembly had succeeded in forcing the government to resign. The initiative came from the Liberal opposition, in protest against the lack of response to its interpellation; only a month earlier the Liberals had praised the government for its conduct toward the opposition, precisely in relation to its attitude to the deputies' right of interpellation. For interpellation of the government became very much more frequent once the Radicals had joined the opposition: the number of interpellations in the regular assembly of 1905 was nearly the same as the number of assembly sessions, if those held during the obstruction are excluded.<sup>838</sup> 'If for nothing else, the present parliamentary term will be remembered for the number of the interpellations from the Radical benches', commented one deputy from the governmental majority, Milutin Stanojević.<sup>839</sup> The Radical Party invested much effort towards ensuring that these would be regularly answered; Stojan Ribarac said that there were 'good reasons' for arguing that the new government 'has taken a step forward with regard to respecting interpellations'. In contrast to previous parliamentary terms, when the government would respond to an interpellation on the

837 *Parliamentary proceedings, 1905–1906*, 22.2.1906, p. 1673. See also D. Đorđević, *Carinski rat*, pp. 196–7.

838 There were 88 interpellations over little more than three months of the assembly sitting in full complement.

839 *Parliamentary proceedings, 1905–1906*, 14.11.1905, p.581.

last day before its expiry, thus rendering the interpellation – that ‘most potent means by which the assembly may control the policy of the whole government’ – meaningless, the new government, argued Ribarac, invested interpellations with the importance that belonged to them.<sup>840</sup> The government was ‘indeed responding to interpellations’, admitted Protić, while noting that this also impaired the government’s legislative efficacy.<sup>841</sup> The opposition nevertheless decided that an unlawful failure to reply to the interpellation by Ribarac and Veljković on diplomatic relations with Britain provided sufficient reason to prevent the government’s further work by means of obstruction.

As a result, the appearance of the first homogenous majority government coincided with the inauguration of a specific way of ensuring ministerial responsibility before parliament, as a final measure to which an assembly minority may have recourse against a government. During the ensuing period, obstruction would be commonly used as the only parliamentary measure whereby to bring down a government in the assembly, apart from cases when the fall was engineered, i.e. initiated, by the government itself.

The opposition announced the end of its obstruction on the morrow of the formation of the new Independent government. Soon after, on 3 March, Stojan Novaković once again raised the issue of diplomatic relations with Britain, demanding of the government to answer why these had not yet been restored. As soon as it heard the question, however, the government asked the assembly to postpone its sitting until 9 April.<sup>842</sup> The

840 *Parliamentary proceedings*, 1905–1906, 17.7.1905, pp.1228, 1230. Ribarac’s comment in regard to the heeding of interpellations during Pašić’s government was quite accurate. Thus, for example, on 2.3.1905, the day before the end of the regular session for 1904, the government replied to 13 interpellations. *Parliamentary proceedings*, 1905–1906, 2.3.1905, p.1914.

841 *Parliamentary proceedings*, 1905–1906, 17.12.1905, p.1229.

842 In order to be able to postpone the assembly, the government had to ask for its agreement, because it had already used up the right to postpone it for the duration of the Christmas recess. The government had done the latter in order to break with the usual assembly practice of suspending its work during state



Liberals explained the postponement of the assembly – at a time when it could have already been brought to an end – by the government’s intention once again to avoid having to reply to the interpellation, which it could not have done in the event of closure. The government was postponing the assembly ‘under other influences’, rather than ‘under the influence of public opinion expressed here in the assembly, stated Voja Veljković.<sup>843</sup>

Although Veljković was undoubtedly right, since the government was evidently avoiding having to respond to the interpellation and to questions on the restoration of diplomatic ties with Britain, this did not mean that the new government did not itself intend to confront the issue of the conspirators, and to continue to exert pressure on the king in order to persuade him to permit the retirement of the officer plotters. On the contrary, this is what the government intended to do: as subsequently attested by Ljuba Stojanović, it was decided at the cabinet meeting of 11 March to restore diplomatic relations with Britain, and to retire ‘several higher officers who took part in the conspiracy of 29 May’. Determined to complete this enterprise before the postponed assembly met again, on 28 March ‘the ministers submitted a written request to the prime minister to convey their resignation to the king in the event of his refusing to approve’ the government’s decision by 5 April at the latest. The king did refuse, however, to sign the order on the retirement, and the government submitted its resignation on 5 April. In a letter explaining the reasons for its resignation, drafted by the former prime minister and party head Ljuba Stojanović, the

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holidays by fixing the session for a particular date in a fairly distant future. The practice became customary in order to allow the deputies to receive their daily allowance even when the assembly was not in session. For the constitution linked the right to a daily allowance to ‘the time of performance of the deputy’s duty’ (Art. 127: see *Parliamentary proceedings*, 1905–1906, 22.12.1905, p.1297. Throughout the period in question, this was the only case of the assembly being postponed by decree during state holidays. See the critique of the assembly’s ‘self-postponement’ as unconstitutional in S. Jovanović, ‘Parlamentarna hronika’, *Arhiv za pravne i društvene nauke*, 7, 1909, p.67.

843 *Parliamentary proceedings*, 1905–1906, 2.3.1906, p. 1679 and 3.3.1906, pp. 1680–81, 1685.

government stressed that 'it placed the greatest importance on the restoration of diplomatic ties with England', the conditions for which the British government had clearly specified in 'the latest statement by minister Grey in parliament', which rendered meaningless any further delay. 'Since the government is unable to do what is necessary to restore relations', it was obliged to resign. At the king's request Grujić altered the motivation, however, by agreeing to delete any allusion to the conspirators issue, in other words to the issue of diplomatic relations, so that the explanation was reduced to 'insuperable difficulties' faced by the government in its work.<sup>844</sup> The resignation was accepted, and when the assembly finally reconvened it was informed that the government had fallen.

According to Dimitrije Đorđević, the Independents 'had no intention of withdrawing' their resignation, convinced that it would 'quicken the king's decision' to sign the decree on retirement. However, on 'the same night', recounts Đorđević, the officer plotters, acting together with the civilian plotters Nanadović and Balugđić, put forward conditions that the king had to meet before issuing a mandate for the formation of a new government, starting with deferment of the conspirators issue.<sup>845</sup> Bearing these conditions in mind the king turned first to the Independents, by asking the assembly speaker, Nikola Nikolić, whether a government willing to put off retirement of the plotters could be formed from the existing majority. Having received a negative reply, the king opened negotiations with the Radical Party.<sup>846</sup> He also negotiated unofficially, and unsuccessfully, with Pašić's party opponent Mihajlo Vujić, on the same conditions – to which

844 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.50. Grey told parliament that the condition for restoring diplomatic relations with Serbia, which for Britain was not negotiable, was removal of the plotters and guarantees that they would not hold official positions in future. See *Delo*, vol.39, 1906, pp. 107–15. See also the telegram sent to the government by the Serbian chargé d'affaires in London on 31.3.1906, ASANU, 12468.

845 D. Đorđević, *Carinski rat*, p.220.

846 Lj. Stojanović, *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.50; and J. Prodanović, *Parliamentary proceedings*, 1906–1907, 13.3.1907, p. 3490. See also D. Đorđević, *Carinski rat*, p.220.

he added also 'tightening of the press law' and, in particular, suppression of anti-plotter journals.<sup>847</sup>

The position of the Independent government in relation to the plotters and the court had weakened by the start of 1906. For the Independents were gradually distancing themselves from Austria-Hungary, because of that country's decision to close its borders to the import of cattle from Serbia and to threaten it with a customs war. The king, by contrast, was inclined to seek a compromise – since the Independent government's change of position threatened the acquisition of Austrian weapons – and even promised the Austrian envoy to use his veto, unless at least part of the supplies were purchased in the Dual Monarchy. This meant that the government and the king started to diverge on this issue.

At the same time, on the other side, Pašić – aware that he could form a government only with support from the plotters and Austrian diplomacy – started to approach both of these at the beginning of February 1906, and even made his peace with Balugdžić. Finally, when the Independents submitted their resignation to the king, and the plotters and the Austro-Hungarian diplomats announced their conditions for the formation of a new government, Pašić let both sides know that he would accept their conditions: he promised the former that he would postpone the restoration of diplomatic relations with Britain, and the latter that half the orders for guns would be placed with Austro-Hungarian firms.<sup>848</sup> The outcome of this was the decree of 17 April 1906 on the formation of a homogeneous Radical government headed by Pašić. The assembly was dissolved on

847 Jovan Žujović to Ljuba Stojanović, 3.1.1908, ASANU, 12398/3. According to Prodanović's testimony, which was confirmed by other leading Independents and which was subject to much public airing, the king added to the existing conditions for the mandate also a promise that the government would get the assembly to agree an apanage for the crown prince. J. Prodanović, *Parliamentary proceedings*, 1907–1908, 8.2.1908, p. 109; Dragoljub Joksimović, *Parliamentary proceedings*, 1906–1907, 15.3.1907, p. 3583; V. Marinković, *Parliamentary proceedings*, 1906–1907, 11.11.1906, p. 983.

848 D. Đorđević, *Carinski rat*, pp. 199, 215, 220–21; S. Jovanović, *Iz istorije i književnosti*, 1, pp. 191–2; V. Kazimirović, *op.cit.*, pp. 54–60.

19 April, new elections were announced for 11 June and convocation of a new assembly for 25 June 1906. The elections were to be won by the Radical Party, which would henceforth govern Serbia as the majority party – on its own or in coalitions – until the very end of Serbia's existence as an independent state.

The assembly was thus left without an answer to the interpellation of Ribarac and Veljković on the question of diplomatic relations with Britain, hence also without a chance to participate, if only symbolically, in resolving one of the crucial state and legal-political issues of the period. This issue was resolved by Pašić's minority government on its own a month after its formation, after the dissolution of the assembly and before the elections. On 17 May 1906 the king finally signed a decree retiring the group of officer plotters, after which diplomatic relations with Britain were restored.<sup>849</sup>

The king granted to Pašić's government what he had refused to give the Independent government for nearly half a year – opposing the mood of all political parties in the country, and causing ministerial changes, parliamentary and governmental crises, and ultimately the fall of the entire Independent cabinet, which enjoyed the assembly's support. A decree that had been refused to a majority government was thus granted to a minority one. The reason was simple: this time round the plotters themselves agreed to be pensioned off, because Pašić agreed in return to do what the two previous Independent governments had refused to do, i.e. to bargain with them. 'We could not gratify them,' explained the Independent journal *Odjek*, 'because we refused to recognise their omnipotence. We wished neither to bribe them nor to beg them. We felt that the government was above them.'<sup>850</sup> Pašić's government, however, accepted that this was not the case, and the decree retiring the plotters expressed gratitude to them and gave them exceptionally high pensions for their 'cooperative behaviour.'<sup>851</sup>

849 The text of the decree is in *Srpske novine*, no.110, 17.5.1906.

850 *Odjek*, no.156, 8.7.1908.

851 The Independents insisted that the Radicals, in addition to the high pensions, also bribed them. *Odjek*, no.134, 12.6.1908.

One might as well mention here also that Pašić appointed as his defence minister General Radomir Putnik, who from the very outset commanded strong support from the army's conspiratorial circles,<sup>852</sup> Žujović, the first victim of the attempt to remove the officer plotters from active service, said of the political deal and the plotters' retirement: 'I thank them, since if they had not left their positions of their own will, no power in the kingdom would have been strong enough to remove them.'<sup>853</sup>

The story of the struggle for retirement of the five officers, and the manner in which this was finally accomplished, fully illuminates the great political power that the plotters wielded, not just in the army, but with the latter's support also in politics. The government had to 'beg' and reward them for agreeing to be pensioned off. 'Why?' Pavle Marinković asked the prime minister, in an interpellation about the government's decree. 'Because,' Pašić responded to the interpellation, 'the officers in question are among the most able and virtuous ... because they again sacrificed themselves ... and served anew their fatherland.' Describing Pašić's statement as proof that for three full years the plotters – who in his own view were common 'criminals' – had prevented the normalisation of relations with 'the most powerful state in Europe', Marinković opened one of the most substantial debates on the question of the plotters and militarism as grave threats to the establishment of constitutionality and parliamentarism following the May coup. The Progressives, who up to then had rarely spoken in the assembly and were in general pretty marginal in political life, but who after 1906 had once again become organised as a party, with this debate marked their return to active politics and their entry into the parliamentary struggle. The speeches made on this occasion by the party leaders, Vojislav and Pavle Marinković, criticised not just the government's actual

852 Immediately after the May coup the plotters began to exert pressure for General Putnik to be given the highest post in the military hierarchy: that of chief of the general staff. D. Vasić, *op.cit.*, p. 195. At the time of joining Pašić's cabinet, Putnik already enjoyed close relations with Dragutin Dimitrijević Apis. D. Mackenzie, *Apis*, p.68. See also V. Kazimirović, *op.cit.*, vol. 2, p.257.

853 *Parliamentary proceedings*, 1906–1907, 15.3.1907, p.3581.

policy, but also the whole regime established by the May coup. They also had a declaratory character, in that they displayed the party's evident effort to demonstrate its unequivocal support for parliamentary government.

According to Vojislav Marinković, the decree on retirement of the plotters represented a crushing 'admission by the government that, in addition to the royal government based on the national assembly... there exists in this country also another authority, without whose good will the government is unable to implement a simple bureaucratic order.' 'This is no longer a representative regime, but one of pronunciamiento', and the assembly and government serve only to provide a screen for 'the manifestations of this occult power.' 'We knew of the existence of this power even before the decree, but ... the May decree has now officially confirmed it.' All in all, 'the supremacy of civilian over military rule... no longer exists', concluded Voja Marinković.<sup>854</sup>

Pavle Marinković was no less critical. He offered evidence that in Serbia 'all civilian bodies are nothing but puppets in the hands of the army'. The officer plotters 'had a year ago forced the prime minister, Mr Pašić, to make the terrible declaration: "To try the plotters is to try the whole of Serbia";' but they nevertheless 'drove him from office' a month later. Under the Independents, Marinković continued, they displayed their power when they 'so unceremoniously drove out Mr Žujović, and when they finally brought down the Independents and reinstalled Mr Pašić in government'. Their intention 'to use murder to establish their own policy' was being implemented, and 'they install parties and people in power'. Wherein lies their 'power and potency'? It derives, argued Marinković, from the fact that the Radicals – Old as much as Independent – gave them 'a recognition following the catastrophe... from which their power in all its forms derives'. Therefore, said Marinković, underlining his position, wishing 'sincerely that a parliamentary system may be established in Serbia', he appealed to the assembly and the government to do all they could to deprive the army 'of

854 *Parliamentary proceedings*, emergency session of 1906, 22.7.1906, p.400.

its political character', and to consolidate 'the great and incontrovertible principle ... that civilian authority is above military authority'.<sup>855</sup>

The debate on the parliamentary aspect of the crisis and the 1906 change of government was rather poor from the point of view of parliamentary form, if one takes into account the great number of irregularities that had marked the crisis. Nevertheless, the political parties made their views known on this issue too – the opposition insisting that the 1906 change of governments was not parliamentary, and the Radicals that it was.

The fact that the Radicals had gained a mandate to form the new government was the least controversial aspect of the crisis. A cabinet that enjoyed majority support in the assembly had submitted its resignation to the king, and the Independents had refused a mandate to form the new government, which the king had first offered to the assembly majority. A minority government was consequently the only way out, so the mandate was given to the Radicals as the strongest opposition party. In all other aspects, however, the regularity of the manner in which the crisis was resolved was open to question – from the reasons that had led to the government's resignation to the nature of the mandate for forming a new government, and in view of some even to the dissolution of the assembly by Pašić's cabinet.

A basic plank of the opposition's criticism was the general conviction that there was no reason why a majority government had to be replaced by a minority one: in other words, that the assembly and the public knew nothing about the reasons behind it. This was most clearly expressed by Vojislav Marinković. The phrase 'insuperable difficulties', which the previous government had used as the reason for its resignation, 'means nothing': it in no way explained why the government had fallen. The new cabinet likewise did not find it necessary to explain why it had accepted the mandate – Pašić's government would not do so even after the assembly had met in regular session after the elections – and the initial public belief that

855 *Parliamentary proceedings*, emergency session of 1906, 22.7.1906, pp. 394–7.

this was because he had refused to retire the officers soon proved unwarranted. 'It appears perfectly normal in Serbia that people should accept a government without any explanation', noted Marinković. To make matters worse, he added, the government which had come into being no one knew why was holding elections in which no one knew what they should be voting for, because what people had believed to be the origin of the conflict between the crown and the previous government had in the meantime proved wrong. 'The citizens must know why elections are being held, otherwise the elections are nothing but a comedy', concluded Voja Marinković.<sup>856</sup>

Most active in challenging the parliamentary nature of the new government was the Independent Party. In its argumentation, the essential problem of the April crisis – the power that the plotters wielded over the king, and their direct involvement in deciding the fate of the government – took a back seat. Though they had many more reasons than had the Radicals before them, the Independents restrained themselves from saying openly that the new government had been created by the will of the officer plotters, thus raising the question of links with the latter – which could have been uncomfortable for them.<sup>857</sup> They centred their criticism on the non-parliamentary nature of the conduct of the king himself and the Radical Party. Another reason for this was that the Independents were practically unanimous in presenting the change of government as a confrontation between the king and their party, in favour of Pašić's Radicals, whose behaviour during the crisis they took to be a typical political trick. The Radicals had lost the majority in 1906, the Independents recalled, but Stojan Protić had nevertheless kept saying: 'We were driven from government.' 'It was not you, but we who were driven out', because the Independent Party had a majority 'until the very last day': that was how

856 *Parliamentary proceedings*, 1906–1907, 11.11.1906, pp. 982–3.

857 The general public was in its majority convinced that their links with the plotters were close, closer than the plotters' links with the Radicals. See, for example, Pavle Marinković, *Parliamentary proceedings*, emergency session of 1906, 22.7.1906, p.396.



ordinary deputies explained the change of government, and it was also the feeling that the whole party harboured about the king's conduct.<sup>858</sup>

Principled criticism was left to the party leaders, the most serious points being made once again by Ljuba Stojanović and Jaša Prodanović. How did the Independents fit their criticisms into the theory of an active king, which they had adopted when defending their achievement of power in 1905?

Stojanović's starting-point was that the crown had the right, if in conflict with an existing government, to choose another, dissolve the assembly and conduct new elections, which is why 'the change of government made on 17 April was fully constitutional and parliamentary'. In Stojanović's view, however, the resolution of the crisis had nevertheless been unparliamentary, for two reasons. The first was that 'it was not known why elections were being held', given that the new government had already resolved the issue of the conspirators, and in the same way that the previous government had proposed but that the king had refused to condone, argued Stojanović. Like Marinković, he also pointed out that an important political condition, one that would have made the dissolution a parliamentary act, was not met in 1906: that the electorate has to know on what issue the constitutional bearers of powers are divided. This proper understanding of dissolution – 'appeal to the people', as dissolution was called in Serbia – was not questioned in principle by any Serbian political party, including the Old Radicals. 'Appeal to the people', Protić would write in 1908, 'must have a meaning; it must be known why it is being done, its character must be determined, the voters must know what is expected of them, for what and for whom they should vote.'<sup>859</sup> Dissolution under democratic conditions may indeed be consonant with the essence of parliamentary government – provided, however, that the voters, who are being asked to

858 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.55. Angry with the king for removing them from power, the Independents demonstratively refused to attend his birthday party. D. Đorđević, *Carinski rat*, p.251.

859 *Odlomci*, p.53.

decide a dispute between the constitutional bearers of power, know the substance of the dispute that they are meant to judge.

In his further explication, however, Stojanović weakened considerably the power of his criticism by contradicting his own initial stand, something which he tended to do when discussing questions of the parliamentary order. Quoting additional reasons in support of his view that the resolution of the crisis had been unparliamentary, he declared that the king should not have dissolved an assembly that could have produced a majority capable of forming a government.<sup>860</sup> This was a *de facto* attack on the king, which led to Stojanović being rebuked by the ruling Radicals.<sup>861</sup> Stojanović's statement was inconsistent with his prior declaration on the right of the king to dissolve the assembly whenever he disagreed on some issue with the government. The confusion was all the greater in that he did not explain what the king, who according to him had rightfully dismissed one government and replaced it with another, could have done other than dissolve the assembly, when the new government did not have a majority and when the existing assembly majority, according to Stojanović's own testimony, had refused to form a new government under the conditions posed by the king. It is possible that Stojanović meant that the king should have abandoned his conditions; but he deliberately avoided being clear, fearing that this would have been an all too direct challenge to the king's personal conduct during the crisis.

Jaša Prodanović's criticism was more open, direct and precise. It proved once again that between the two Independent leaders who concerned themselves with the principles of parliamentary rule there was no unanimity in their understanding of the king's role. Prodanović fully agreed with Stojanović that the change of government in 1906 had been unconstitutional and unparliamentary. Pašić's cabinet, in his view, had indeed been the first to emerge 'under King Peter's rule' as an 'unparliamentary

860 *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, pp. 51–2.

861 Aleksa Žujović, *Parliamentary proceedings*, emergency session of 1906, 5.7.1906, p.103.

cabinet'. The first reason lay in the fact that the king had refused to counter-sign Grujić's government decree. It was true, Prodanović argued, that one could not expect British-style parliamentarism in a 'young state' like Serbia, for which reason – and for this reason alone – one should not consider it to be 'a grave matter' if the king refused to sign for the government 'a decree or bill submitted to him by it'. But this only under 'special conditions': if the matter was 'exceptionally grave', or secondly if the king was convinced that the popular mood had changed against the government and the majority. In the absence of such conditions, the king 'in formal terms' could reject a decree, argued Prodanović, but that was in essence 'to trample upon the parliamentary order'. In the case in question, he argued, neither of the two conditions applied: the political public had not become opposed to retirement of the officers, as proposed to the king by Grujić's government, which should have led to the restoration of diplomatic ties with Britain; nor was the matter of exceptional gravity. 'All parties both inside and outside the assembly' held that the officers should be retired, while 'you' – Prodanović addressed the Radicals – 'were even engaged in obstruction because we had failed to resolve the issue.' 'The whole of Serbia' was 'desperately awaiting' a resolution of the issue of the conspirators; yet the king refused to sign a decree retiring 'five officials'. The king had brought down the majority in order to 'save five officers', something that 'could not happen anywhere in the world', insisted Prodanović.<sup>862</sup>

Prodanović was wrong, of course, to speak about retiring the officer plotters as if this were a mere 'bureaucratic transfer', because it involved a conflict between king and government over one of the basic political issues – that of the plotters' role in politics. The power of Prodanović's argument would have been even stronger had he said openly that the king should never have posed such a question: whether or not he should retire five officer plotters who were showing a manifest tendency to arbitrate political decisions in the country, including the most important ones. Prodanović was nevertheless sufficiently clear: the king's unparliamentary conduct had

862 *Odjek*, no.134, 12.6.1908.

caused the resignation of a majority government, which was of itself a sufficient reason to consider the 1906 change of government unparliamentary.

The second reason to which Prodanović referred was weaker: the decree that the king refused to sign for the majority government, thus causing its downfall, he promptly signed for the minority one, which implied that retirement of the officers was an invented reason, motivated by the desire 'to give Pašić the government'. In 'the new era' too, argued Prodanović, the same 'inexplicable governmental falls' were witnessed 'as under the Obrenovićs. The king ... drives out a government without cause or reason.' Nevertheless, Prodanović hedged, respect for the crown imposed the hope that 'the true source of conflict' was indeed the officers' retirement, in which case the responsibility rested with the new government. 'The only thing left to me, such is my respect for the monarch', he concluded, 'is to believe that Mr Pašić's cabinet had assured the king that the issue would be put off, which is why this cabinet came into being.' Pašić, in other words, had 'tricked the monarchy'. 'You may call this political skill, gentlemen, but elsewhere in the world it is called unethical politics', concluded Prodanović.<sup>863</sup>

Prodanović intended with this final conclusion to accuse the Radical Party of deception. However, it contained new evidence of violation of parliamentary procedure surrounding the Radicals' arrival in power, both on the part of the king, for whom Prodanović declared his 'respect', and on the part of the Radicals who had taken power. Whether deliberately or by chance, Prodanović omitted to mention this evidence. For, if the Radicals had won the mandate because they had promised not to touch the officers, which was an indisputable fact, then this meant two things. First, that the king placed the interest of five officer plotters in protecting their positions above all the country's other political interests, and in opposition to the clearly expressed will of all the political parties, which was not just unparliamentary but also politically impermissible. Secondly, it meant that the Radicals agreed to receive from the king a conditional mandate to

863 *Parliamentary proceedings, 1906–1907, 13.3.1907, pp. 3491–4.*

form a government, thus giving up in advance their right as a cabinet to formulate their own political positions on one of the key political issues, which was unparliamentary. The Radical Party's readiness for the sake of political power to renounce the autonomy of its own policy vis-à-vis the king – without which there is no parliamentary government – recalled the situation of January 1905, when Pašić's government, rather than resigning because of a conflict with the king, had agreed to the latter's demand for parallel testing in order to stay in power. The fact that in each of these cases Pašić's government, having received a mandate, made itself independent from the king, and returned to its own policy precisely in regard to the contested issue, is something deserving of attention; but it has no bearing on how the parliamentary quality of the way in which the governmental crisis was resolved is to be judged. This fact is certainly interesting as an illustration of the skill with which the Old Radicals pursued power; but its significance lies in the fact that it showed that the struggle against the anti-parliamentary tendencies of the crown, which was controlled by the plotters, had to be waged also by non-parliamentary means. Apparently the battle to establish a parliamentary regime in Serbia under the new constitution could indeed not be won by regular, parliamentary methods.

How did the Radicals defend themselves? What arguments did those who, on the occasion of the 1905 change of government, had presented themselves as defenders of a super-monist parliamentary position use in 1906 to defend their arrival in power? As with other questions of this nature, the 1906 change of government too was explained by Stojan Protić on behalf of his party.

Protić's argumentation was formal. Since the case of the 1906 change of government begged comparison with the previous one of 1905, he felt obliged to give his views on the latter too. He repeated his version of the crisis of 1905, based on his assertion about 'conditional' resignation: the resignation of Pašić's government in May 1905 should not have been validated, because it had been a condition for dissolution of the assembly, which the king accepted. The Independents, for their part, had behaved

incorrectly by accepting a mandate under such conditions for the formation of a new government. On the other hand, Grujić's cabinet 'had simply resigned ... because he encountered "insuperable difficulties" in conducting state affairs'. It was 'simply a withdrawal', argued Protić, 'in which case the opposition groups had no obligation ... towards a government that had withdrawn in such a manner from governing the country'. As for the resignation read out by Ljuba Stojanović 'with a two-month delay', in which the 'insuperable difficulties' were specified, this was 'not a formal state act' and could in no way bind the Radical Party as a potential government maker.<sup>864</sup> The resolution of the Serbian crisis of 1906, Protić wrote subsequently in *Samouprava*, 'was practically of the same nature' as the case of the 1905 resignation of Balfour's cabinet in Britain. Balfour had 'resigned without demanding that he should appeal to the people', and a minority government had been formed.<sup>865</sup>

Protić's explanation was formally correct in the part dealing with the 1906 change of government. Taken as a whole, however, it avoided the essence; it was also inaccurate in the part involving comparison with the change of government in 1905. Regarding the fall of the Radical government in 1905, only a resignation about whose submission Pašić had informed the assembly in person could have been an 'official state act'. In his statement to the assembly, however, Pašić had said that the government had resigned because it was left in a minority, entirely omitting to mention that the government had at the same time demanded dissolution of the assembly – as discussed above. Between this resignation and that of the Independent government – as 'official state documents' – the only

864 *Parliamentary proceedings*, emergency session of 1906, 13.7.1906, p. 202.

865 *Odlomci*, p.44. The Radicals made a great thing about the fall of Balfour's government in Britain, stressing similarities with the change of government in 1906. They insisted that deliberate resignation on the part of the government was the only circumstance in Britain when the crown entrusts dissolution to a minority government. See Vojislav Antonijević, 'Promena ministarstva u Engleskoj. Raspuštanje parlamenta. Novi izbori', *Delo*, 38, 1906 (on the fall of Balfour's government, see note 32 on p. 30).

difference, therefore, was that Pašić's government had resigned because it had lost its majority, and Grujić's because, despite having a majority in the assembly, it had encountered unspecified 'insuperable difficulties'. And any differences – insofar as they were essential at all – between the unproved assertions by the Radicals that Pašić's government had verbally asked the king to dissolve the assembly, and had offered its resignation only as an alternative, and the Independents' written resignation – which had been altered at the king's request, and which Stojanović had subsequently read out in the assembly – could if anything be cited as an argument in favour of the Independents rather than of the Radicals, if only because their proof unlike that of the Radicals was in written form.

It is far more interesting, however, to consider what Protić failed to discuss in relation to the April crisis, which showed that in this case his advocacy of parliamentarism with a politically passive crown represented a tactical and pragmatic stance, rather than one of principle.

Protić based his defence upon a single, uncontroversial argument: that the Independents had resigned without asking for dissolution (as the Radicals had done in 1905), a procedure that he identified with the 1905 replacement of Balfour's cabinet in Britain. This was meant to prove that parliamentary principle according to the monist model, such as existed in Britain, had in no way been violated in the Serbian crisis of 1906, and that the king had not intervened politically in the parliamentary game. Protić made no mention of the fact that Grujić's cabinet fell because of a disagreement with the king, although no one doubted this, if only because – as Slobodan Jovanović pointed out – it happened while the assembly was not in session and without the issue of its majority having been posed beforehand.<sup>866</sup> Protić's comparison of the April crisis with Balfour's fall appears even more inept, if we bear in mind that, following the resignation of the Independent cabinet, the Radicals had accepted a conditional mandate from the king, something that he as a cabinet member must have

866 S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, vol.2, 1907, p.508.

known. This was undoubtedly one of the most serious violations of the very essence of parliamentary government in the Radicals' 1906 arrival in power, irrespective of whether it is understood in a monist or a dualist fashion; for this act in effect negated the government as an independent political factor, and reduced its ministers to being mere organs of the crown. On other occasions, Protić had rightly judged a government without a programme of its own as being contrary to the parliamentary order, indeed as an 'absurdity'. When he denied to the Independents – and to the other parties too – the right to demand a caretaker government, he did so precisely by citing this as the reason (even though, in the given circumstances, it was least relevant in the case of a caretaker government). 'Governments everywhere', Protić argued, 'assume the administration of a country with a certain programme, with which they appear before the monarch and, having gained his agreement, seek the voters' approval for it in general elections.'<sup>867</sup> On coming to power, the Pašić government formed in 1906, in which Protić was minister of the interior, surrendered even the right to have its own programme, since it bound itself to resolve one of the important political issues in accordance with the king's wishes. Had this been a case of coincidence between its political programme and the view of the king, this might be treated as parliamentary behaviour – provided, of course, that the position of dual ministerial responsibility were to be maintained. But the decree on retirement that followed – as indeed the position on the issue of the plotters that the Radical Party had been advocating while in opposition – shows that no such coincidence existed in this concrete case.

After all, the Radical Party's attachment at the time of the fall of the Independents to the principle of the crown's neutrality was challenged, not just in practical politics, but also – and far more clearly – in an open and unambiguous defence by Stojan Protić himself of the principle of the king's active role in a parliamentary regime. This involved a series of articles published by Protić in *Samouprava* between February and June 1906 – at a

867 *Odlomci*, p.53.



time when the king, thanks to the government's change of attitude towards Austria-Hungary and the escalation of the retirement question, had begun to distance himself from the Independent Party, at the same time as Pašić was seeking ways to win the king's trust. In these articles Protić defended the crown's right to free use of all its constitutional prerogatives, from the right to dismiss a government of whose policy it disapproved to the right to refuse approval of a law passed in the assembly that he did not like. In response to the Independents' comment that the king had refused to sign a decree for a majority government but had signed it for a minority one, Protić thus wrote that it was perfectly all right in parliamentary terms that a minority party should be invited to govern, if the king and the majority parted ways in their 'judgement of a situation'. In that case, the crown 'has not only the right but also the duty to dismiss the government, and to appeal to the people by way of a responsible government from the assembly minority', wrote Protić, meaning by 'responsible government' a government that enjoyed the confidence of the king, but not also of the parliamentary majority. For, Protić argued: 'The crown has the incontrovertible right to break with the government on an issue, or to refuse to approve the government's policy.' As for the monarch's right of sanction, Protić now insisted that certain events 'not only fully justify, but ... also oblige the monarch to use his right of veto'. 'And just as abuse of this right has bad consequences', wrote Protić, 'so too, at the opposite extreme, failure to use it leads to no good, because the extremes meet.'<sup>868</sup>

If one excludes the rare view according to which it was not necessary to follow the principles of parliamentary government in interpreting the 1906 constitution – as argued by Živojin Perić, of which more below – Protić's positions can then be taken as one of the most consistent defences of the monarch's active role in Serbia after the May coup. Protić, who after 1906 would again most zealously defend the theory of parliamentary rule of a monist type as the only legitimate and truly parliamentarian kind, might

868 *Samouprava*, no. 30, 102, 114, 117 and 125, 7.2.1906, 5.5.1906, 19.5.1906, 24.5.1906 and 1.6.1906.

rightly be described as a 'duo-theorist': a politician who, as *Nedeljni pregled* subsequently wrote, 'has a theory for and a theory against, according to need'.<sup>869</sup> He was 'one minute the greatest Marxist in Europe, and a minute later the greatest reactionary, depending on his party needs', *Odjek* wrote of Protić, commenting on his positions in relation to the 1906 change of government.<sup>870</sup> Since Protić invested great efforts to preserve his reputation as an interpreter of the Serbian constitution in accordance with the British model of parliamentary government, which assumes a politically neutral crown, he omitted the above-mentioned articles from his *Odlomci*, for which he would be remembered in the history of Serbian parliamentarism.

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Between the emergence of the first homogeneous Radical cabinet and the final consolidation of the Radical Party as the governing party – in other words, between the end of 1904 and the summer of 1906 – Serbian parliamentary practice was marked by a growing political influence of the crown. Of all manifestations of the dualist principle, the emergence of an Independent minority government in 1905, albeit relatively the most innocuous, remains best known in Serbian historiography. It is true that historiography has by and large not failed to register the fact that before the officer conspirators' retirement Serbian parliamentary life developed with an active participation of the king; but it is the advent of the minority government in 1905 that is regularly cited in this context as the starkest – and sometimes sole – illustration. The basic reason for this no doubt lies in the fact that this event, in particular, provoked the most serious and coherent debate about the king's role in parliamentary practice under the new constitution. Accurately defined in parliament by the small Liberal opposition from the first manifestation of the king's interference in political life, with the change of government in 1905 this question for the first time became properly speaking the subject of parliamentary debate, as well as

869 *Odjek*, no. 123, 29.6.1908; *Nedeljni pregled*, no.3, 1910, p. 35.

870 *Odjek*, no.129, 6.6.1908.

of disputes between party leaders pursued in the press. The relatively high level of knowledge of parliamentary theory shown by individual political leaders enabled the question to be clearly defined and the opposing positions to be articulated, thereby facilitating reception of this problematic by contemporaries and later analysts alike.

But the basic question then posed, in 1905, was whether the notion of a caretaker government was consonant with the principle of parliamentary government. Since this issue emerged after 1906 too as the basic source of conflict in the context of taking position for or against an active role for the crown, the 1905 advent of the Independents to power – as the only instance of a caretaker government in parliamentary practice – was constantly reviewed in polemics, sidelining other instances in which the crown's use of its prerogatives had played a decisive role in ending parliamentary crises. It must be added here that, when speaking of historiography and its general perception of parliamentary life in the Kingdom of Serbia, including the role of the crown, it is Stojan Protić as the tireless interpreter of his party's policy from the standpoint of parliamentary theory that is best remembered. His reflections on individual parliamentary crises, which in 1911 he collected and published as *Odlomci iz ustavne i narodne borbe u Srbiji* – and from which he omitted those that had caused him to be designated a 'duo-theorist' – are frequently cited not as a source, but as a scientific assessment.<sup>871</sup> This is why the manner in which the governmental crisis of January 1905 was resolved is inappropriately presented as a victory of the parliamentary principle, i.e. of the majority government, over the king; and why the formation of a minority Independent government in May 1905 is treated, quite baselessly, as

871. This is especially true of A. Dragnich (for whom the king's intervention in 1905 was not an expression of his acceptance of dual ministerial responsibility, but rather an 'unparliamentary act'), whose uncritical acceptance of Protić's views is evident also at the level of the reconstruction of events. According to him, in 1905 the king refused dissolution to the current government – that of Pašić – after which Pašić resigned. This refusal by the king to approve Pašić's demand for dissolution Dragnich calls 'probably the only non-parliamentary act' committed by King Peter. A. Dragnich, *op.cit.*, p.97.

a non-parliamentary act, indeed as a 'rude violation of the constitution and of the rules of parliamentary government'<sup>872</sup> – whereas the arrival of the minority Radicals in power is meanwhile not only left unquestioned from the point of view of parliamentary rules, but also overlooked as an actual fact.<sup>873</sup>

Hence, it must be stressed that the king's intervention in the business of government, and his participation in deciding a government's fate, existed before the Independents came to power; and that precisely after this they if anything intensified, culminating in the crisis of April 1906. When the Independents left office and the Radicals came to power in April 1906, it was no longer simply a matter of the dualist principle of ministerial responsibility – which, after all, was never questioned in the constitutional practice of this period – but of attempts to actually negate parliamentary government as such. This tendency was nevertheless quickly suppressed: the Radical government – the first 'unparliamentary cabinet under the rule of King Peter', as Jaša Prodanović correctly named it – announced elections immediately after taking power, and re-established the parliamentary principle by winning a solid majority. That this is what actually happened might be challenged, of course, from the viewpoint that there is no parliamentarism without free elections. But in that case all talk of Serbian parliamentarism after the 1906 elections, and especially before the elections of 1912, would become practically meaningless.

All individual instances of the king's intervention in relations between the assembly and the government were a direct result of the pressure that the conspirators exerted on the king. This is an unquestionable fact, much stressed in the historical literature.<sup>874</sup> It is possible on that basis to ques-

872 V. Kazimirović, *op.cit.*, vol.2, p.46. D. Živojinović too refers to the king's conduct in the May 1905 crisis as an unconstitutional act: *op. cit.*, vol.2, p.15. See also the previous footnote.

873 'Under King Peter, it never happened again that elections were conducted by a government based on a parliamentary minority', writes Milivoje Popović in reference to the elections conducted by Lj. Stojanović's government. *Borbe za parlamentarni režim u Srbiji*, Belgrade 1939, p.100.

874 D. Đorđević, *Parlamentarna kriza*, p. 159 and also *The Role of the Military*; B. Vučković, *op.cit.*, p.178.

tion not just the parliamentary nature, but even the very constitutionality, of the Serbian political order between the May coup and 1906. In using his constitutional prerogatives to influence the conduct of state affairs, the king acted not as an autonomous political factor, but as a representative of the plotters' interests. At this time, moreover, key political issues – including governmental crises and the fate of governments – were resolved outside the assembly and without its knowledge, in direct contacts between the government, the king and the conspirators, with the latter playing the pivotal role. These two facts – that an extra-constitutional power decided upon use of the royal prerogatives, and that the assembly took no part in the process of political decision-making – constitute the essence of the issue of the conspirators, as a factor of the parliamentary system in the first years following the coup. The fact that governments refused to admit its very existence in the assembly was in itself a testimony to its seriousness.

The effectiveness shown by the conspirators' pressure on the king in practical political life derived, among other things, from the fact that the army stood behind the plotters. The issue of the conspirators as a factor in the functioning of political institutions was in fact that of the army's role in politics. Dimitrije Đorđević explained this role as 'an inheritance from the previous regime of the last Obrenovićs', as 'an influence from the recent past', when the army 'became a weapon of personal rule.'<sup>875</sup> It is true that the army's political ambitions after the May coup, like their success, cannot be explained outside of the historical context, which in the first instance means the immediately preceding period. But the role of the Serbian army after the coup could hardly be compared with that which it had played under the Obrenovićs. The May coup reversed the roles of the army and the crown. Instead of offering support to the policy of the court and continuing as a 'weapon of personal rule', as it had been under the Obrenovićs, the army, in which the plotters assumed all important posts after the coup, itself became a political factor, and in the period under discussion used the crown – i.e. its constitutional prerogatives – to pursue its own political aims. In political

875 D. Đorđević, *Carinski rat*, p.39.

life under the last Obrenovićs, the army stood beneath the king, but with the accession to the throne of Petar Karađorđević it was the other way round.

However, the king's personal weakness in relation to the plotters, though undoubtedly of great importance, was not enough to explain the limitations displayed in practice by the political institutions. The political parties, especially those that succeeded one another in government, themselves bore a great deal of responsibility for this. Thanks to the national assembly, the plotters had become a political power before the king's arrival in the country; and they owed their position – as an institution standing above the constitution and the laws – primarily to the Radical Party and the Radical-dominated assembly. The division of the Radicals into two parties also contributed to the growth of the plotters' political influence, because the absence of an assembly majority – or its weakness – undermined the position of the government, and strengthened the role of the court in resolving ministerial crises. Seeking the king's political support in their struggle for power, the Radical and Independent Radical parties in this way came to depend upon the plotters, on whom the king fully relied. This threatened their own political autonomy, as well as the political authority of the assembly and the government as parliamentary institutions. Pavle Marinković noted this fact, and the parties' responsibility for it, lucidly and accurately; and in his assessment of the first three years of Serbian parliamentarism, he concluded that 'the regime was not parliamentarian after 29 May, because the most important issues were not decided in parliament but outside of it, during recesses.' 'The court and the assembly are everywhere in conflict for supremacy, and the same is true here. But with the difference that in other countries the assembly is ready and able to do battle with the court.' 'Just as we have certain legal freedoms, but not as yet a free people... so too we have certain institutions that we do not as yet know how to use' – was how Marinković completed his analysis of the Serbian regime in 1906.<sup>876</sup>

876 *Parliamentary proceedings*, emergency session of 1906, 11.7.1906, pp.152, 204.

## 5. An interpretation of the monarch's constitutional role contrary to the principle of parliamentary government: Živojin Perić

The view that, according to the 1903 constitution, the king had to be active was formulated theoretically even before the question of the monarch's role in practical politics under the new order came onto the agenda. This was done at the start of 1904 by a professor at the faculty of law, and the foremost representative of conservative political thought in Serbia,

Živojin Perić, in his treatise *Ustavni vladalac* [The Constitutional Monarch].<sup>877</sup> Perić wrote this essay as a critique of the view expressed during national assembly debates as the new order was just being established, according to which the new king had to be passive and subject to the will of the assembly. 'After 29 May our government believed that even the constitution did not require the king's signature!,' wrote Stojan Novaković in his introduction to the second edition of Perić's treatise.<sup>878</sup> In Perić's view, it was impossible for 'the new monarch, if he wishes to respect the constitution, as it were to write himself out of the state. In that case, nothing would be gained from the accomplished political change. Instead of a despotic ruler, we would have a despotic national assembly... the situation in the country would if anything deteriorate, because the new despot, the national assembly, would be a despot of the worst kind ... since the national assembly is only a crowd, albeit an elected one, and since a crowd is not some simple entity, it is impossible for the national assembly to have a sense of its responsibility. A national assembly that, following the abdication or exile of an unconstitutional monarch, declared its aspiration for a constitutional monarch merely to acknowledge its decisions, would

877 The treatise first appeared in January in the journal *Glas uprave, sudstva i administracije*, and again, together with some other essays by Perić, in *Političke studije*, from which the version used here is taken. Živojin Perić, 'Ustavni vladalac', *Političke studije*, Belgrade 1908.

878 'Ustavni vladalac', p.7.

show that it had fought against the former monarch's despotism not out of aversion to tyranny as such, but because the tyranny had been exercised by someone other than itself': such was Perić's message to the assembly under the new regime.<sup>879</sup>

According to Perić, a constitutional monarchy – such as Serbia was, according to the letter of the 1903 constitution – assumed that the king not only could, but actually had to, perform his constitutional functions in both the legislative and the executive spheres. His 'retreat into passivity' amounted, in fact, to a violation of the constitution. 'This is because he denies himself the role of a factor granted him by the constitution, and leads the state into a situation in which there is only one factor and one will: the people. This, however, is precisely what the constitution excludes', argued Perić. 'The monarch violates the constitution with such a theory. He destroys it, in fact, because we then lack not only a constitutional monarchy, but also a constitutional state', argued Perić, referring here to the principle of division of powers. The assembly would become 'a body in which all power would be concentrated', Perić insisted, 'meaning that we should find ourselves in an unconstitutional state.'<sup>880</sup> Consequently the monarch not only should not, but also could not, give up his right to decide independently on dissolution of the assembly, nor should he feel obliged to form a government from the assembly majority. The monarch, whose constitutional prerogative is to appoint and dismiss ministers and dissolve the assembly in accordance with his own political judgement, is moreover obliged to use his prerogatives when necessary, Perić argued, for otherwise he would be held responsible for the harmful deeds of ministers, as well as for harmful deeds of the assembly – as when, for example, the majority abuses its powers at the expense of the minority.<sup>881</sup>

According to Slobodan Jovanović, Perić's interpretation of the king's role under the new constitution led to his *Ustavni vladalac* being viewed

879 *Ibid.*, pp. 25–6.

880 *Ibid.*, pp. 21, 25.

881 'Pravna priroda ustanove vladaoca', *Političke studije*, p. 83.



'not only as an important contribution to the field of our constitutional literature, but also as quite a political event.'<sup>882</sup> Perić would never depart from his view, and in 1914 he made it one of the programmatic points of his newly established Serbian Conservative Party.<sup>883</sup>

How, from Perić's position regarding the role of the crown, would the 1905 change of government be perceived, which showed – as Slobodan Jovanović noted – that 'the question raised by Perić is not of merely theoretical interest'?<sup>884</sup> Perić himself, for reasons explained below, never expressed an opinion on this or any other case in Serbian parliamentary practice, so one can only speculate on what it might have been. According to Jovanović's interpretation of Perić's view of the king's role under the 1903 constitution, he would have judged the 1905 change of government as follows: 'given that' the crown 'had the right to appeal to the people, it also had the right to appoint the government under which such an appeal would be made.'<sup>885</sup> That is what the Independent Party, or rather its leaders Stojanović and Prodanović, had said. But does the fact that Perić and the Independents shared the view that the king had the right to dissolve the assembly mean that there was no difference between them on the king's role under the 1903 constitution? In other words, did they both also endorse the view of parliamentarism with the king as an active political factor? Jovanović implies this was so. According to his interpretation of Perić's position: '*The crown did not have the right to govern with ministers who did not enjoy the confidence of the people, but it did have the right to appeal to the people against a government with which it no longer agreed [italics O.P.]*.'<sup>886</sup> According to Jovanović, therefore, Perić like the Independents treated a minority government as an exception from the otherwise firm rule that the king must appoint ministers from the assembly majority,

882 S. Jovanović, *Perić o vladalačkoj vlasti*, p.6.

883 See 'Program Srpske konzervativne stranke' in *Srbija*, no.2, 20.4.1914. The editor of the paper, which was the party's organ, was Svetozar Grebenec.

884 S. Jovanović, *Perić o vladalačkoj vlasti*, p.7.

885 *Ibid.*

886 *Ibid.*

linking this exception to dissolution of the assembly and the formation of a caretaker government. Jovanović explicitly stressed this similarity: 'Being largely in agreement with Perić, the Independents argued' that their advent to power, albeit from a minority, had not been unparliamentary, since their government had won a majority in the elections. Treating Perić and the Independents as one in this regard, Jovanović was faced with the question of their attitude to Protić's views, since the position of the Independent Party had crystallised precisely in the course of its conflict with Protić. Bringing Protić into play in this way, Jovanović was able to discuss the conflict between the Independents and Protić as one between Perić and Protić, presenting their views – rightly, of course – as not just mutually opposed, but even antithetical.<sup>887</sup>

But if Perić had indeed interpreted the question of relations between the king, the assembly and the government – in other words, the question of ministerial responsibility, the central question of Serbian constitutional practice after 1903 – in the same way as the Independents did, then it would be logical to ask why the publication of his *Ustavni vladalac* was 'quite a political event', as Jovanović says. We must hasten to say here that Jovanović's interpretation of Perić's views on constitutional monarchy under the 1903 constitution in our view appears untenable; and that the reaction which Perić provoked – and would continue to provoke during this whole period – was due to his far more radical and consequential defence of the crown's prerogatives than the version emanating from the ranks of the Independents.

887 S. Jovanović, *Protić o vladalačkoj vlasti*, pp. 7–8. One finds the same interpretation of Perić's view – which actually refers to Jovanović's article – in M. Vladislavljević's treatise *Razvoj ustavnosti u Srbiji*, pp 64–5, 68. D. Popović, *Novakovićevo pismo Periću*, is in the same vein. Popović disagrees, however, with Jovanović's view of Protić and Perić as 'antipodes', since in his view Protić was not against an active crown in principle. According to Popović, the difference between Perić and Protić was that Perić remained 'at the level of an imagined constitution' and Protić 'within the framework of positive law': pp. 604–5.

There exists a deep and essential difference between Perić and the Independents in their understanding of the monarch's role under the 1903 constitution. This is true not only in the case of Prodanović, who reduced the question of the king's active role to that of caretaker governments, but also when it comes to Stojanović, who understood the crown's political role far more broadly and more consistently in terms of principle. Though convinced that Serbian political life required an active monarch, Stojanović never – either in 1905 or subsequently – questioned the fundamental principle of parliamentary government: the political responsibility of ministers to the assembly. Stojanović, it is true, did not have a completely worked-out position on the relationship between government and assembly. On one occasion, inspired by the French model, he insisted that 'the government is so to speak a committee of the assembly, mediating between the crown and the assembly as non-responsible factors';<sup>888</sup> while on another, closer to the British example, he expressed the view that 'all power rests with the government.'<sup>889</sup> In both cases, however, the government sprang from the assembly majority, and its meaning in the power system lay for Stojanović precisely in that. 'Modern democracy demands that the voice of the national assembly to be the ultimate instance' – that was Ljuba Stojanović's basic political credo.<sup>890</sup>

In his interpretation of the 1903 constitution, Perić by contrast started from the principle of constitutional, but not parliamentary monarchy. This meant concretely that in constitutional practice it was necessary to adhere strictly to written constitutional norms, which in any case accorded with Perić's positivism. It led, however, to a quite different conception of the political responsibility of ministers from that defended by the Independents. According to Perić, ministers had in practice too to be what the letter of the constitution declared them to be – organs of the crown, or as he saw them royal 'plenipotentiaries'. Perić argued that, under the

888 *Parliamentary proceedings*, 1905–1906, 22.10.1905, p.277.

889 Lj. Stojanović, *op.cit.*, p.15.

890 *Ibid.*, p.14.

constitution, the king was not just the bearer of one part of legislative power, but also the exclusive bearer of the totality of executive power. Not being sovereign, however, the executive power had to be responsible; and since the person of the king was legally not responsible, the 'doctrine of ministerial responsibility' – responsibility of 'the monarch's representatives or plenipotentiaries' – was invented, meaning that the king was actually responsible indirectly, 'in the person of the ministers'.<sup>891</sup> Given, therefore, that the ministers' role lay in exercising the functions of executive power on behalf of the king, who remained its exclusive bearer, it was logical that the ministers had to be politically responsible only to the king, and not also to the assembly; from which it followed that the king was not obliged to appoint ministers from the assembly majority, and that he could dismiss them at will. Naturally, argued Perić, this did not mean that the king should not do all he could to ensure 'that his will and the will of the national assembly be fused together'; but he remained unquestionably the constitutional factor of power which – having its own political will and not being legally responsible – freely chose the ministers through whom it realised its will.<sup>892</sup> Perić thus did not reject majority government – it was on the contrary desirable, insofar as it served to realise harmony between the king and the assembly – but he did not consider such government to be an indispensable legal-political principle, and did not think that the 1903 constitution should be interpreted in accordance with it. On the contrary, unlike Stojanović, Perić believed that the government realised the will of the king and not of the assembly, which meant that it had to be politically responsible to the king but not necessarily to the assembly, although it might be. It is only when Perić's *Ustavni vladalac* – as indeed all that Perić wrote on ministerial responsibility under the 1903 constitution – is interpreted in this manner that one can understand why his positions became, as Jovanović said, 'quite a political event' in Serbia at the time.

891 'O vladaočevoj neprikosnovenosti u ustavnoj monarhiji', *Delo*, 34, 1905, pp. 187–8.

892 'Ustavni vladalac', pp. 22–3.

Perić defended his understanding of the king's constitutional role by reference to the principle of division of powers. According to the constitution, he argued, executive power belonged to the king; the assembly meanwhile had only legislative powers, and those it shared with the king. The assembly thus possessed only part of the legislative power (the rest belonging to the king) – and nothing more. Interpreting the constitutional division of powers in accordance with the principle of ministerial responsibility to parliament consequently meant imperilling the crown's executive power, thus calling into question the separation of powers itself. Hence, Perić argued, in Serbia under the rule of the Radicals 'the principle of division of powers does not exist in practice,' given that the assembly had 'taken away' 'the monarch's prerogative to appoint ministers.' The principle of division of powers was 'replaced by another institution, replaced by an assembly which had transformed itself arbitrarily and unconstitutionally from being half of the legislature into an all-powerful body, a body with absolute power.' The principle of division of powers, however, was the only guarantee of freedom, and accordingly represented the supreme principle of the liberal state, insisted Perić, referring to Montesquieu and his 'famous work' *The Spirit of Laws* 'dedicated to the English constitution.' 'This is why Serbia finds itself today under the least liberal of regimes, less liberal than was the last regime of King Alexander.'<sup>893</sup>

The Radicals did not remain silent, of course. Protić described as 'over-literal' Perić's assertion that the view according to which the crown was obliged at all times to draw ministers from the ranks of the assembly majority, and more generally had to be politically passive, led to a negation of the principle of division of powers. 'A pure division of powers,' he replied to Perić, was 'nowhere to be found' and was 'theoretically incorrect.' The assembly 'indirectly' and 'in a certain way' administered or exercised executive power too – 'that is parliamentarism.' Since the constitution said that executive power belonged to the king, retorted Perić, Protić's position

893 Ž.M.Perić, 'Teorija podele vlasti u praksi', *Nedeljni pregled*, no.3, 1908, pp. 51–2.

that the assembly governed 'indirectly' could only be 'trampling on the constitution.'<sup>894</sup>

At the base of this disagreement, of course, lay neither Perić's misunderstanding of parliamentarism nor Protić's ignorance of the constitution. The conflict derived from different approaches to the principle of ministerial responsibility to the assembly, i.e. to the principle of parliamentary government: Protić saw this principle as the starting point in interpretation of the constitution, while Perić did not. Regarding the political responsibility of ministers, moreover, ministerial responsibility before parliament was for Protić the criterion of constitutionalism as such; as we have seen, he identified constitutional rule with parliamentarism. For Perić, on the other hand, the criterion of constitutionalism was ministerial responsibility to the king; he saw Protić's position as a threat to the principle of division of powers, and thereby to the very essence of constitutionalism.

With such views, therefore, Perić could not hold the position ascribed to him by Jovanović: namely, that the crown 'did not have the right to govern with ministers who lacked the confidence of the people'. Treating ministers as 'plenipotentiaries' of the crown, Perić did not in fact much concern himself with the issue of majority or minority government, since for him the true political factors could only be the constitutional organs of power: king and assembly, rather than king, assembly and government. For the latter was not an organ of power, and could not have its own policy. Ministers were only intermediaries between king and parliament, but not as representatives of the assembly – as Stojanović demanded – but as representatives of the king. Still less did Perić discuss the problem of caretaker governments, because from his theoretical position there could be no difference between a caretaker government and a regular one: the king appointed and dismissed ministers as he saw fit, and it made no difference whether the government organised elections or not. *It was the Independents and not Perić* who disputed this issue with Protić – who, like Perić but for different reasons, did not differentiate between caretaker and regular

894 *Parliamentary proceedings*, 1909–1910, 18.5.1910, pp. 3147–8.

governments. Perić argued with Protić only over the issue of whether it was necessary at all to interpret the constitution in line with parliamentary principle. He left the dispute over what was parliamentary and what was not to the two Radical parties, of which one, the Independents, believed that parliamentary government did not exclude activity on the part of the crown, while the other, the Old Radicals, believed that the crown had to be politically passive. Perić himself stayed out of this, because he believed that the question of ministerial responsibility had already been resolved in favour of the crown, and was explicit about this. Both the Radicals and the Independents, said Perić, ‘talk about resolving ministerial crises from the standpoint of “parliamentary custom”, i.e. from the standpoint of something that is undefined and unestablished. What is “parliamentary custom” for *Samouprava* is not for *Odjek*, and vice versa. A state in which its business is decided in accordance with *custom* is a nice state indeed! ... This is why, on this question ... we shall rely not on custom but on law, and the basic law at that, the constitution of the land... According to that law, then, the king has the indisputable power to appoint ministers *regardless of the future duty of the new cabinet, which means that the king appoints ministers to conduct elections too.*’<sup>895</sup>

Speaking politically, Perić adopted an even harsher attitude towards parliamentarism. ‘Parliamentarism is historically one of the worst systems for governing a state ever to have made its appearance’ – he declared bluntly.<sup>896</sup> Parliamentarism was the same as democracy, and ‘democracy means absolutism.’ ‘The absolutism of one man is an acute malady that is immediately noticed, so can easily be cured. Democracy is like a malady that destroys the organism gradually and imperceptibly’, argued Perić, los-

895 *Nedeljni pregled*, no.2, 1908, p. 36. The text, titled ‘Nedeljna hronika’, deals with the ministerial crisis of 1908, when the entire opposition demanded a caretaker government, whereas the Radical Party sought to prove that caretaker governments were unparliamentary. The text is unsigned, but it makes sense to ascribe it to Perić, because he regularly wrote on constitutional issues for *Nedeljni pregled*.

896 Introduction to S. Grebenac, *Iz srpskog ustavnog prava*, p.8.

ing something of his legal precision, but consequently shedding light on his political beliefs, which lay at the basis of his understanding of the king's role in Serbia. Because democracy in the political sense, he reasoned, falling increasingly into conceptual confusion, was the same as Radicalism. To be against the absolutism of democracy was to be against Radicalism. And since to be an opponent of absolutism meant to be progressive, Perić could therefore conclude: 'I am conservative because I am against democracy, and progressive because I am against Radicalism.' That is how he was to explain his political credo in 1909, in the assembly.<sup>897</sup>

Perić was elected to the assembly on the Progressive Party's list. However, Perić and the Progressive Party differed from the outset on points of principle. In 1906, after the party organised itself anew under the new regime, it placed itself 'clearly and firmly' and 'with singular consistency' on the side of the parliamentary regime.<sup>898</sup> Nevertheless Perić joined its ranks from the start, because its programme was closest to him, especially the adoption of a two-chamber parliament as one of its most important programmatic demands.<sup>899</sup> Another reason was undoubtedly the personality of its president, Stojan Novaković, whom Perić greatly respected, and whose political conservatism was proverbial – almost as much as that of Perić. The two politician scholars displayed their ideological closeness symbolically on the occasion of the publication of the second edition of Perić's *Političke studije*, in which Stojan Novaković's letter of December 1907 to Živojin

897 *Parliamentary proceedings*, 1909–1910, 1.12.1909, pp. 926–7. His speech was published in *Nedeljni pregled*, nos.45–46, 1909, pp. 671–2. Perić frequently identified democracy with parliamentarism, but only in his political declarations, never in theoretical debates. 'The two are by no means the same', Jaša Prodanović responded to him on one such occasions. 'There are conservatives who jealously defend parliamentarism and democrats who are against parliamentarism, e.g. those who favour direct legislation.' *Parliamentary proceedings*, 1909–1910, 1.3.1910, p. 2206.

898 P. Marinković, *Parliamentary proceedings*, 1911–1912, 28.11.1911, p.4.

899 Perić was a member of the Provisional Main Committee of the Serbian Progressive Party. *Srpska napredna stranka obnovljena 30. januara 1906. godine*, p.21.



Perić served as the introduction, with the title: 'On the Role of the Monarch in the State Organism.'<sup>900</sup> Novaković on this occasion did not concern himself with Perić's constitutional theories, focussing instead primarily on the institution of the senate, or second chamber. Finally, on one very important issue Perić and the Progressive Party as a whole were unanimous: their attitude to the plotters, as a negative factor for the establishment of constitutionalism and a legal state in Serbia after the coup. Perić's position that 'the Serbian government is divided not between the king and the national assembly, but between the Radical and the conspiratorial parties', was shared by the entire Progressive Party.<sup>901</sup> Apart from the Socialists, no one was so consistent and uncompromising in criticizing the new regime as a 'conspiratorial' regime – as Perić called it – as were the Progressive Party together with Perić.

Perić's attacks on parliamentarism, which remained only implicit in his theoretical essays, became increasingly more frequent and far more direct after his entry into parliament, but this did not cause a conflict with the party. A rather unusual relationship developed between the Progressive Party, as one of the most principled defenders of the parliamentary regime in daily political life, and Perić, who was a principled opponent of it. Perić did not try to impose his views upon the Progressive Party, and he made it quite clear that he spoke in his own name, not in that of his party.<sup>902</sup> The party for its part respected him without endorsing his views. Nevertheless it did not criticise them publicly, being satisfied with the fact that Perić always stressed that he spoke only in his own name.

As time went by, however, he became a burden for the Progressive Party, because his increasingly explicit elitism, especially in his attacks on parliamentarism, became the target of criticism directed by his opponents against the party as a whole. This was largely due to the conception of Perić's journal *Nedeljni pregled*, through which he had managed to win in

900 Ž. Perić, *Političke studije*, pp. 5–13.

901 *Nedeljni pregled*, no.19, 1910, p.288.

902 *Parliamentary proceedings*, 1909–1910, 1.12.1909, pp. 926–7.

support of his ideas a circle of conservative intellectuals who, although numerically insignificant, were nevertheless sufficiently learned and serious to merit respect. They included Svetomir Nikolajević, Vukašin Petrović, Jovan B. Jovanović, Dušan S. Nikolajević, Milutin Čekić, Mileta St. Novaković, as well as the party president, Stojan Novaković.

In domestic policy, apart from constantly pointing out the nefarious impact of the plotters' political activity, *Nedeljni pregled* mainly concentrated on what it saw as the negative effects of Radicalism upon Serbia's social and state development. The intellectuals gathered around the journal were convinced that the democratism of the Radicals was in fact 'a reaction against Individualism, Culture...' Serbian democracy, which was collectivist and patriarchal, needed a strong monarchic rule that would adapt Serbia gradually to 'the cultured West'. The crime of 29 May, which had led to the 'triumph' of the Radicals, had diverted Serbia from its Western path and turned it towards the East, towards Russia. The introduction of parliamentarism into Serbia meant supremacy of the Radicals, which meant 'the supremacy of Russophilism', i.e. of those people who in their youth had been 'physically in Switzerland, but spiritually in Russia'. 'Western forms', in the case of Serbian Radicalism, were only 'pure imitation'; in combination with those forms, it became 'quite amoral'. The people who 'insist on them as their aim' were the same people who after the Berlin Congress, when it was necessary to turn Serbia into a 'modern state' and take it into 'the European community', saw railways as 'an instrument of "Austrian agents" designed to drain Serbia of its wealth, leaving its people

to starve'.<sup>903</sup> in short, people who in fact 'hated' the West with 'an intimate and genuine hatred'.<sup>904</sup>

With this assessment of the Radical concept of democracy, Perić's *Nedeljni pregled* demanded that the principle of parliamentary democracy be abandoned in favour of a literal reading of the constitution. The constitution was clear, and did not need to be interpreted through any 'parliamentary customs' – such was the paper's basic position. 'Serbia has paid dearly for experimenting with the Radicals and with parliamentarism. The crown remained passive during this experimentation, although it had the right to put an end to such experimentation, for the sake of higher state interests... The solid, non-Radical part of the Serbian intelligentsia, and the Serbian army... rightfully demand that the monarch should put an end to this Radical regime – which is deadly for Serbia – and at once appeal to the people, for otherwise the monarchy has no reason to exist in Serbia,' wrote *Nedeljni pregled* during the period of the Radical-Independent coalition.<sup>905</sup>

903 *Nedeljni pregled* refers here to the strong resistance put up by the Radicals inside and outside the assembly against the introduction of railways, which Serbia had been obliged to allow by the Congress of Berlin. See Latinka Perović, 'Politička elita i modernizacija u prvoj deceniji nezavisnosti srpske države', *Srbija u modernizacijskim procesima XX veka*, Belgrade 1994, pp. 237–42. Some Radical Party leaders held the same political view about the introduction of the first railway after 1903 as did the Radicals in the 1880s. 'The railway has rushed through our land like a snake ... with the arrival of the Western snake our simple but glorious customs have retreated before those of the Western nations', Milan Đurić stated in 1906. See Olga Popović-Obradović, *O ideološkom profilu radikala*, p. 74.

904 S. Jovanović, 'Srpske stranke i parlamentarizam' and 'Reakcija radikala', *Nedeljni pregled*, 32, 1908, pp. 519–20 and 8, 1910, p.114; D. Nikolajević, 'Naš demokratizam', *Nedeljni pregled*, 5, 1910, pp. 65–7; Aristarchos, 'Rezultati radikalske politike', *Nedeljni pregled*, 27, 1909, p. 409; Boy, 'Rđavo ortaštvo', *Nedeljni pregled*, 28–29, 1909, p.425; Lannes, 'Kriza demokratizma', *Nedeljni pregled*, 45–46, 1909, p. 685; Marc, 'Opravdana želja', *Nedeljni pregled*, 13–14, 1910, p.194. The collaborators of *Nedeljni pregled* often wrote under pseudonyms, some of which we have managed to decipher, some not. Perić's pseudonym was Garrick, S. Novaković's Dardanus, M. Novaković's Fox, M. Čekić's Brutus and Macready.

905 *Nedeljni pregled*, no.6, 21.2.1910, pp. 82–3.

Although Perić's positions increasingly appeared as a de facto negation of his party's policy – Perić and the Progressives had in the meantime parted company entirely also in foreign-policy matters – the party nevertheless long hesitated to distance itself from him formally. However, a sharp criticism addressed to the Progressive Party by Jaša Prodanović at the end of 1911, which referred specifically to Perić's 'political theories', finally induced the Progressive Party leaders formally to distance the party from Perić. 'Mr Prodanović has referred to what is purely one deputy's personal view', Pavle Marinković replied to Prodanović. 'In order to avoid possible confusion about this', stated Marinković, 'I must declare that the Progressive Party has nothing in common with the aforementioned theories, but stands simply and firmly upon the terrain of the parliamentary regime.' For the Progressives, he added, 'one of the greatest statesmen' was Cavour, and they supported his view that 'the worst assembly is better than the best aristocrat, or camarilla or anteroom'. Prodanović was wasting his time attacking 'the theory of a deputy who has no followers in this assembly', concluded Marinković.<sup>906</sup> The party leader, Stojan Novaković, also found it necessary to stress the party's distance from Perić. 'It is known among the majority too', he said, 'that Mr Perić was stating only his own view... That is why, believing that everyone knows this, I have never found it necessary to deny in the name of the Progressive Party what Mr Perić has been saying.'<sup>907</sup>

In this way Perić – though highly respected, both for his learning and for the consistency, honesty and courage with which he espoused views that were extremely unpopular in Serbia at the time – remained isolated, perhaps the most isolated politician in Serbia in this period.<sup>908</sup> 'One

906 *Parliamentary proceedings*, 1911–1912, 28.11.1911, p.4.

907 *Parliamentary proceedings*, 1911–1912, 28.11.1911, p.2.

908 The Radicals, whose ideology and policy were the main targets of Perić's critique, acknowledged his qualities. 'It must be admitted', Milovan Milovanović said about him, 'that Mr Perić is an honest and loyal opponent, who dares to say openly what he thinks and what he wants', and who carries 'his thought clearly and precisely to its consequences'. Perić, said Nikola Uzunović, 'is for

of the most learned men our country possesses,' wrote a Belgrade paper about Perić after the war, 'seemed very eccentric to most Serbian people.'<sup>909</sup> The reason for this, apart from his stubborn advocacy of reliance on Austria-Hungary as the best foreign-policy option, was his rejection of the parliamentary system as 'one of the worst' political regimes.<sup>910</sup> Perić enjoyed only the support of *Nedeljni pregled*, a paper which – thanks to the high intellectual level from which it critically analysed the social, cultural, political and state-legal aspects of Serbia at the time – remains socially and politically the Serbian conservatives' most important product in the period 1903–14, far more important than the party of which it formed the core: the Serbian Conservative Party, which, founded on the eve of the war, was to leave no trace in Serbian political history.

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me one of the most likeable opponents of Radicalism, because it seems to me that he is guided by conviction.' *Parliamentary proceedings, 1911–1912*, 28.11.1911 and 25.11.1911, p. 29.

909 Cicvarić's *Beogradski dnevnik*, no.1335, 22.9.1923.

910 This is why it is difficult to agree with M. Vladislavjević that Perić's 1904 treatise can be taken as 'an expression of public opinion'. *Razvoj ustavnosti u Srbiji*, pp. 67–8. Vladislavjević's view derived from an initial premise which he took over from Jovanović, that Perić's positions were shared by the Independent Party, namely his endorsement of 'monarchical parliamentarism', by which he meant parliamentarism with dual ministerial responsibility, or dualist parliamentarism.

## II THE ERA OF MONISM – FATE OF THE INSTITUTIONS IN THE HANDS OF THE POLITICAL PARTIES 1906–14

The retirement of the five officer plotters produced a significant change in the functioning of parliamentary institutions: the plotters were separated from the king, and since he himself showed no desire to interfere in political life, the functioning of the system was reduced to relations between the assembly and the government. In parliamentary practice after 1906, no party owed its fall to a disagreement with the crown, nor did any government derive from an assembly minority. Removing the king – i.e. the use of his constitutional privileges – from constitutional practice produced a much more turbulent parliamentary life at all levels. Initiated by the emergence of the first homogeneous majority government in 1905, the process of articulating Serbian parliamentarism more clearly in its essential aspect – the interaction between assembly and government – gained momentum only after 1906, thanks mainly to the fact that use of the royal prerogatives was transferred to a responsible government. This apart, an additional important fact was that the elections of 1906 led to a final crystallisation of the relationship between the two Radical parties: the Old Radicals as the strongest, and the Independent Radicals as a minority party whose presence in the electorate would never again grow to the extent of raising hopes for an Independent majority government. This proved to be a determining factor for the parliamentary behaviour of the two parties, as well as for the positions that they would assume on basic questions of parliamentarism.

If, after the Radicals came to power in 1906, the constitution of 1903 came to be applied in practice in line with the monist model of

parliamentary government, this did not mean that the question of the king's role in political life was removed from the agenda. Both the government and the opposition, each in its own way, continued to battle for political support from the court; and by doing so – since the plotters had given up on further use of the royal prerogatives, and despite the fact that the king himself showed no desire to intervene in political life – they kept open the question of the king's role in parliamentary practice. This applies in principle to the whole period, although any really serious attempts in practice to win the king's support in the struggle for power had waned by 1908.

Despite the king's political passivity, it would be wrong to conclude that the only factors in political decision-making after 1906 were the assembly and the government, or that the relationship between these two institutions of the regime was formed autonomously. A third factor, represented by the army, was still in existence. In addition to the wider political influence that it wielded through the parties and public opinion, the army also continued to influence directly the work of the constitutional bodies. This was no longer effected through the king, however, but through the government – or, more precisely, through the minister of defence, who, in accordance with the rule established in the Kingdom of Serbia's parliamentary practice, was always appointed from among the active officers. Throughout this whole period, all of these had either actively participated in the 1903 conspiracy or maintained close relations with the plotters.<sup>911</sup> This problem, visible already during Pašić's 1906–8 government, became more complicated with the outbreak of the so-called annexation crisis, and in the years preceding the Second World War became the most acute manifestation on the institutional plane of what was taking place beyond public scrutiny: a tendency to challenge civilian government as such.

911 David Mackenzie, *Apis*, Gornji Milanovac 1989, p.117.

## 1. The concept of a cabinet system in practice 1906–8

Following its arrival in power in 1906, the Radical Party returned to the theory of a passive monarch and a government that, backed by a disciplined assembly majority, would take over the crown's constitutional prerogatives: the concept, in other words, of parliamentary government modelled on the British cabinet system. At the same time, by contrast, the Independents developed and strengthened their position that Serbia had to have an active – albeit wholly parliamentary – monarch; and that a strong and homogeneous majority government was justified only to the extent that it did not violate minority rights, or try to turn party government into a party state. Since, in their view, the Pašić government formed in 1906 had crossed this limit, the Independent Party and the bulk of the opposition resolved to fight a war on two fronts against the Radical government: on the one hand, by insisting on the king's duty actively to defend the interest of 'the legal state'; on the other, by utilizing every last constitutional and legal instrument open to the assembly to control the government's work. All in all, the Serbian opposition adopted the position after the 1906 elections that, in order to limit the political power of a government with an undisputed majority, it needed to utilize all legal means, stressing occasionally that this was the only way to avoid another coup – or as they called it revolution.

### A. ABSOLUTISATION OF THE MAJORITY PRINCIPLE

The factor that crucially determined the manner in which the issue of ministerial responsibility was posed in 1906–8 was the implementation of the Radicals' concept of parliamentary government. Not just the Independents but the whole of the Serbian opposition saw and experienced this period as a 'dictatorship of the majority': as a regime in which 'no limit in



the laws, the constitution or state bodies' existed for the majority.<sup>912</sup> There were two kinds of reasons for this: party-political and legal-political. Intertwined and interdependent, they may nevertheless be separated in so far as the former derived from party-political relations in the broadest sense, while the latter came to be articulated at the level of relations between the assembly and the government. The former have already been discussed. The latter, which will be discussed here, were determined by the attitude of the government and its majority towards the parliamentary opposition, which derived from the way in which the Radical Party understood parliamentary government.

The Radical Party in theory endorsed the cabinet system as the model of parliamentary government. This system, which Milovan Milovanović had identified in 1888 with parliamentarism, was after 1903 defended theoretically, practically and politically by Stojan Protić in the name of the Radical Party. He did this by insisting on the crown's full political neutrality, as well as by advocating the government's supremacy over the assembly. Protić departed from this concept only once, briefly, in regard to the rights of the crown, when his party found itself in opposition and when he defended the right of the crown to offer the government to the minority, as discussed above. But when his government was in power – for ten out of eleven years, which is how long Serbian parliamentarism lasted – Protić consistently defended the cabinet type of government in all its most important legal aspects.

Protić adopted the basic principle of cabinet government – division of powers – in which, as Milovanović inspired by Bagehot described, there was not only a 'fusion' but also a 'confusion' between the legislative and executive powers, and which in the practical-political sense meant 'dictatorship of the cabinet'. As a leading personality in the Radical Party, and so to speak the official interpreter of the party's constitutional and legal conceptions, Protić openly advocated the concept of parliamentary government based

912 *Parliamentary proceedings*, the announcement of obstruction, 20.3.1907, pp. 3739–41.

on a strong executive, especially after the Radical-Progressive agreement and the adoption of the 1901 constitution. Under the 1901 constitution, i.e. under King Alexander's rule, he refrained to be sure from insisting on the crown's political neutrality; but without raising the issue of whether and to what extent its prerogatives belonged to the responsible government, he simply maintained that the executive as such should have wide competencies, especially in the financial sphere. This was undoubtedly one reason, albeit not the only one, why he liked the 1901 constitution.

Leaving aside Protić's defence of the crown's active role in the spring of 1906, his advocacy of a strong executive after 1903 involved open support for the greatest possible concentration of power in the hands of the government, which implied perfect discipline on the part of the assembly majority and reduction of the practical importance of the assembly as an institution. Protić consequently stressed the contemporary British exemplar – as it was at the end of the nineteenth century – as the only model for the political system to be followed in interpreting the Serbian constitution. Understanding parliamentarism theoretically in the same way as Milanović had twenty years earlier, Protić – as a practical politician and a party man in the true sense of the word – did not show the intellectual flexibility and breadth of political reasoning that had characterised Milovanović. For the latter reflected on the possibilities of the model's reception with the same seriousness with which he approached its theoretical analysis. It was impossible to copy English parliamentarism wrote Milovanović in 1902, in a review published in *Delo* of Slobodan Jovanović's treatise *Engleski parlamentarizam*, saturated as this was with the author's position on the close interconnection between British parliamentarism and the social, political and cultural characteristics of British society.<sup>913</sup> Protić, however, disregarded this fact, though he must certainly have been aware of it. He simply identified contemporary British parliamentary practice with the very idea of modern constitutionality, drawing the conclusion that Serbia

913 Milovan Milovanović, review of Slobodan Jovanović's treatise *Engleski parlamentarizam*, *Delo*, 23, 1902, p. 482.

could become a constitutional state only by adopting *all* practical solutions from the British model.

‘Constitutionality and parliamentarism are one’, Protić stated in June 1906. ‘It is, and must be, the same as in England in all its main features and qualities. Anything else is a lesser or greater deviation from the model.’<sup>914</sup> Conscious that a strong obstacle to transference of the British model was the fact that Serbia had a written constitution, which meant that – assuming respect for the principle of legality – no government and its majority, however strong they might be, could ever enjoy the kind of freedom a British cabinet did, he defended the view that legislators should be given great freedom in interpreting the constitution. The constitution could be changed in two ways – not just by its formal revision, but also by its interpretation in practice – argued Protić, defending draft laws that contravened the constitution, hence taking the view that the government and its majority *de facto* had constitution-making powers.<sup>915</sup>

The Radical Party defended this concept of parliamentary government to a greater or lesser extent throughout the period in question. From the point of view of its implementation, however, the period of the Pašić government of 1906–8 is most interesting, because during those two years the Radical Party, having won a relatively strong majority, attempted with great self-confidence to implement its idea of majority rule at all levels. This period consequently shows most clearly the true practical qualities of the attempt to transplant a cabinet-type government into Serbia.

#### **i. Ignoring the opposition**

Reduction of the content of parliamentary government to the principle of majority rule found its most naked form in the attitude of the government and its majority towards the opposition, in other words the parliamentary minority. This posture encapsulated the concept of the majority’s right

914 *Samouprava*, no.126, 2.6.1906.

915 *Parliamentary proceedings*, 1909–1910, 15.5.1910, pp. 3068–72.

as being practically unlimited, and coloured almost all aspects of parliamentary practice.

Although Pašić's government came into being as the result of a serious parliamentary crisis that ended with dissolution of the assembly and early elections, it felt no need to present its programme to the newly elected assembly – either through a throne speech or indeed in any other way. Stating that in such conditions ministerial responsibility, of which the 1903 constitution 'had laid only the foundations', remained illusory, Vojislav Marinković wondered whether the ruling party had any intention of 'applying the parliamentary system in all its consequences.'<sup>916</sup> Soon after this and in response to another issue – while adopting a law on the loan to build railways and re-equip the army – Protić did in a way respond to the question posed above. 'Our majority, which is not by a single vote,' he said (alluding to the Independent government), 'can decide by majority right ... to build the railways we want.' 'This is what we want. We are in the majority so we can do it' – was Dragoljub Joksimović's interpretation of Protić's remark, which he saw as the Pašić government's basic credo. The whole opposition shared Joksimović's view. 'There is a belief in Serbia that the majority can do anything it wants,' commented Voja Marinković on Protić's understanding of ministerial responsibility. 'If you want to rely on the majority and its strength,' the Liberal deputy Radoslav Agatonović replied to Protić, 'then you may as well tell us to go home and leave you to work on your own.'<sup>917</sup>

At times the government and its majority went to the extreme in ignoring the minority. The assembly debate on the budget for 1907 – which

916 *Parliamentary proceedings, 1906–1907, 11.11.1906*, p. 985. In the absence of a government programme, Marinković interpellated prime minister Pašić demanding that the assembly be informed about domestic and foreign policy in general. Pašić answered briefly and belatedly on 11 November 1906. *Parliamentary proceedings, 1906–1907, 5.10.1906*, pp. 33–4 and *11.11.1906*, pp. 980–81.

917 *Parliamentary proceedings, 1906–1907, 23.11.1906*, pp.1293, 1297; *24.11.1906*, p.1321; and *2.12.1906*, p.1498.

admittedly the opposition mainly treated as an opportunity to criticize the government's performance as a whole, rather than to discuss only the proposed budget, of which more will be said below – proceeded day by day largely in the absence of not just the minister but also most of the majority deputies. 'I think we ought to close down the assembly; this is shameful!', reacted Dragutin Pečić. 'Just thirteen fusionists from the majority here, to avoid bad luck?' Pavle Marinković remarked at one point, with his proverbial humour. And Mihailo Radivojević, interrupting one deputy immediately after he had addressed the assembly with the words 'honourable deputies', shouted out in similar vein to Marinković: 'Say honourable benches, not honourable deputies!'<sup>918</sup>

The government displayed equal indifference and disregard towards the deputies' right of interpellation. Ministers waited for several months before specifying the day when they would reply to an interpellation, thus openly violating the standing orders which obliged them to do so within five days. They enjoyed full support in this from the assembly officials. According to the standing orders, rather than specifying the date a minister could say that he would leave it to the assembly. The assembly speaker, who according to the standing orders (Art. 43) had the exclusive right to propose the daily order of business, would often wait for several months before proposing a reply to the interpellation.<sup>919</sup> Ministers would usually respond to interpellations at the end of the parliamentary session, by which time – as Dragiša Lapčević accurately noted – the assembly would have 'lost all patience' and was 'no longer interested in anything'.<sup>920</sup> 'During this

918 *Parliamentary proceedings, 1906–1907*, 3.3. 1907, p. 3296; and 10.3.1907, p. 3443.

919 See Art. 90 of the 1903 standing orders (amended on 11.12.1903). The deputies' right to interpellation was strengthened only in 1911, with the adoption of new standing orders (Art. 90a) specifying one day a week when interpellations would be answered, which meant that every interpellation was automatically placed on the order of business.

920 Lapčević's remark relates to assembly sittings in the early days of July 1907, when replies were given to most interpellations posed during the 1906 session. Lapčević said this on 5 July, two days before the end of the session.

whole session, not a single deputy from the opposition was honoured – or saw his rights met – by a ministerial reply to his interpellation within five days,' Jaša Prodanović complained in March 1907, reminding the assembly speaker of the fact that, as an official of the assembly and not a 'ministerial servant,' it was his duty to protect the right of deputies to interpellation, hence also the dignity of the whole assembly.<sup>921</sup> 'What is the point of submitting an interpellation, when it leads to no results... No more interpellations, we demand elections; let the people be the judge between you and us!', exclaimed Dragoljub Joksimović as the term of the assembly elected in 1906 ended.<sup>922</sup>

**ii. Violating the principle of legality,  
question of the assembly's role**

Commenting on the lack of effectiveness of interpellations, Joksimović had in mind not merely the fact that this right of deputies was being brushed aside as a right of the minority, but also that the principle of the assembly's controlling role was thereby being rendered meaningless. For government by the majority, as conceived by the Old Radicals, implied marginalising not just the opposition, but also the assembly as an institution. From the consolidation of the Radicals in power in 1906 up until the end of the period in question, a growing ascendancy of the government over the assembly – which did not remain within the bounds of the laws and the constitution, but went beyond them – became an important feature of Serbian parliamentarism, albeit at times more visibly, at others less so. Not only the principle of division of powers, but also the principle of legality, came

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*Parliamentary proceedings*, 1906–1907, 5.7.1907, p. 4912.

921 *Parliamentary proceedings*, 1906–1907, 17.3.1907, pp. 3628–9. In one case, for example, precisely involving Prodanović's interpellation, the minister of the economy, Kosta Stojanović, stated after two months had passed that he would reply to the interpellation once the assembly included it on the order of business. Two more months passed without Prodanović's interpellation being answered. *Parliamentary proceedings*, 1906–1907, 17.1.1907, p. 2128, and 9–10.3.1907, p. 3433. There were many such examples.

922 *Parliamentary proceedings*, 1907–1908, 8.3.1908, p.169.

under attack. Since the government relied for this on its majority in the assembly, the trend was masked by the principle of majority rule, which the Radical Party quite often counterposed openly to the principle of legality. During the period 1906–8, this feature of Serbian parliamentarism acquired its purest form in so-called assembly ‘clearances’, and ‘delegations of power’ from the assembly to the government.

Shortly after the formation of the Radical government, on 1 May 1906 the temporary trade agreement that the Independent government had made with Austria-Hungary – on the basis of, and under conditions prescribed by, the legal authorisation of 16 February 1906 – expired.<sup>923</sup> The new Pašić government, which immediately after its formation had dissolved the assembly, decided on its own responsibility and without authorisation by the assembly to prolong the temporary agreement after the agreed date, wishing to avoid a legal vacuum in relation to Austria-Hungary. This was in contravention of Article 52 of the constitution, which stipulated that ‘trade agreements and treaties involving payment from the state treasury, or a change to territorial laws’ were valid ‘only after the national assembly had approved them’. When the assembly met two months later in emergency session, the government asked it for a retroactive permission or – as Protić called it – a ‘clearance’ from its unconstitutional act. It asked at the same time for a new and this time general authorisation until 31 December to regulate trade relations under such conditions as it would itself deem suitable. In the first case, therefore, the assembly was supposed to approve post facto an agreement that was already being implemented, and for which the constitution demanded its prior agreement in order to be legally valid. In the second case, it was supposed simply to surrender for a certain period its constitutional right to approve trade agreements. The whole opposition contested both government demands as unconstitutional. The governmental majority, however, judged them to be in accordance with the constitution and gave its approval.

923 This authorisation was formulated as a law, i.e. as a decision of the assembly sanctioned by the king. See *Zbornik zakona 1903*, pp. 75–6.

Regarding the demand for a 'clearance', the government could not, of course, deny that extension of the temporary trade agreement without prior permission from the assembly was in itself unconstitutional. The dispute derived from the fact that the government, through Protić, insisted that its act ceased to be unconstitutional once the assembly had approved it, while the opposition took the view that there was no way in which the assembly's approval could make an unconstitutional act constitutional. The opposition's stance was most clearly defended by Vojislav Veljković and Vojislav Marinković. Contrary to law, argued Veljković, the government had 'surreptitiously extended a temporary arrangement and after 1 May assumed ...legislative powers', thus violating the constitution, for which reason it should be 'put on trial'. Marinković likewise insisted that the assembly's 'clearance' for the government's unconstitutional conduct was legally meaningless, and that its autocratic extension of the trade agreement entailed liability of the government before the State court. The assembly could, of course, 'shield' the government from that responsibility, if it found it convenient not to use its right to charge it; but this did not of itself render the government's act constitutional, argued Marinković.<sup>924</sup>

'Clearance' by the assembly as post facto approval of the government's unconstitutional act proved to be a precedent.<sup>925</sup> Indeed this became a frequent practice in Serbian parliamentarism, involving both unconstitutional and illegal acts, and it gave rise to a serious debate in the assembly during which the opposing arguments on the nature of 'clearance' would become clarified. We shall present them here, independently of when and

924 *Parliamentary proceedings*, emergency session of 1906, pp. 271–348. See also S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, vol.2, 1906, pp. 508–10.

925 See, for example, the assembly's post facto approval of the government's illegal and unilateral approval of emergency credits, for which according to Art. 36 of the budgetary law, it should have gained the assembly's prior permission. *Parliamentary proceedings*, 1910–1911, 15.10.1910, pp. 8–17; and 4.2.1911, p. 6; *Parliamentary proceedings*, 1913–1914, 12.10.1913, p.128. See on this also S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, no.15, 1913, pp.317–21.



on what occasion they were made, because it was in the period 1906–8 that the practice of assembly ‘clearances’ was inaugurated.

The starting-point of Protić’s defence of assembly ‘clearances’ was that there were situations in which it was ‘unavoidable’ for the government to bypass formal rules. To resolve such situations, argued Protić, ‘the human mind’ had invented two methods: a so-called *gummiparagraph* [catch-all clause] freeing the government in advance from responsibility for illegal action; or the government taking responsibility for its action and leaving parliament to decide subsequently whether or not to give it ‘a clearance ... indemnity – retrospective permission or forgiveness’. Both methods ensured respect for the principle of legality, but the latter, as practised in England, was preferable because it was less of a threat to ‘civic freedoms’, argued Protić relying on Dicey’s authority.<sup>926</sup>

Protić’s exposition was not supposed to be a debate on principles, but a defence of ‘clearance’ in Serbia, and as such it was doubly problematic: from a legal and from a political point of view. Legally speaking, it was inadequate for two reasons. First, because Protić did not differentiate between ‘clearances’ for unconstitutional and for illegal actions. Relying on the British practice of indemnity (Act of Indemnity) and referring to Dicey, he overlooked the fact that this author defined the Act of Indemnity as the highest form of ‘parliamentary sovereignty’, which derived from the formal absence of a legal difference between constitution and law.<sup>927</sup> Hence the difference, argued Dicey, between the British and the Belgian constitutions: for the Belgian constitution could never have the same basic principle as the British, which was parliamentary sovereignty.<sup>928</sup> Protić overlooked the fact that in Serbia – as in all other European constitutional states except Britain – this difference existed, so that the constitution and the laws were acts of different legal force. So while ‘clearance’ for a government’s illegal

926 *Parliamentary proceedings*, 1911–192, 17.12.1911, p. 23; and *Parliamentary proceedings* 1912–1913, 10.5.1913, pp. 438–9.

927 A.V.Dicey, *op.cit.*, pp.49, 232.

928 A.V.Dicey, *op.cit.*, pp. 126–7.

act might in a way be comparable to cases of indemnity in British constitutional practice, this was certainly not so in the case of unconstitutional acts, such as extending a trade agreement without the assembly's agreement. In the case of a unilateral extension of the trade agreement, in other words, a 'clearance' reminiscent of the British Act of Indemnity could not be granted to Pašić's government by the assembly as a legislative body, but only by a constitutional power.<sup>929</sup> What was most contentious from a legal point of view, however, about Protić's understanding of 'clearance' was the fact that Protić invested that act of the assembly with a formally legal character, believing that it retroactively made an illegal act legal. In sum, according to Protić, 'clearance' by the assembly did not threaten the principle of legality.

Protić's explanation was even more questionable from the political aspect. For he treated the concept of 'unavoidable' very flexibly, which was certainly consistent with his view that assembly 'clearances' did not threaten the principle of legality. The Radical Party used 'clearances' routinely, and Protić defended them not only when circumstances did indeed demand it, but also, and more frequently, in situations when the government could not find an objective political excuse for an illegal act. It was on one such occasion that Protić came up with the defence quoted above.<sup>930</sup> Assembly 'clearances' as a result became the rule, which in political terms

929 S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, vol.2, 1906, pp. 508–10.

930 In early January 1913 the regular municipal elections had to be postponed because of the war. The law envisaged a legal form for such an occasion, but in November 1912 the government decided to do it on its own, despite the fact that the assembly was in session. It was only on 4 April 1913 that it submitted a bill postponing the municipal elections. The bill even lacked the opinion of the state council, which the government explained by asserting that the council did not have a quorum to sit. The bill was passed on 10 April 1913, which meant that the government obtained a 'clearance' a full five months after having committed an illegal act. It was on this occasion that Protić expounded his theory of two approaches to evading formal rules. See *Parliamentary proceedings*, 1912–1913, 4.4.1913, pp. 223–5; and 10.5.1913, pp. 438–47. Such cases were actually very frequent.

made a mockery of Protić's defence, contradicting in practice its basic assumption: the 'unavoidable' need to bypass formal rules.

It was precisely this last aspect that formed the basis of the dispute over the issue of 'clearances' between Protić, as advocate for the Radical Party's position, and the representatives of the assembly minority. The Serbian assembly had more or less unanimously accepted in principle that in some situations the government was allowed, for 'reasons of state', to violate existing legal norms.<sup>931</sup> However, taking the view that 'clearances' as such were undoubtedly an attack on the principle of legality, the minority recognised them solely as exceptional, permissible – i.e. politically justified – only when the government 'was absolutely unable to act otherwise', in the event of *salus populi* or state necessity.<sup>932</sup>

Writing about indemnity in Britain, Dicey had stressed its exceptional character, associating it with 'war or uprising': that was what Prodanović replied to Protić, faithfully quoting the British professor's famous work.<sup>933</sup> One 'does not construct theories' out of exceptional cases. 'It is pointless to speak about this', since 'there is not a single author in Europe who advocates the theory that the government can violate laws.' 'No one in his senses recognises such theories', insisted Prodanović.<sup>934</sup> Voja Marinković reasoned likewise. What Protić was talking about was not theory, in England or anywhere else – it was simply 'an assertion.' 'There is no such

931 Živojin Perić was the only exception in this regard. In his view, the principle of constitutionality, 'which is contained within a wider principle, the principle of legality', allows no exceptions. 'Nothing stands above that principle... neither reason of state nor salvation of the state. Both reason of state and salvation of the state involve respect for the principle of constitutionalism', because 'reason of state and salvation of the state are indeterminate concepts...'. *Parliamentary proceedings*, 1909–1910, 18.5.1910, p.3128.

932 Lj. Đorđević, *Parliamentary proceedings*, 1912–1913, 10.5.1913, p.440.

933 *Parliamentary proceedings*, 1911–1912, 11.1.1912, pp. 17–18. See Dicey, *op.cit.*, pp. 412–13.

934 *Parliamentary proceedings*, 1912–1913, 10.5.1913, pp. 446–7. See Prodanović too on this in *Parliamentary proceedings*, 1907–1908, 20.12.1907, p.191; and in the same sense Pavle Marinković, *Parliamentary proceedings*, 1912–1913, 10.5.1913, p.442.

theory – it neither exists nor could exist.’ The principle of legality is the supreme principle of the state, insisted Marinković, and no theory can relativise it. What Protić was presenting as ‘theory’ was in fact ‘absolute disregard for law’, Marinković concluded: the old Serbian rule that ‘common sense is to be applied in every circumstance, depending on what the “state interest” is and on whether something is “right” or not.’<sup>935</sup>

To sum up, there was a categorical difference between the minority parties on the one hand and the Radical Party on the other in their understanding of assembly ‘clearances’. Accepting ‘clearances’ only as exceptions, the minority parties stressed the principle of legality as the supreme principle of the state, limited only by *salus populi*. The Radical Party, on the other hand, defending assembly ‘clearance’ as a regular procedure within the framework of the legislature’s activity, relativised the principle of legality and subjected it to a much narrower limit – the principle of the majority.

The view that the government, provided that it enjoyed majority support in the assembly, could freely violate laws and the constitution was espoused by Protić even more openly and radically than in the case of ‘clearances’ on the issue of the provisional trade agreement with Austria-Hungary, when he defended the government’s demand for a new and unspecified authorisation to regulate trade agreements. As noted by Slobodan Jovanović, the government was practically demanding ‘a blank paper on which to write any agreement it wished.’<sup>936</sup> Such an agreement, whose content the assembly would thus not have approved, would be enacted and remain valid until 31 December 1906.

The whole opposition rightly judged this as an explicit demand by the government that the assembly should surrender to it the assembly’s own constitutional powers in the sphere of making trade agreements. Vojislav Marinković was once again most vocal and systematic. The government’s demand for such authorisation, he noted, indicated that it had

935 *Parliamentary proceedings*, 1911–192, 19.12.1911, pp. 8–9.

936 S. Jovanović, ‘Parlamentarna hronika’, *Arhiv za pravne i društvene nauke*, vol.2, 1906, p.504.

no intention of submitting the agreement to the assembly for its approval, as it was bound to do by the constitution. For if it had, he argued, any such authorisation would have been valueless. The government was in fact seeking the authorisation as an 'anticipated agreement by the assembly', which was 'simply unconstitutional' and amounted de facto to 'governmental dictatorship'. What was at stake was 'delegation of the national assembly's powers', he said. By approving the government's demand, the assembly was 'renouncing' its constitutional powers; and 'proceeding in this manner' would 'reach the point where the national assembly would lose all importance. The national assembly's views and sentiments would be passed over whenever a majority could somehow be concocted', warned Marinković.

That what was at stake was indeed a demand for transferring the assembly's constitutional powers to the government could not be doubted. In fact, the finance minister Lazar Paču made this quite clear. Defending the government from the charge of unconstitutional behaviour, he said that 'the assembly, in so doing, would delegate its rights to the government for a limited period of time.'<sup>937</sup> Thus Paču firmly believed that the constitutional principle was not imperilled, if the assembly were willingly to transfer its powers to the government.

Like the passing of a 'clearance' for an unconstitutional act by the government, approval of a demand by the latter that the assembly should transfer its powers to it also became a precedent. As early as June 1907, the government again asked for – and gained – a general authorisation from the assembly to conclude and implement a temporary trade agreement with Austria-Hungary.<sup>938</sup> The assembly once again held a debate on the issue, and with the same arguments. Voja Marinković, together with Voja

937 *Parliamentary proceedings*, emergency session of 1906, 18–19.7.1906, pp. 271–348.

938 Pašić's government and its majority similarly adopted, on 6 April 1913, a law on emergency borrowing that authorised the government in advance to approve loans until the end of the budgetary year. See on this V. Marinković and L. Paču in the assembly, 12.10.1913, pp. 128–9. See also Milan M. Stojadinović, 'Budžet za 1913. godinu', *Arhiv za pravne i društvene nauke*, no.15, pp. 74–8.

Veljković, once again emerged as the most serious critic, while the government's position was once again defended by Paču and Protić. Thanks to the latter's defence, the Radical Party's position on 'delegation' to the government of the assembly's powers was greatly clarified.

Protić said explicitly that the assembly had the right to 'delegate temporarily its prerogatives to the government', because 'whoever has the right to the whole apple also has the right to half of it'. As Jovanović notes, Protić thus identified state power with 'subjective right' – which was wrong, of course.<sup>939</sup> Even more important was the fact that his explanation placed the majority principle even above the principle of separation of powers, and that in the event he ignored the latter. The separation of powers was already imperiled, to be sure, by assembly 'clearances', but the 'delegation' of powers practically nullified it. 'You might as well transfer all powers to the government', Marinković told Protić, as the latter expounded his theory of the assembly's constitutional powers as 'the right to the apple'. Marinković rightly said that this would be the same as the assembly deciding to hand over to the government its right to approve the budget or indeed any other law. The assembly was duty bound, however, to wield its powers, Veljković added, and to resist a government that asked it to violate the constitution. 'We may have another government on the morrow demanding, once again on the basis of the assembly's confidence, approval of a new press law, and next day that of a new budget, and then of all other laws.' Veljković rightly warned that to transfer the assembly's right to control the government's conduct to the government itself was not merely illogical, but also 'created a confusion between executive and legislative powers, and destroyed the principle of the division of powers.'<sup>940</sup> Indeed, by fully relativising the importance of a constitutional norm whenever this limited the functioning of the majority principle, Protić de facto adopted the position that the

939 S. Jovanović, 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, 7, 1909, pp. 254–5.

940 *Parliamentary proceedings*, 1906–1907, 16.6.1907, pp. 4361–98.

parliamentary majority could decide to suspend even the basic provisions of the constitution – its fundamental principles.

## **B. MINISTERIAL RESPONSIBILITY AND THE ‘CONSPIRATORS ISSUE’**

The price that the Radical Party had to pay for distancing the conspirators from the court did not involve material compensation alone. The plotters now expected the government rather than the king to support them, and that is what it did. After the advent to power of Pašić's government, the officer plotters, who saw their retirement as a mere form, manifested ever more directly and openly their awareness of their exceptional position in the state, as well as their determination to preserve that position. Their public belligerence increased to an extent that indicated a complete lack of scruple towards the civilian government. The usual intimidation of, and attacks upon, those who wrote against them were now extended to representatives of the legal political institutions. At the start of 1907, for example, armed officers attacked on Terazije two opposition deputies leaving the assembly – the Progressive Pavle Marinković and the Liberal Mihailo Đorđević – wounding the latter. The Socialists too became a target of their attacks. Mihailo Ilić was attacked in Kragujevac just as Marinković and Đorđević had been in Belgrade, while Dragiša Lapčević, one of the most determined and principled critics of the army's interference in politics, read out in the assembly a letter he had received from ‘forty sharp sabres’, threatening that he would suffer the same fate as Marinković and Đorđević. They warned him: ‘You should bear in mind that the boot rules by the highest authority.’<sup>941</sup>

The relevant bodies responded to such behaviour on the part of the conspiratorial circles not merely by silence, but also by encouragement. Nearly four years later, the victim of the officers' armed attack deputy Đorđević told the assembly that the court had not yet responded to his

941 *Parliamentary proceedings*, 1906–1907, 5.2.1907, pp. 2710–17; and 9.2.1907, p. 2830.

complaint against his attackers, and that in the meantime, moreover, one of them had been promoted.<sup>942</sup> The Belgrade police, for its part, continued to confiscate anti-plotter journals. When in the summer of 1906 it entered and demolished the printing press of the paper *Za otadžbinu* [For the Fatherland], which belonged to the Society for a Lawful Solution of the Conspirators Issue, it sent a clear signal that the state was ready for a final showdown with those who questioned the plotters' status under the new regime.<sup>943</sup> In the autumn of the following year, the government was to offer new and convincing proof of this, of which more below.

The reasons that led the ruling Radicals to tolerate the plotters were not straightforward. On the one hand, they continued to equate opponents of the latter with opponents of the new order. From this point of view, the impregnability of the plotters was equivalent to the impregnability of their own power. This is why they stubbornly stuck to the position that 29 May had not been a crime, but a revolution. If 29 May was a crime – Pašić replied to those who insisted that it was – 'then all battles for freedom in the world would also be crimes.'<sup>944</sup> On the other hand, the officer plotters – enjoying a twofold protection by the king and by the Radicals – had meanwhile made themselves into an institution of the regime standing above the constitution and the law, along with that larger part of the army which backed them. A serious political force, they had become a clear threat to civilian rule as such, hence also and above all to the Radicals. Fearing that they themselves might be called into question, the latter tried to win the plotters' trust by tolerating their brutal abuse of their positions, in the hope that they might be contained in this way. Once they had returned to power, the Radicals once again began officially to deny that the 'conspirators issue' actually existed, or had ever existed, as a factor of the political regime. 'There is no conspirators issue in our country;

942 *Parliamentary proceedings*, 1910–1911, 17.3.1911, p. 32.

943 *Parliamentary proceedings*, 1906–1907, 25.10.1907, pp.918–28. See also *Parliamentary proceedings*, 1906–1907, 28.11. 1907, p.115.

944 *Parliamentary proceedings*, emergency session of 1906, 2.7.1906, p.399.



it exists only for those who wish to cause trouble,' Pašić declared firmly in November 1906. 'There never was one. You have invented it,' he added, addressing the opposition.<sup>945</sup>

The opposition insisted equally vigorously, however, that 'every woman and child in this country knows' of the existence of the conspirators issue, while believing that the method adopted by the Radical Party in the hope of remaining in power was destined to fail.<sup>946</sup> 'There is no force that can turn something that exists into something that does not exist' – Vojislav Marinković retorted to Pašić and Protić in November 1906. The essence of the conspirators issue, he said, lay in the question of 'whether the lawful government is the only authority in this country. And you all know very well – of this I am sure – that it is not the only power in Serbia today.'<sup>947</sup> 'Why do you pretend to be blind?', Pavle Marinković asked the Radicals immediately after their return to power. 'When their political bill arrives, they will drive you out... and declare that you are not competent to govern and are unable to bring law and order to the country,' warned Marinković, convinced that the Old Radicals' political calculation would sooner or later prove wrong.<sup>948</sup> One day, when the government finds itself forced to 'initiate a debate' about 'the praetorian issue,' it 'will be too late,' he stated in July of the following year; 'responsibility for this will be borne by those groups that could have done something in this regard, but did not.'<sup>949</sup>

#### i. **The case of interior minister Nastas Petrović**

That the conspirators issue existed and continued to burden the functioning of the country's institutions was dramatically highlighted by the case of the interpellations submitted simultaneously by the Independent, Liberal and Progressive parties on the occasion of the murder of two prisoners,

945 *Parliamentary proceedings*, 1906–1907, 11.11.1906, p. 989.

946 Josif Bojinović, a Liberal, *Parliamentary proceedings*, 1906–1907, 4.7.1907, p. 4847.

947 *Parliamentary proceedings*, 1906–1907, 11.11.1906, p.991.

948 *Parliamentary proceedings*, emergency session of 1906, 2.7.1906, p.397.

949 *Parliamentary proceedings*, 1906–1907, 4.7.1907, pp. 4845–7.

Milan and Maksim Novaković, committed inside their prison on 16 September 1907. Captain Milan Novaković, a well-known political opponent of the new regime, was gaoled nominally for ‘the theft of printing matrices’, but in reality as leader of the anti-plotter movement called Society for a Legal Solution of the Conspirators Issue, which the Pašić government banned in August 1906 soon after it came to power, as well as demolishing the Society’s print shop where its journal *Za otadžbinu* was printed. The murder was committed in the presence of interior minister Nastas Petrović, and – according to the testimony of Belgrade’s mayor – on Petrović’s personal orders.<sup>950</sup> The minister announced subsequently that the two Novakovićs had died in a gun duel, which the official investigation refuted.

Interpellations citing these facts were submitted in the name of their parties by the Independent deputies Dimitrije Ilidžanović and Kosta Timotijević, the Liberals Stojan Ribarac and his party colleagues, and the Progressive Vojislav Marinković. The Independent and Liberal parties interpellated prime minister Nikola Pašić, while the Progressive Party addressed its interpellation to the minister of the interior himself, Nastas Petrović. This last interpellation explicitly stated that what was involved here was a political murder preceded by a politically motivated arrest.

The interpellations were dated 1 October 1907, but were read out in the assembly only on 22 November. For the government availed itself of the right to postpone the assembly that constitutionally belonged to the king, and on the very day that it opened the new session postponed this by a fresh decree until 21 November.<sup>951</sup> On 23 November it responded to the interpellations, which had previously been amalgamated into one.

Pašić’s reply consisted of only a few sentences, which nevertheless made two important points. First, in his view a debate on this subject was outside the assembly’s competence and contradicted the principle of division of powers. In other words, according to Pašić the case should be left

950 See on this ‘Pitanje krivične odgovornosti ministra Nastasa Petrovića’, pp. 385–9.

951 *Parliamentary proceedings, 1907–1908*, pp. 1–15.

to the courts. Secondly, insofar as it was possible to talk of ministerial responsibility before the assembly – which in Pašić's view it was not – only the competent minister was responsible in this case, not the whole government. Having thus stated his position on ministerial responsibility, Pašić retired from further debate and scarcely attended subsequent assembly sessions until the conclusion of the debate on 10 December 1907. Other ministers followed his example, and the only government minister who for the most part did attend the sessions was interior minister Petrović. Apart from Pašić and Petrović, no other minister took part in the debate on these interpellations.

The opposition promptly rebutted both of Pašić's positions as incorrect. Indisputably, the speakers from the minority stressed, it was up to the court to judge the criminality of the act committed; but equally indisputable was the assembly's right to pass a 'political judgement' on acts committed by ministers in pursuit of their duty. In this case, the deputies of the opposition argued, it was sufficient that the murder had taken place in prison, that the minister of the interior had been present on that occasion, and that there was evidence that he had personally ordered the murder to be committed. In addition to these reasons, Pavle Marinković gave another that, in his view, was in itself sufficient for the assembly to raise the question of the whole government's political responsibility. This was the fact that, as Marinković stressed, 'the entire European press, which has grown accustomed to treat Serbia as a land of scandals,' was writing about what had happened in the prison. This clear political 'damage' to Serbia might have been minimised, had the interior minister been promptly removed. Petrović's continued presence in the government indicated its solidarity with him, argued Marinković, and made the whole government responsible for the political damage that the murder had inflicted upon Serbia.

What gave this case an explicitly political dimension was the circumstance, already stressed by Marinković in his interpellation, that the opposition ranks harboured the conviction that Novaković's murder had been politically motivated. As the debate on the interpellation had

demonstrated, this conviction was unanimous and unshakable. In Serbia, said Dragutin Pečić, 'political opponents of the government, imprisoned in a police station, are shot and killed in the presence of the interior minister himself'. And he concluded: 'We must ... mount a defence, because our lives are at stake.' 'This is a dynastic murder', exclaimed Lapčević, while Vojislav Marinković declared that Milan Novaković had died because 'he was someone's political opponent', because 'the Serbian royal government wished it'. It was a case of a 'political murder', arranged by a minister and backed by the whole government, said the head of the Independents, Ljuba Stojanović, adding: 'What is left of 29 May? The people will soon ask why 29 May ever took place.'<sup>952</sup> The opposition's sense of despair is perhaps best illustrated by the rhetorical question posed on this occasion by Stojan Ribarac: 'Must every regime be true to its origins and ... maintain itself by the same measures that gave it birth?'<sup>953</sup>

The governmental majority, for its part, practically took no part in the debate about the minister, or his role in the incident, being committed like the government to the view that it was a matter for the courts. But while it did not defend Petrović directly, it did so indirectly when speaking about the victims of the prison murder. The manner in which it did this made the opposition's charge about the political character of the murder only the more convincing. For the Radicals argued that the murdered captain was 'a regular opponent of the existing order', who had previously been condemned as a counter-plotter and known for 'starting a journal for a legal solution of the conspirators issue'. 'Even a small group, if acting in a planned way ... can disturb order in the country', warned the deputy Ilija Ilić. Minister Petrović himself insisted that he was in possession of evidence showing that Milan Novaković had been preparing a coup in Serbia.

All in all, the fact that the prison murder had a political background was scarcely contested, any more than was the opposition's argument that

952 *Parliamentary proceedings*, 1907–1908, 19.12.1907, p.115; and 15.1.1908, pp. 273–5.

953 *Parliamentary proceedings*, 1907–1908, 19.12.1907, p.110.

'this is a matter *par excellence* for the assembly'. That would be the case, Voja Marinković rightly argued, even if a court were to find the minister not legally responsible for the act of murder. Moreover, he continued, 'there are few such examples as this, where the law has been so comprehensively violated that even a court might punish the guilty men.' It was quite inexplicable, therefore, why the government should be of the opinion that this case did not warrant a debate on the minister's political responsibility. And not just Petrović's responsibility, Marinković added, but also that of the government as a whole. 'In any other country', noted the Liberal deputy Mihailo Đorđević, 'such a cabinet would not survive such an event.'

Despite the fact that the political character of the murders was not denied in the assembly, the latter decided in response to the interpellation to 'leave it to the courts to establish the responsibility, if any, of the administrative organs', simply to pass on to the day's order of business, and to leave all ministers, including the minister of the interior, in their posts.<sup>954</sup> The judicial investigation, on the other hand, was to find Nastas Petrović guilty of murder, which in 1910–11 would lead to the issue of his legal responsibility being once again placed on the assembly's agenda – of which more later.

The case of this interpellation presented in a sharp form the attitude of the Pašić government to the principle of ministerial responsibility. First and foremost, the reduction of this principle to the majority principle was taken to absurdity. The government and its majority remained indifferent to the charges coming from the opposition, however serious and well-founded these were, which rendered the interpellation meaningless as an instrument of control by the assembly. The murder of a prominent political opponent of the regime in the presence of the minister of the interior, who came under suspicion of being criminally responsible for the act, was for the government not a sufficient reason to resign or even to remove the suspected minister. The prime minister took the view, moreover, that it was not necessary even to discuss the minister's responsibility in

954 *Parliamentary proceedings, 1907–1908, 22.11–10.12.1907, pp. 36–321.*

this case. The majority itself remained perfectly disciplined – as if in a state of ‘hypnosis’, according to the opposition, in which, ‘craving for power’, ‘it saw nothing, thought nothing...’, as the Independent Sima Zlatičanin, put it. ‘Every minister knows that the assembly will approve whatever he does’, said Pavle Marinković. ‘This renders the assembly superfluous... deputies may as well remain at home while the government writes letters asking them whether they approve one of its actions or not.’ ‘If you, the assembly, abdicate your power,’ Marinković warned, ‘then whenever someone feels like kicking us out people will say: “well, we don’t know why they’ve been sitting there, since they neither did anything, or could do anything or dared do anything.”’<sup>955</sup>

The debate on this interpellation highlighted yet one more feature of ministerial responsibility, characteristic not just of that government, or indeed just of Old Radical governments. It was that the principle of collective ministerial responsibility was still in its infancy. The government did indeed manage to avoid the fall of one of its ministers; but its leader had made it very clear beforehand that if the minister’s responsibility were established it could be only personal: the responsibility of the relevant minister, not of the whole government. The government had no desire to sacrifice the minister; but at the same time it showed its readiness – both explicitly and by not participating in his defence – to abandon him if necessary, despite the fact that one of the most important departments of state was involved: the ministry of internal affairs.

What invested this whole case with special importance, however, was the fact that the downgrading of ministerial responsibility as a fundamental principle of parliamentary government was *de facto* – whether willingly or unwillingly – related to defence of those political actors who, standing outside the legal institutions of power, threatened the very constitutional order. With the murder of the incarcerated Milan Novaković and the vote of confidence in the interior minister suspected of the crime,

955 *Parliamentary proceedings*, 1907–1908, 5.12.1907, pp. 254–5, and 30.1.1907, p. 573.

appeasement by the government and its majority of the plotters and the army standing behind them reached a high point, indeed acquired the character of open complicity. As Vojislav Marinković said, it was ironic that the very people who 'were the first to raise the alarm against irresponsible factors' should be induced to protect the plotters' untouchable status even at the price of a state crime.

#### ii. **The case of defence minister Radimir Putnik**

The very fact that Pašić had to appoint as his defence minister Radimir Putnik, a general close to the plotters, was highlighted by the opposition as evidence of the conspirators' political power despite the retirement of the five officers. In the assembly, the minority benches also identified Putnik as the main source of the army's influence on affairs of state. This influence was in no way diminished by the retirement of the five officers, and was personified by 'Mr Defence Minister himself', noted Živojin Rafailović in July 1907. Minister Putnik 'was doing just what Mašin or Damjan Popović would have done', which is why he should resign his post, said Rafailović, referring to the terror against deputies who raised the conspirators issue, as well as to the fact that the minister kept silent about it.<sup>956</sup>

But just as Putnik's appointment to the post of defence minister was in itself proof of the plotters' power, so too his position in the government – and with regard to the assembly majority – showed that relations between the ruling party and the conspirators was neither unambiguous nor settled. There was no harmony between the army minister on the one hand and the Radical ministers on the other; and the latter displayed more or less clearly their lack of enthusiasm for having Putnik in the government with them. This became evident in December 1907, during the discussion on an interpellation aimed at removing Putnik from his post as defence minister.

956 In his attack on Putnik, Rafailović referred also to the plotters' complete domination of the army. He quoted among other things the fact that one of the plotters, Leonida Solarević, was even appointed director of the most important military school, the Military Academy. *Parliamentary proceedings, 1906–1907*, 4.7.1907, pp. 4844–5.

Charged with illegal promotions within the army, in an interpellation submitted by Jaša Prodanović and Dragoljub Marksimović, Minister Putnik declared he would accept only a simple return to the order of business.<sup>957</sup> The assembly majority refused to propose a simple return to the order of business, however, so Putnik decided to do it himself. Prodanović at once registered, quite rightly, that Putnik's proposal was not just politically 'unacceptable', but also legally invalid, since proposals for returning to the order of business could be made only by a deputy, which Putnik was not (nor as an officer could be). After a relatively brief debate, the assembly accepted his view.<sup>958</sup>

So it remained only to vote on a proposal by the opposition for a motivated return to the order of business, but which contained the charge against the minister. The proposal was rejected, but the following question was then posed: should this be taken as a sign that a decision on the interpellation had been made, thus removing it from the order of business? And if so, what was the assembly's decision on the question of confidence in the minister? The opposition referred to Art. 90 of the standing orders, which allowed the assembly to decide on each interpellation; as well as to Art. 91, which prescribed that the decision whereby the debate on an interpellation was concluded and the order of business resumed might be either simple or motivated (explained). From these rules it drew the conclusion that the fact that a simple return to the order of business had not been adopted meant either that the minister had been denied confidence, or that the interpellation was still on the order of business, but certainly not that the minister had won a vote of confidence. This view was expressed most clearly by Lapčević and Pečić. The majority, however, with Nastas Petrović and Nikola Uzunović the main speakers on its behalf, took the view that by rejecting the only proposal submitted to it the assembly

957 Article 93 of standing orders gave the government the right to decide which proposal for returning to the order of business it would accept as a sufficient expression of the assembly's confidence in it.

958 See on this S. Jovanović, who believes that Prodanović was right. 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, no.10, 1911, pp. 139–40.



by that very fact had taken a decision to reject the proposal that the minister be charged. Slobodan Jovanović too, in his *Parlamentarna hronika*, judged this majority position – which the assembly adopted – to be correct. According to Jovanović, the assembly could decide only on proposals that were submitted to it, i.e. only on such returns to the order of business as had been proposed; at the same time, no one could oblige it to propose anything, not even a simple return to the order of business.<sup>959</sup> This purely logical deduction was irrefutable; it merely illustrates the imprecision, and even the illogical nature, of the legal text regulating this question. New standing orders adopted in 1911 removed this omission, with legislators doubtless mindful of the experience of the debate that had taken place on this interpellation.<sup>960</sup>

However, even though the assembly majority's position in the dispute over the interpretation of standing orders was doubtlessly correct, this does not necessarily mean that the opposition was wrong to believe that the result of the interpellation brought into question the assembly's continued confidence in Radomir Putnik. Given that no one from the majority other than the minister himself (who had no right to do so) found it necessary to propose a simple return to the order of business, reasoned Joksimović, this could mean only that the majority did not agree with the minister. Putnik should 'draw conclusions from the vote, get up from this place at once and go home', he ended. All the more so, added Prodanović, in that the motivated proposal had explicitly accused the minister, who had responded by stressing that he would accept as an expression of confidence only a simple return to the order of business. Respect for parliamentary procedure in a case of this nature, argued Prodanović, would suggest that the minister should not accept a simple return to the order of business, but only a motivated one explicitly approving his conduct.

959 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, no.10, 1911, p.141.

960 Article 91 was amended to include explicitly the possibility that no return to the order of business might be proposed.

Pašić rejected such objections – voiced several times during the debate and implying a belief that the majority did not really wish to defend the interpellated minister – with a formal argument: ‘Whether the minister does or does not enjoy confidence is not up to you, but up to the majority, and there is no need to discuss it.’ This was undoubtedly true, but also insufficient to remove all doubt in the actual solidarity with the defence minister of the government and its majority, or even the impression that the government was not making much effort to hide its reservations towards Putnik. It was obvious that the majority did not wish to propose a simple return to the order of business, which in the given circumstances – politically speaking – was the only way for the assembly to express its support. Joskimović thus concluded that ‘we no longer have a defence minister’, and with this explanation the opposition left the assembly – at the very moment when, this interpellation having been taken off the agenda, another was to be debated: this time precisely Joskimović’s interpellation addressed to the minister of defence.<sup>961</sup>

This whole affair left a strong impression that there was a division within the government, between the minister of defence on the one hand and all other ministers on the other, and that only the latter had the support of the assembly majority. When Pašić came to reconstruct his government on the eve of the assembly’s dissolution, in March 1908, he would take the opportunity to get rid of Putnik;<sup>962</sup> but conflicts with the defence minister would continue. The interpellation addressed to Radomir Putnik in fact represented only the first of many attempts by the Serbian parliament to bring down a minister of defence – attempts which, with varying degrees of success, in the following period became an important part of Serbian parliamentary practice. This attempt at the end of 1907 failed because the government, though evidently not in sympathy with the defence minister, was at that moment unwilling to escalate the conflict. Later, after

961 *Parliamentary proceedings*, 1907–1908, 20.12.1907, pp. 196–207.

962 D. Đorđević, *Carinski rat*, p. 459. Putnik subsequently became defence minister only once – and briefly – between May and September 1912.

1908, when the conflict between the government and the army was to acquire more serious political dimensions, parliament would fare better in its struggle against the defence minister. The assembly's control over the work of the government indeed reached its highest point precisely in relation to the minister of defence.

Linking the problem of the army's influence in politics with the minister of defence naturally posed the question of how appropriate the practice was of choosing active army officers for the post. There were no barriers to this from a formal point of view, given that the constitution did not prescribe that ministers had to be drawn from the parliamentary benches. Nor was this practice in itself unparliamentary – provided, of course, that the defence minister like all others advocated within the government the policy of the assembly majority. However, given the fact that after 1903 the army evidently harboured political ambitions of its own, the presence of its representative in the government precluded the cabinet's political unity, thus challenging the fundamental principle of responsible government: the principle of collective ministerial responsibility. This is why the question of whether the minister of defence should be an active army officer really was of vital importance for Serbian parliamentarism.

This question was raised as early as the 1906 emergency session of the assembly by the Progressive deputy Pavle Marinković. He declared that the army should no longer enjoy 'the privilege that the defence minister must be a soldier, who does not understand politics and who is not brought up to respect our laws and constitution'; who 'knows as much about our parliamentary affairs as I do about balloon gymnastics'. He 'should be as responsible politically and civilly as any other minister'.<sup>963</sup> At the end of 1907, the Independent *Dnevni list* commented: 'our public is beginning to discuss more seriously about a civilian being defence minister'. Arguing that this was in accord with parliamentarism, *Dnevni list* expressed

963 *Parliamentary proceedings*, emergency session of 1906, 22.7.1906, pp. 394–7.

the belief that 'the time has come to discuss and settle this issue too.'<sup>964</sup> At the start of 1908, Dragoljub Joksimović – continuing his battle of many months against the current minister of defence Putnik – also presented this Independent Party position in the assembly. Asserting that the ministry of defence should henceforth go to a civilian, Joksimović accepted that he might even be Protić, 'just not a soldier.'<sup>965</sup>

Although individual members of the opposition would subsequently on occasion raise this issue, arguing that it was in the nature of the officer profession to follow the orders of their supreme commander rather than what was agreed in government and in accordance with the will of the assembly,<sup>966</sup> Serbian parliamentary practice never departed from the rule that the defence minister should be appointed from the ranks of active officers.<sup>967</sup> When in February 1914 Milorad Drašković asserted that in the latest crisis involving the ministry of defence – that of 1913–14 – Pašić's government had shown a 'desire' that 'the minister should no longer be a soldier', Pašić replied: 'It isn't true that the government wished for a civilian, as Drašković claims. If it had wanted that, it would have found ways of doing it. On the contrary, the government has always assumed that it's very good for the army to have a professional filling the post of defence minister.'<sup>968</sup> Pašić's reply was doubtless intended not just to present his position on the controversial issue of having army officers as ministers, but also to reject as unjustified any doubt as to the superiority of the government's political position with respect to that of the army – something that had already been seriously called into question.

964 *Dnevni list*, 8.11.1907.

965 *Parliamentary proceedings*, 1907–1908, 18.1.1908, p. 379.

966 T. Kaclerović, *Parliamentary proceedings*, 1910–1911, 5.5.1911, p.6.

967 Exceptionally, Ljuba Stojanović acted as deputy defence minister between 1 and 11 October 1909, because the minister, General Živković, had suffered a stroke. D. Đorđević, *Četvorna koalicija*, p.228.

968 *Parliamentary proceedings*, 1913–1914, 14.2.1914, pp. 831, 833.

## C. STATUS OF THE KING

### i. The minority's perception of an active monarch as guardian against tyranny of the majority – the question of 'caretaker government'

For the opposition benches, practical experience of the Radical concept of parliamentary government wholly compromised the idea that party rule was the only possible parliamentary form. Under conditions where constitutionality and legality were violated and minority rights disregarded – the opposition argued – the Radical Party theory of a homogeneous government, a disciplined assembly and a duty on the king's part not to use his constitutional prerogatives could not be sustained. In Serbia, the very premises of the parliamentary regime were under threat, among which the opposition placed free elections first. When 'one of the most important bases of parliamentary life' had been subverted in this way, argued Jaša Prodanović, 'parliamentarism becomes nothing but a comedy and a joke.'<sup>969</sup> 'The unfree elections of June 1906', said Ljuba Stojanović, were 'the first and initial cause of the situation in which our country finds itself.'<sup>970</sup> Because of them the country had neither a legitimate government nor a legitimate assembly. The way out lay in dissolution of the assembly and new elections; but these should be organised not by the current majority government, since it could not guarantee that they would be free, but by a special caretaker government formed independently of the assembly majority.

This conviction, which other minority parties shared with the Independents, implied intervention by the crown, which ran directly contrary to the ruling party's view that a passive king was a precondition for parliamentary rule. During the period of Pašić's government, accordingly, the question of a dualist or a monist concept of ministerial responsibility was once again placed on the agenda. As before, in 1905, it took the

969 *Parliamentary proceedings*, 1906–1907, 13.3.1907, p.3494.

970 Lj. Stojanović, *Parliamentary proceedings*, 1907–1908, 24.3.1908, p.580.

form of the question: for or against caretaker governments. The key issue of the parliamentary regime – the role of the crown within it – was therefore closely linked to existing political relations, but in a specific way: not as an expression of the relationship between king and parliament, which after 1906 had been resolved in favour of the latter, but as a result of the unstable relationship between the majority and the minority. As noted by Slobodan Jovanović, the basis of the conflict over an active monarch was provided by another, ‘prior question’ of the parliamentary regime: ‘whether and to what extent free elections are possible in our country.’ ‘For parliamentarism,’ Jovanović argued, ‘assumes a weak police and a strong public opinion, whereas in our country it has in fact been the other way round.’ So the question of which party will conduct elections – a question not posed in parliamentary states in which ‘police pressure on voters is unknown’ – has in our day represented a basic issue of parliamentary practice in Serbia.<sup>971</sup> Although the Radicals interpreted it as a question of the crown’s freedom in a parliamentary state actively to participate in the composition of the government, it was in reality a question of electoral freedom, and of understanding the relationship between majority and minority; this alone explains the extraordinary exclusivism and intolerance with which the dispute over the issue of caretaker governments was conducted in this period.

The chief critic of caretaker government was Stojan Protić, who after a brief excursion into the ranks of the opposition – during which he accepted the theory of an active king – had returned to his ultra-monist concept of parliamentary government. Defence of the idea of caretaker government, on the other hand, was once again assumed by the Independents, as represented by Jaša Prodanović, increasingly prominent as the party’s chief theoretician. In his conflict with Protić’s proverbial dogmatism, he was to display his exceptional polemical spirit and often all too brisk temperament. Between these two party theoreticians, an intolerance was to develop that would come to match the great intolerance between the two parties.

971 S. Jovanović, *Perić o vladalačkoj vlasti*, p.8.

Responding to the demand of the opposition that the king should dissolve the majority government and form a caretaker one independent of the assembly majority, Protić took up the position that 'the minority ... is demanding rights that minorities nowhere have. It has even come up with a speciality that mark it out as original: it wants and demands caretaker governments!' According to Protić, however, the latter were 'merely a cover for unconstitutional and unparliamentary tendencies'; 'a cover to hide strivings directed against the majority': in other words, a 'manoeuvre' that 'would permit those without a majority to participate in the government of the country'. A caretaker government as such was not only unparliamentary, but also a 'nonsense', declared Protić, reiterating the arguments he had made on the occasion of the Independents coming to power in 1905. That was because it conducted elections 'mindlessly, without any programme'. A caretaker government 'put together from all groups in the assembly', as demanded by the opposition, was 'a further nonsense'.

Therefore, Protić concluded, 'even when the majority and the government of the majority err, it is not in the interest of the throne to side with the minority... Both the authority and the prestige of the throne are best safeguarded when the majority governs.' For when the monarch 'leaves the side of the majority, when he comes into conflict with it, he takes a step pregnant with risks, sheds the veil protecting his irresponsibility'. A 'constitutional monarch' was bound to 'follow' the government so long as it had a majority, 'limiting himself to moral influence and the power of persuasion': such was Protić's response to the opposition demand that the king should deny the majority his continued confidence. Only a 'natural succession of parties benefits both country and ruler. Any artificial, impatient and premature curbing of the majority harms country and monarch alike', he declared, referring as ever to British parliamentary practice, and to scientific authority which he quoted selectively. 'It may be posited as a general rule', said Protić quoting Sidney Low, 'accepted by most students of electoral psychology, that at general elections a governing party's prospects are always uncertain'; and that, moreover, 'if it has been in power

for four or five years, it will do badly in the elections, however well it may have performed'. Repeating that in Serbia 'the extent of the state's political influence on elections ... has been reduced to a minimum, if not actually fully removed by law'; that it was 'in any case smaller than was true of any other state in Europe, with the sole exception of England'; Protić ignored the opposition's assertion that the current government, despite its formal majority, was illegitimate – precisely because of its violation of the law and the constitution in practice.<sup>972</sup>

The opposition viewed Protić's dismissal of caretaker government by reference to British parliamentarism, and his whole advocacy of British parliamentary customs being strictly followed in Serbia, as inappropriate, indeed cynical; it would be no exaggeration to say that Ljuba Stojanović was expressing the unanimous mood of the opposition when he called it 'mocking the whole nation.'<sup>973</sup> Prodanović criticised Protić's advocacy of British parliamentarism for Serbia in the following manner. For Protić, he argued, 'the government can do everything and the monarch nothing'. 'Let the constitution and the laws, human lives and the good of the state all go to the devil, provided that everything is to the last ounce parliamentary in the English way!'<sup>974</sup>

In defending the idea of a caretaker government, Prodanović elaborated a conception of parliamentary government the basic ideas of which he had already expressed on the occasion of the change of government in 1905. It differed greatly from Protić's conception of parliamentarism. For Prodanović, the British model was not the sole criterion of the regime's parliamentarism, nor did its basic value – any more than that of parliamentarism in general – lie in this or that relationship between king, government and parliament. In lay rather in the effective protection of legality, and personal and political freedoms, on the one hand; on the other,

972 *Odlomci*, pp. 43, 45–6, 50–54, 62.

973 Ljuba Stojanović, *Parliamentary proceedings, 1907–1908*, 23.1.1908, p. 458.

974 *Odjek*, no.124 and 125, 30 and 31.5.1908.



in the guarantee of a truly representative system of government and the principle of majority rule. It was in accordance with this that he interpreted the role of the parliamentary monarch. The latter's passivity was justified and even desirable in principle, but only under certain conditions; i.e. only if the aforementioned values were uncontested. If they had been called into question in a given country, however, then the monarch's duty was to protect them by use of his constitutional prerogatives. It was quite irrelevant whether in such a case the government owed its existence to the confidence of the monarch rather than to that of an assembly majority, Prodanović argued, since if the conditions for a true majority government were secured in this way, then the essence of a parliamentary regime too would be realised. 'It is far more important to secure that which is the essence of parliamentarism in all nations than its particular form in one or two states, and which continues to be questioned even in England.' Prodanović thus defined the concept and essence of parliamentarism in much broader terms than did Protić: in addition to purely institutional criteria, Prodanović in his own definition included also extra-institutional elements – ones that strictly speaking belong more to the premises of parliamentary rule. He did not consider it sufficient that a government be formed from an assembly majority, but demanded also that the government be freely elected; and secondly that both the majority and the government it supported should honour the constitution and laws, and respect the rights of the minority.

In defending this view, however, Prodanović in his further elaboration departed from this broad, legal-political definition of parliamentarism, and arrived unintentionally at a point where he too separated the concept of parliamentary government in its narrower, formal sense from its legal-political premises: in other words, from the view that considers such premises to be constitutive elements of the definition of parliamentarism. For he had to tackle the further question: in the event that a majority government refuses to meet conditions without which, in his view, it could not be seen as parliamentary, what then is the role of the crown?

Prodanović's response to this question showed that, in regard to the crown's role, he went further than he had done a few years earlier, when he was defending his party's arrival in power. He now acknowledged its right to protect the premises of parliamentary government – above all, constitutionality and legality – even at the price of violating the parliamentary form. Rather than 'subtle parliamentary forms', wrote Prodanović in 1908, the monarch 'has to protect the basis of the legal order and the foundations of constitutionality and legality', thus underlining a difference between constitutionality and parliamentarism that Protić did not acknowledge, and explicitly favouring the latter over the former. Was it a greater sin, he asked rhetorically, to dismiss a majority government and violate parliamentary conventions 'questioned also in England itself', or to 'allow a government to trample on the laws and constitution, murder people, and devastate the property of the state.' Protić was 'incapable of differentiating between what is essential and what secondary', Prodanović argued, which was why he 'did not understand the meaning of the English parliamentary conventions'. Parliamentary conventions could exist, he went on, 'only in countries wherein protection of the laws and constitution, and respect for civic freedoms, had already been secured.' But in countries 'in which the very legal system has not yet been properly secured, it is comical to speak of parliamentary conventions.' 'The king in England is passive, not because this is supposedly necessary in a parliamentary monarchy', but because he has no one 'to protect'; because 'over a great many years, the people has acquired the ability to defend its freedom, and governments have grown accustomed to respect this.' There was no cause there for the monarch to intervene. 'This does not mean, however, that he does not possess such rights.' 'Parliamentarism without a functioning constitutionalism' was 'like a naked man wearing gloves to preserve decency', concluded Prodanović, defending his party's position on the need for an active monarch in Serbia.<sup>975</sup> He thus defended the king's right to use his constitutional privileges, no longer solely on the grounds that the parlia-

975 *Odjek*, no.123, 29.5.1908; 124, 30.5.1908; 125, 31.5.1908; 131, 9.6.1908.

mentary type of government permitted this, but also because he believed that it was the king's duty to protect the premises of parliamentary government, irrespective of whether this might violate parliamentary forms.

In view of this line of argument, Prodanović's defence of caretaker government was interpreted in political circles – whether critically or with approval – as opting in principle for an active monarch, and not a parliamentary monarch but a constitutional one in the sense in which Živojin Perić understood the constitutional ruler.

The Independent Party had the same position as *Nedeljni pregled* in regard to the role of the crown in Serbia, according to the Socialist Triša Kaclerović's criticism of the writing of *Odjek*. According to that party, he explained, the monarch had the right to decide 'the quality of the parliamentary majority'. 'In all parliamentary conflicts, *Odjek* always drags in the king... The King! With what relish *Odjek* pronounces that word!', Kaclerović caustically noted.<sup>976</sup>

As for *Nedeljni pregled*, it concurred with Kaclerović's interpretation of *Odjek*'s stance. For the conservative journal judged that stance to be 'correct', and was happy to note that the Independent Party had finally adopted the theory that the monarch was obliged to remove the majority from power, 'if the latter acted against the interests of the country, even if it broke no law in doing so.'<sup>977</sup>

The weightiest critique of the view arguing that it was the king's duty to protect the country from violation of the basic values of the constitutional state on the majority's part came from the Radicals. It judged the demand for a caretaker government to be not just incorrect from the standpoint of the principle of parliamentary government, but also a 'coup d'état' (Nastas Petrović); 'reactionary' (Pašić); and 'an echo of the personal regime' (Protić).<sup>978</sup> Such declarations, wrote Protić, 'mean and can only mean hid-

976 *Parliamentary proceedings*, emergency session of 1908, 18.7.1908, p. 398.

977 *Nedeljni pregled*, no.8, 1908, p. 133.

978 *Parliamentary proceedings*, 1906–1907, 21.11.1906, p. 1230, and 1907–1908, 24.3.1908, p.583; *Odlomci*, p.48.

den absolutism'. The Independents' advice to the king 'leads directly to conflict between the monarch and the assembly majority, and indirectly to absolutism, to personal rule.'<sup>979</sup>

In response to Kaclerović's critique, Prodanović did not find it necessary to deny that there were certain similarities between his views and those of the Conservatives, when it came to the role of the king. 'I do not in any sense feel ashamed of the views I have published', Prodanović insisted. Different parties might agree on certain issues, he explained: just as the Socialists agreed with the Liberals on universal suffrage, the Independents – albeit a party of radical democracy – agreed with the Conservatives that the king had to do his constitutional duty. 'Gone is the old Jacobin view that the national assembly has the right to do what it wants, while the monarch and the people do not have that right.' Such a view leads to 'the despotism of one group'. One must bear in mind, Prodanović pointed out, that an American president exercises his right of veto.<sup>980</sup>

Nor did Prodanović spare the Radicals, of course, for whom he always reserved his greatest ferocity. To Protić's charge that the Independents were asking the king to fight against the assembly majority, he responded by recalling the time when he, Protić, had done the same from the opposition benches. If Protić thought that he could consign to oblivion the articles he wrote in the spring of 1906, by means of the numerous subsequent – and indeed previous – articles and speeches in which he wholeheartedly sought to prove that a parliamentary monarch should remain outside political battles, Prodanović did all he could to make this impossible. Regarding the comparison with 'Mr Perić's views in *Nedeljni pregled*' – he replied to Protić, who had likewise compared the positions of *Odjek* with that of Perić<sup>981</sup> – such views had precisely been shared by the Radicals, in whose name Protić in the spring of 1906 had defended with the greatest conviction in *Samouprava* the king's right to use his constitutional pre-

979 *Odlomci*, pp. 48–9.

980 *Parliamentary proceedings*, emergency session of 1908, 18.7.1908, p. 401.

981 *Odlomci*, pp. 47–8.

rogatives to the full against the Independent majority. In order to remind the public as effectively as possible of Protić's 'two-theorism', Prodanović quoted at great length in *Odjek* at the start of June 1908 what Protić had written in the spring of 1906 about the monarch's role, and which in terms of defending the crown's rights did indeed resemble Perić's ideas far more than any of the other views expressed at that time in favour of an active role for the king.<sup>982</sup>

Taking 'true constitutionalism' – by which they meant respect for personal and political rights and the rights of the minority – as the primary value, and emphasizing the responsibility borne by the king as a constitutional factor of government for implementing this, the Independents did undoubtedly advocate the crown's constitutional prerogatives – or rather, their use – becoming an integral part of constitutional practice. Defending caretaker government, they broadened the king's role to include protection of 'the constitution and morality', which meant opening the path to free use of the monarch's prerogatives, hence also to calling the parliamentary principle into question. It should be stressed, however, that Prodanović – like Stojanović, whose views have already been discussed – never questioned the value of parliamentarism as such, but on the contrary saw parliamentary government as representing a higher level in evolution of the representative system of government. For Prodanović did not lose sight of the limit on free use of the royal prerogatives, a limit that for him was always defined by protection of the premises of *parliamentary* government – foremost among which was electoral freedom.

The view adopted by the Independents was during the period of Pašić's government shared by the Liberals, with the difference that – unlike the Independents – they did not develop a position of principle from their defence of an active monarch in political practice. Former radical advocates of non-interference by the king in affairs between the assembly and the government, they now talked about the king's duty to oppose a majority government that was endangering the foundations of the constitutional

982 *Odjek*, no.128, 5.6.1908; and 129, 6.6.1908.

state. The Liberal leader, Voja Veljković, who after the coup had been the first to demand that the assembly should distance itself from all those advocating the thesis of an active monarch, was also the first to invite the king in November 1906 to be 'the guardian of constitution and morality'. This, according to the Radical attack on him, was an invitation to a 'coup d'état'. If the king need not do even that, retorted Veljković, then 'what are his functions, why should the king exist?'<sup>983</sup>

The Progressives, though as trenchant as the other minority parties in their critique of the Radical government, for their part abstained from making any declarations in support of political engagement by the crown. This was probably due to the fact that the party leadership did not have a common position on the issue. Novaković – albeit far less explicitly than Perić<sup>984</sup> – favoured the idea of an active monarch, while Vojislav and Pavle Marinković, to judge by their parliamentary performances, were to say the least reserved towards an active role for the crown. Since the Progressive Party regarded it as very important to be principled in practical politics, by keeping out of the debate it avoided any possible risk of incoherence and inconsistency.

The only party that, in its struggle against the ruling Radicals, clearly distanced itself from the theory that the king was called upon to preserve political liberties and the principle of legality were the Socialists. Their party never for one moment counterposed an active crown to a majority government; but at the same time it interpreted the latter more in accordance with an assembly system of power than a parliamentary one. The government, Triša Kaclerović was to say on a later occasion, was only 'the executive organ of the national assembly, i.e. of the parliamentary majority'. The assembly was 'the centre around which everything rotates, it is the master in the state, it governs in fact ... and penetrates even the

983 *Parliamentary proceedings*, 1906–1907, 21.11.1906, p.1230.

984 Perić found a remedy against an excessively strong assembly in a strong monarch, and Novaković primarily in the establishment of a second chamber. D. Popović, *Novakovićevo pismo Periću*, p. 607.

executive.’<sup>985</sup> The assembly should not be the government’s ‘blind servant’, Lapčević would reply to Ninčić, who was insisting that the assembly should ‘blindly’ obey the government; on the contrary, the government should be ‘the instrument, the organ, the executive committee of the national assembly.’<sup>986</sup>

Any serious consideration of the view of the king’s role in the system of power defended by the Independents and the Liberals during the time of Pašić’s homogeneous government of 1906–8 must take into account also the manner in which their leaders addressed the king when asking him to use his constitutional prerogatives against the majority. If the king ‘rejects free elections’, Voja Veljković stated on his party’s behalf in March 1908, ‘then from that moment he ceases in our eyes to be the king of all Serbs and becomes the king of one party only. We shall then conduct ourselves accordingly.’<sup>987</sup> This was not merely an invitation to the king to enter the parliamentary game, but also a clear threat to the crown by a party some of whose members were even calling for a revolution.<sup>988</sup> The Independent Party had a practically identical position. The king finds himself in a situation in which he can choose either to protect the constitution or to ‘support the government’s destructive activity’, wrote Jaša Prodanović in *Odjek*. ‘It is difficult to believe that he does not understand this.’ ‘The king of Serbia has been given the opportunity to prove that he is not the king of one party alone’, wrote Prodanović, repeating practically verbatim the words that Veljković had delivered in the assembly a few days earlier. ‘His current passive attitude towards the government’s misdeeds will be forgotten, if he secures the people free elections.’<sup>989</sup> But if the monarch fails to do his duty to ‘return the government to the bounds of the constitution, law and public morality ... then he is encouraging civil war and revolutions.’<sup>990</sup>

985 *Parliamentary proceedings*, 1912–1913, 8.4.1913, p. 267.

986 *Parliamentary proceedings*, 1913–1914, 25.2. 1914, pp. 1015, 1032.

987 *Parliamentary proceedings*, 1907–1908, 24.3.1908, p. 581.

988 See, for example, p.293 above and pp.492–3.

989 *Odjek*, no.76, 28.3.1908.

990 *Odjek*, no.125, 31.5.1908.

These and similar declarations could hardly be qualified as ‘reactionary’ – in other words, as an invitation to ‘personal rule’ – as the Radicals would have it. In making these charges, the Radical Party leaders had lost sight of the fact that the opposition’s appeal to the king to use his constitutional prerogatives against the majority contained also a demand for protection of constitutionality, legality, and above all the representative system. They had lost sight of the fact that in this case the notion of an active monarch implied not freedom to decide on his own how to use his prerogatives, but a duty to use them precisely in order to protect the basic premises of parliamentary democracy. Finally they had lost sight of the fact that the invitation issued by the opposition to act against the ruling majority took the form of a warning – or rather a threat – that his royal rule would be called into question, if he failed to act in accordance with what they saw as his duty. Hence, the charges of ‘hidden absolutism’ issued by the Radicals in response can be understood only as an expression of impotence before the passion and unity of the opposition, which seriously threatened their power. In actual reality, however, these were signs of the articulation of a new concept of the active monarch, the authors of which seriously inclined to republicanism and consequently saw the king as a head of state with prerogatives that had a practical rather than a symbolic value and purpose, who accordingly had a matching responsibility: a responsibility befitting a head of state whose rule depended solely on the people’s sovereign will.

**ii. The majority’s response: an attempt to neutralise the king by recourse to unconstitutional means – the case of Crown Prince George’s ‘appanage’**

Accusing the opposition of wishing to involve the king in the political game in order to bring down the governing majority, Protić stated in the spring of 1908: ‘One thing is clear: being unsure in its own strength, the opposition is trying to win external support against the majority and the



government, and is vesting its hopes in that support.’<sup>991</sup> This remark, whose accuracy could not be disputed, might have been addressed equally well, however, to the Radical Party, i.e. to its majority and its government. It is true that the Radicals, unlike the Independents, did not openly seek the crown’s support, and that they insisted, moreover, that it was the king’s duty to remain politically neutral. However, they never ceased trying to bind the king to themselves in order to consolidate their party’s power. Recoiling from his actual political role, they chose a devious but also an illegal path: unconstitutional monetary gratification of the king in return for his political passivity.

In the draft budget for 1908, the government included a sum of money to be granted to the king ‘in respect of the crown prince’s appanage’ and ‘the maintenance of members of the royal household’. This was in actual fact an increase in the king’s civil list, which according to the constitution (Art. 66), however, could not be made through the budget, but needed a separate law.<sup>992</sup> That this was unconstitutional was quite clear, and the government found it difficult to argue the opposite.<sup>993</sup> It largely failed to respond to questions coming from the opposition in this regard, and it was only after repeated demands to make its position clear that a deputy from the majority benches, Stojan Protić, replied on the government’s behalf, by stating briefly that it was not a matter of the civil list but of an ‘appa-

991 *Odlomci*, p. 41.

992 S. Jovanović, ‘Parlamentarna hronika’, *Arhiv za pravne i društvene nauke*, no. 11, 1911, pp. 144–5.

993 S. Jovanović has established this clearly and concisely. Listed as a separate expenditure, the money for the allowance appeared only in a special part of the budget, while in the general part it was added to the sum allocated by law for the civil list, which grew by that amount. Since, however, according to the budgetary law, the assembly dealt only with the general part of the budget, according to categories only and not positions, it was clear that the assembly was being asked to approve an increase in the king’s civil list. ‘Parlamentarna hronika’, *Arhiv za pravne i društvene nauke*, no. 10, 1911. One should add here that the minister of finances, L. Paču, separated the allowance from the civil list only subsequently, during the debate of 4.2.1908. *Parliamentary proceedings, 1907–1908*, 4.2.1908, p.652.

nage, i.e. an appropriation' for the crown prince. During the subsequent debate, the government and its majority stuck to the assertion that it was a matter of an appanage for the crown prince. This was a 'tale for small children,' was Vojislav Marinković's comment. It was a matter of 'increasing the king's civil list, and increasing it unconstitutionally at that'; and it was perfectly possible that the crown prince 'might well see not a single penny' of this money.<sup>994</sup>

Protić in his usual way tried to prove the correctness of the proposal for the crown prince's appanage by referring to the British example. Serbia was following the English model, he explained, and in England the budget covered even 'dowries for the king's daughters.' As on other occasions, this only deepened the anger of the opposition. 'Give us English politics and we too shall give like the English,' commented the Liberal deputy, Mihailo Đorđević. 'That's what we have done,' retorted Protić, causing a stormy and bitter reaction on the part of the Independents. 'The present government, ever since its arrival, has begun to kill off one after another the hopes linked to 29 May. It has already finished off our political freedoms, and if it does away with the few others that remain, then everything's finished.' 'Is this English freedom and equality?' was Ljuba Stojanović's response to Protić's evocation of the British model.<sup>995</sup>

The question of the appanage became politically and legally more complicated after the government formally announced in the press at the end of January 1908 that the crown prince had written to the assembly, but the speaker, Ljuba Jovanović, not only refused to read out the letter but also failed to inform the assembly about it. In his letter, which was anyway published in full by the Belgrade press,<sup>996</sup> Crown Prince George wished to inform the assembly that he rejected the appanage proposed by the government and had already informed the prime minister of the fact. When

994 *Parliamentary proceedings, 1907-1908*, 19.1.1908, pp. 401-6; and 22.1.1908, p. 435.

995 *Parliamentary proceedings, 1907-1908*, 22.1.1908, p. 435; and 23.1.1908, p.488.

996 The Liberal *Zastava* was the first to publish it, in its issue of 28.1.1908.

Stojanović asked whether it was true that the crown prince had written to the assembly, Ljuba Jovanović replied that it was, but he as speaker of the assembly could not read it out, because Art. 64 of the assembly's standing orders prohibited that. Jovanović added that he had informed the crown prince of this fact, and the latter had accepted his explanation.

Jovanović rejected the opposition argument that this interpretation of the standing orders was wrong since the examples quoted in it had only 'an exemplary function', as well as the deputies' insistent demands that they be told the contents of the letter. So the crown prince's letter was never read out in the assembly. Jovanović stuck to his position, despite the fact that renowned lawyers and professors from the Faculty of Law, whose opinion Stojanović had himself earlier sought, agreed with the opposition on this issue. As Jaša Prodanović informed the assembly, these included Slobodan Jovanović, Dragoljub Arandelović who was a Radical, Kosta Kumanudi who was an Independent, Voja Veljković and Voja Marinković.<sup>997</sup> Kumanudi was Prince George's tutor in public law, and it had apparently been his idea that the crown prince should write to the assembly. For this reason he was removed from his post for the duration of the affair.<sup>998</sup>

997 S. Jovanović subsequently published his view in *Parlamentarna hronika*. He argued that the examples quoted in Art. 64 of the standing orders were 'not exhaustive'. In addition, argued Jovanović, the letter 'undoubtedly' related to the work of the assembly, which at this time was discussing precisely the issue of the allowance, so that the speaker of the assembly could not treat the letter as a private communication. His duty was to inform the assembly of the letter, and let the latter itself decide whether it should deal with it or not. 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, no. 10, 1911, p. 231.

998 Although *Samouprava* attacked Kumanudi as the initiator of the crown prince's letter, Pašić refused to debate in the assembly the reasons for his dismissal, on the grounds that this was 'not a parliamentary matter'. *Parliamentary proceedings*, 1907-1908, pp. 7, 18; and 21.3.1908, pp. 123-4, 426-8, 532. Other professors were also penalized indirectly for their views. The earlier promise by the minister of education, A. Nikolić, that he would permit the financially embarrassed faculty of the law journal *Arhiv za pravne i društvene nauke* to be printed on the state printing press was withdrawn after the affair with the allowance and conversations conducted with the aforementioned professors.

In the ensuing debate, the Radicals extended the defence of their position beyond the standing orders to include the constitution and the parliamentary rules, arguing that the crown prince's letter was contrary to both. Quite unusually – albeit not very successfully – on this occasion the prime minister Nikola Pašić took upon himself the task of interpreting parliamentary principles on behalf of the ruling Radicals. The crown prince like all other members of the royal family, said Pašić, might communicate with parliament through either the king or the prime minister, 'but they may never come into contact with those with whom contact is not authorised by the constitution.'<sup>999</sup> Pašić included the king among possible intermediaries between those persons and the assembly, overlooking that fact that Art. 126 of the constitution, which prescribed that the assembly had direct contact only with ministers, was concerned precisely with prohibiting 'direct contact' between parliament and the king. With such 'explanations' of the parliamentary rules and such an interpretation of the constitution, Pašić naturally did not help the defence of the government's proposal; but it was nevertheless quite clear from them that the government subscribed to the view that members of the royal family might communicate only indirectly with the assembly.

This position, formally speaking, was defended also by Živojin Perić. He agreed with the Radicals that Crown Prince George had acted 'contrary to the constitution'. This was because, in his view, the crown prince was not an ordinary citizen, given that the constitution made him the future king. And since he did not have the responsibilities that, according to Perić, the king had, he was not allowed to interfere in public affairs, especially if his position on a controversial subject differed from that held by the king and the government.<sup>1000</sup>

Apart from the Radicals and Perić, no one else argued that the crown prince's act was unconstitutional. Yet there were political and expert

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D. Joksimović, *Parliamentary proceedings*, 1907–1908, 20.2.1908, p. 389.

999 *Parliamentary proceedings*, 1907–1908, 28.1.1908, p. 523.

1000 *Parliamentary proceedings*, 1907–1908, 28.1.1908, p.624.

opinions both inside and outside the assembly that were close to the government's assessment of its parliamentary merits. The lawyers Vojislav Marinković and Dragutin Pečić told the assembly that the crown prince's act, while not unconstitutional, was contrary to parliamentary rules, because the contents of the letter were 'purely political in nature'. Their agreement with the government's view on the unparliamentary character of the crown prince's communication with the assembly was, however, only apparent: as they themselves noted, 'only at first glance'. For the act to be correct from a parliamentary point of view, it should in their view have conformed to the following procedure. The crown prince should have acquainted the prime minister with his view on the appanage, after which the latter should first have informed the assembly, then immediately abandoned his proposal for the appanage. Since it was stated in the letter, however – which the government did not deny – that the crown prince had informed the prime minister; and since the latter did not inform the assembly of this but proposed the appanage despite the crown prince's opposition, then the crown prince was left with no other option but to communicate directly with the assembly in order to make his views known. For these reasons, argued Marinković and Pečić, the crown prince's letter could not be described as unparliamentary, and the refusal by the assembly speaker to read it out represented yet one more manifestation of abuse of power on the part of the majority.<sup>1001</sup>

Slobodan Jovanović too thought that the crown prince's conduct was not unconstitutional, for the simple reason that the prohibition of direct 'communication' with the assembly referred only to those in authority, who did not include the crown prince: the king and the members of his family were not one and the same, Jovanović pointed out. The constitution had been violated by the conduct of the assembly speaker, moreover, because George Karađorđević had approached the assembly as an individual,

1001 *Parliamentary proceedings*, 1907–1908, 28.1.1908, p. 253; and 5.2.1908, pp. 36–7.

as he was constitutionally entitled to do like all other Serbian citizens.<sup>1002</sup> Since the assembly also had the right to hear the letter, the speaker by refusing to read it out had behaved 'like a censor, not only towards those approaching the assembly, but also towards the assembly itself', concluded Jovanović.<sup>1003</sup>

Jovanović's opinion on the parliamentary propriety or otherwise of the crown prince's act was not fully defined. The government, in his view, had erred in judging the very fact of the crown prince's 'communication' with the assembly to be unparliamentary, because 'communicating' with the assembly was not the same as 'political interference'. 'Communication' was not in itself unparliamentary, but only if it had a political content, in which case it acquired the nature of 'political interference'. The government had not attempted to prove, however, that the crown prince's letter amounted to 'political interference', since it had failed to discuss its contents. It 'did not take the trouble', writes Jovanović, to prove that the letter was 'manifestly political, a hostile act against the government', but instead took the mere fact of the crown prince's communication with the assembly as proof of its unparliamentary nature. 'It is strange', argues Jovanović, 'that the government did not even try to discuss this, i.e. attack the letter from this angle, although it was only here that it could have achieved something.' More generally, despite the long and acerbic debate on the appanage, argues Jovanović, neither side 'actually said that the crown prince's letter had a political as well as a legal aspect'. In other words, Jovanović says that neither the government nor the assembly proved that the crown prince's conduct was unparliamentary; but he does not deny that this might have been proved, if only the debate had concentrated on

1002 The view that in this particular case the crown prince had behaved like any other Serbian citizen, entitled by Article 122 to approach the assembly, was expressed in the assembly by the Independent deputy Mihailo Radivojević. *Parliamentary proceedings*, 1907–1908, 26.1.1908, p. 520.

1003 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, 10, 1911, p.231. For an opposite view, see A. Dragnich, *op.cit.*, p. 100. Dragnich accepted the Radicals' view on this point too.

the content of the letter, i.e. on the political rather than the legal aspect of the crown prince's action.<sup>1004</sup>

This assessment is refuted, however, by the parliamentary records. The content of the crown prince's letter was ignored only by the government and its majority, not by the opposition. Generally speaking, from the point of view of the assembly minority, the political aspect of the issue was at least as important a subject of the debate as was its legal aspect. It was its political aspect indeed that formed the main argument against the majority's charge that the crown prince's conduct had been unparliamentary. Marinković and Pečić, as already described, did not dispute that the letter had a political content, or that the crown prince's interference in political life was in principle contrary to parliamentary procedure; but they nevertheless believed that Crown Prince George's conduct had been correct. They based their opinion precisely on a considered judgment of the letter's content, and of the political conditions that had motivated it. They – and many other deputies too – stressed the importance in their view of the fact that the crown prince had in the first instance informed the prime minister of his rejection of the appanage, and that he had written to the assembly only after realising that the government was determined to ignore his statement, to such an extent that it would not even make it public.<sup>1005</sup> For all of them, this was proof of an attempt at manipulation of the crown prince, leaving him with no other alternative but to inform the assembly directly that he would not accept the appanage. In their view, this rendered meaningless all objections that the prince's communication was an unparliamentary act.

The question also arises of whether the government could successfully have defended its view of the unparliamentary nature of the crown prince's act, had it decided to speak about its political aspect, as Jovanović

1004 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, no.10, 1911, pp. 230–33 and 238–9.

1005 See in this sense Pavle Marinković, *Parliamentary proceedings, 1907–1908*, 4.2.1908, p. 656.

implies. This question can in fact be reduced to whether it is possible to describe the controversial letter's content as properly political, as a form of 'political interference'. It is indisputable that the crown prince, having failed to prevent the government's decision on the appanage, tried to influence the assembly's view of this decision. It is necessary to recall, however, that the government was actually asking the assembly to approve an increase to the king's civil list, and that the appanage for the crown prince was being used only to account for the proposal, i.e. to explain the reason for increasing the civil list. The government was also pretending that the money it sought was intended for the crown prince rather than for the king. The crown prince did not want the money, however, and wanted the assembly to know this. He did not question the increase to the civil list as such – which might have been construed as political interference – but a possible decision by the assembly that could have been swayed by a wrong impression that the money was meant for the crown prince, and by an incorrect perception of his own personal attitude in this regard. The crown prince, in other words, was placed in a situation of having to assume the whole burden of an unpopular expenditure that was also unconstitutional, that was not intended for him, and that he did not want – all for the sake of the government's own political interest: its desire to win the king's support in its struggle against the opposition. So we are dealing here not with the crown prince's political views, but only with self-defence on the part of George Karađorđević, who – using his constitutional rights – was trying to avoid being manipulated by the government.

As for the government's own conduct, its proposal was not just unconstitutional in the sense of the form used to increase the civil list, but amounted also to a violation of the principle of political neutrality of the crown, i.e. of the royal family – something that the Radicals themselves, when ascribing it to the crown prince, most strongly condemned. Making the amount of the civil list dependent upon the budget meant making the material position of the king unstable and uncertain, dependent at all times upon the will of the assembly majority. According to Slobodan



Jovanović's explanation of what the stipulation that the civil list be regulated through a special law rather than through the budget meant, if one wished the monarch to be neutral, then he had to be made financially independent, because otherwise he rendered himself open to pressure from the majority party: in other words, ceased to be truly independent and thus neutral.<sup>1006</sup> With this initiative, Pašić's government displayed once again its complete indifference to the king's political neutrality, or rather its interest in preserving the latter not as a principle, but as a practical position when it was in the interest of the Radical Party. In this concrete case, it was necessary to keep the king as much as possible away from the opposition, and to prevent any possibility that he might eventually respond positively to the opposition's appeal to use his constitutional privileges against the majority.

The way chosen by the Radical Party to achieve this aim displayed not merely a lack of sensitivity to the true parliamentary form, but also an absence of elementary respect for the legal political institutions, including the crown. The conduct of Pašić's government consequently caused great indignation on the part of the assembly opposition. The opposition was vexed, said the Liberal Radoslav Agatonović, by the 'impermissibly incorrect behaviour towards other parliamentary groups' of a government that used money to 'win the crown's confidence,' and on the other hand to create the impression that 'only Pašić and his supporters' were loyal to the king.<sup>1007</sup> A significant number of deputies went one step further, by presenting Pašić's intention to tie the king financially to his party not simply as a dishonest form of struggle against other parties, but also as a deliberate attempt to 'compromise' the king and the monarchy itself (Andra Parađanin), to turn the Radical Party into 'the main pillar of the regime' (Pavle Marinković), and 'to replace the royal absolutism abolished on 29 May with that of a single party' (Milorad Drašković).<sup>1008</sup>

1006 'Parlamentarna hronika', *Arhiv za društvene i pravne nauke*, no. 10, 1911, pp. 144–5.

1007 *Parliamentary proceedings*, 1907–1908, 5.2.1908, pp. 27–8.

1008 *Parliamentary proceedings*, 1907–1908, 22. 1.1908, p. 429; 4.2.1908, p.656, and 5.2.1908, p.17.

The brunt of the criticism was directed against the method used by the Radical Party to win the king's confidence, something that was condemned also by some of the majority deputies.<sup>1009</sup> 'What you sought to do was tantamount to bribing a Serbian king', insisted the Independent deputy Gaja Miloradović, expressing a conviction shared by the entire opposition. 'Mr Pašić, following his old custom ...of offering and receiving baksheesh, entered this bestowal of baksheesh too into the budget', said Sima Zlatičanin, another Independent. Veljković for his part described Pašić's conduct in these words: the prime minister 'believes in the omnipotence of money' and places the king 'in the same category of persons wherein he places position-seekers, concessionaires or suppliers.'<sup>1010</sup> Pašić's defence was weak and unconvincing. Those were 'maxims of reaction', he replied to Veljković. 'It is well known, gentlemen, that under King Peter parliamentarism and constitutionalism hold sway in the country, and that who will come to govern the country depends not upon sympathy or antipathy, but only upon the people's confidence.'<sup>1011</sup> Few among the opposition appeared ready at the time to agree with Pašić's assertion. There was hardly a speaker from the minority benches who did not express the conviction, directly or indirectly, that the appanage affair represented a crude attempt to purchase the monarch's sympathies.

This affair, however, did not merely bring into question the government's moral and political authority, it also seriously weakened the prestige and dignity of Peter Karađorđević as bearer of the royal crown. For there was no doubt that the king had agreed to the increase in the civil list, despite the fact that the crown prince had refused the appanage, which was nonetheless cited as the basic reason why an increase to the civil list was

1009 See on this Lj. Davidović, *Parliamentary proceedings*, 1907–1908, 5.2.1908, p. 33. One of the Radical deputies, Milislav Tajić, even resigned his seat on this occasion.

1010 *Parliamentary proceedings*, 1907–1908, 19.1.1908, p. 416; 30.1.1908, p. 573; 28.1.1908, p. 524.

1011 *Parliamentary proceedings*, 1907–1908, 28.1.1908, p. 524; and 5.2.1908, p. 22.

being proposed.<sup>1012</sup> The political responsibility of the government, which had failed 'to persuade the king to agree that this particular proposal be withdrawn', was evident, as was pointed out by all opposition speakers. As Ljuba Davidović said, 'the government is responsible' for the monarch's 'wishes.'<sup>1013</sup> The opposition spoke with equal frankness and directness also about the king's own moral responsibility.

The appanage issue, formally opened with the 1908 budget bill, had its prehistory. The Independent leaders Stojanović, Davidović and Prodanović referred in the assembly to facts showing that the whole case had begun over a year earlier: not just Pašić's idea of increasing the civil list and using the crown prince's appanage as a cover, but also the king's assent to this and the crown prince's refusal to accept the appanage.<sup>1014</sup> Without anyone denying this, they thus showed that the agreement between the king and Pašić's government to achieve an increase in the civil list by unconstitutional means, and by manipulating the crown prince, was of long standing. In the light of this fact, argued the Independents, the king's toleration of government steps that evidently violated 'the constitution and public morality' had become clearer. They believed, moreover, that Pašić's very accession to power in April 1906 had been at least partly due to the

1012 The king was so angry with the crown prince for approaching the assembly that he threatened 'to punish him by imprisonment', writes V. Kazimirović, *op.cit.*, vol.2, p. 93.

1013 *Parliamentary proceedings*, 1907–1908, 5.2.1908, p. 33. See also V. Veljković, 5.2.1908, p. 22, and S. Ribarac, 6.2.1908, p. 61.

1014 Lj. Stojanović told the assembly that at the start of 1907 Crown Prince George had told him that he had learned from the prime minister that a proposal on the allowance was being planned. The crown prince had told Stojanović on that occasion that 'he would not accept it'. *Parliamentary proceedings*, 1907–1908, 24.1.1908, p. 457. During the debate on the previous year's budget, opposition deputies spoke about this bill being prepared and warned against its likely negative consequences for the king and his family. They also insisted that Pašić's readiness to offer the king an increase in the civil list was being spoken of already during the time of Lj. Stojanović's government. Milan Petković, V. Veljković, D. Joksimović, *Parliamentary proceedings*, 10.,12. and 15. 3.1907, pp. 3444, 3462, 3562, 3538.

agreement on the civil list. The appanage ‘was given in advance... to the king as a reward for bringing Pašić’s government to power by unparliamentary means’, said Prodanović.<sup>1015</sup>

This was an open accusation that King Peter was using his royal position to pursue his own financial interests, to which he subordinated the interests of the state and the people. ‘We can freely say that our king is the richest man in Serbia’, pointed out Ljuba Stojanović.<sup>1016</sup> The court was ‘spending immoderately’, stated Dragoljub Joksimović; instead of building a ‘sumptuous church at Topola as the Karađorđević family’s mausoleum’, it should be ‘building the kind of church it can afford’.<sup>1017</sup> At the same time ‘a terrible phenomenon of famine’ was raging in Serbia; even ‘prosperous Mačva was starving’; the famine was ‘so terrible that ... it threatens to wipe out a good part of the population’ – many deputies warned. ‘All stomachs have the same need’, someone said in the assembly; ‘my stomach is no different from that of King Peter’.<sup>1018</sup> While the king was being granted an appanage, wrote *Odjek*, ‘in Serbia, “the poor man’s paradise”... an evil enemy has settled in – famine’.<sup>1019</sup>

The opposition did not stop at criticism, but repeatedly reminded the king – as it had when inviting him to act to protect ‘the legal state’ – of his royal duties, and of the consequences he would face if he failed to do so. It was King Peter’s duty, the opposition deputies stressed, to be as modest on the one hand as the people over whom he reigned, and on the other as the results to date of his rule in Serbia. He must be aware, they informed

1015 *Parliamentary proceedings*, 1907–1908, 8.2.1908, p. 109. See also Lj. Stojanović, ASANU, 12255, undated notes.

1016 *Parliamentary proceedings*, 1907–1908, 24.1.1908, p.457.

1017 *Parliamentary proceedings*, 1907–1908, 9.2.1908, p.138.

1018 Aleksa Ratarac, Aleksa Žujović, Đoka Marković, Milovan Lazarević, Ljuba Davidović, *Parliamentary proceedings*, 1907–1908, 20.12.1907, p. 177; 16.1.1908, p.320; 28.1.1908, p. 513; 5.2.1908, pp.11, 30.

1019 *Odjek*, no.26, 30.1.1908. *Odjek* was alluding to the book by H. Vivian, *Serbia – the Poor Man’s Paradise*, published in 1897, which was widely read in Serbia. See Milenko Vesnić’s review of the book in *Delo*, no. 17, 1898, pp. 475–80, in which Vesnić criticised Vivian’s attitude to the Radical Party.

him, that with the immodesty of his demands he risked losing the crown. It was necessary to tell the king 'openly,' said Voja Veljković: 'Your Majesty, give up your demand for the appanage, for Serbia is a poor country... Remember that you have only recently become king in this land, and that you have still to win the love of the people over whom you rule... Do not incite the people against yourself with an unjustified demand.' After all, he added, the Serbian king must bear in mind that the peoples of Serbia and Montenegro were divided by a 'great abyss' only because their dynasties – 'formerly Petrović and Obrenović, now Petrović and Karađorđević' – were not on good terms. 'Well, gentlemen, I think this is already enough, and more than enough.' The people had the right to 'let itself go at some point and shout at those concerned... I too, like the people, have the right to demand and to be heard,' said Veljković, thus bringing into question the monarchy itself.

The other Liberal leader, Stojan Ribarac, was equally condemnatory. The king, in his view, was the main culprit for the proposal appearing before the assembly. The government was legally and politically responsible, he argued, but the king was responsible 'morally', in 'the eyes of the people'. 'The judgment made and pronounced by this forum is often more dangerous than any other.' 'The king must be told: Sire, you have thus far failed to associate your name and rule with any national or state achievement, which is why the people does not feel obliged to accept your government's proposal.'<sup>1020</sup> Numerous deputies went still further, stressing the insecurity not just of the crown but also of King Peter's head. They reminded the king about the French Revolution, which broke out because 'a hungry people wanted to know how its money was being spent' (Prodanović); about the fate suffered by Louis XVI (Prodanović, Radoslav Agatonović); and about other examples of the 'destruction' of 'dissolute kings' (Prodanović, Sima Katić).<sup>1021</sup>

<sup>1020</sup> *Parliamentary proceedings*, 1907–1908, 5.2.1908, pp 21–2; and 6.2.1908, p.61.

<sup>1021</sup> *Parliamentary proceedings*, 1907–1908, 5.2.1908, p. 28; 8.2.1908, p.110;

Neither the crown prince's letter; nor a lengthy debate in the assembly that showed the opposition's great dissatisfaction and its readiness to question not just the majority government but also King Peter's crown, in other words the whole existing order; nor indeed an erosion of the assembly majority – none of this swayed the government's plans in relation to the civil list, or the identical plans of the king himself either: the proposal was still put to the vote and adopted. The whole opposition left the assembly during the vote, and the bill was passed by just three votes.<sup>1022</sup> However, the obstruction which began in March 1908 would ultimately prevent the budget being adopted on its second reading, resulting in dissolution of the assembly. So the question of the increase to the king's civil list would thereby be shelved. Under an agreement concluded between the two Radical parties, the proposal to increase the king's civil list 'in the name of an appanage for the crown prince' would be deleted from the draft budget for 1908 adopted by the newly elected assembly.<sup>1023</sup>

Thus the attempt by the government to win the king's support in its struggle with the opposition by increasing his civil list became transformed from a legal-political issue into a veritable scandal, that focussed on the court and provoked a comprehensive review of the nature of royal power under Peter Karađorđević, which highlighted its essential weakness. On the other hand, the very decision of the government to elicit the king's support in its conflict with the minority testified to the importance of the king's 'sympathies' in deciding a government's fate. However, the manner which the government chose to influence the king's choice, and the subsequent reaction by the opposition, showed that King Peter was perceived not as a

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21.3.1908, pp. 526–7.

1022 *Parliamentary proceedings*, 1907–1908, 9.2.1908, p.143.

1023 The money for the allowance, this time for Crown Prince Alexander (George renounced his right to the throne in 1909), Prince George and Princess Helen, was adopted by way of a special law rather than as part of the budget in May 1911. *Parliamentary proceeding*, 1910–1911, 4.5.1911, pp. 2–15. This law allocated to the crown prince an allowance up to his accession to the throne, and to Prince George during his lifetime, while Princess Helen got a dowry and bridal clothes in place of an allowance. *Prečišćeni zbornik*, pp. 32–3.

monarch who had – or should have – *his own* political position, but as the constitutional bearer of certain governmental prerogatives whose use (or otherwise) should be placed at the service of this or that political interest, to which end it was legitimate to use all available means – from money to admonitions and even threats. In this sense there exists a clear correspondence between the appanage affair and the opposition's appeal to the king to intervene in political life. Both government and opposition had the same practical-political aim: to win the king's support. The manner in which this aim was pursued, however, displayed a complete disregard for Peter Karađorđević's personal and royal dignity. In the case of the opposition, or rather its largest part, the appanage affair merely intensified, or expressed in a more brutal fashion, a further dimension of its attitude to King Peter: the same one that could be detected in its categorical demands to the crown to play an active role in political life. What was involved was a tendency to relativise royal power as such under the 1903 constitution. Resulting from the will of the constituent assembly of 1903, this power continued to be seen as conditional, subject to permanent questioning on the part of the national assembly. Instead of serving the interests of the plotters, as he did up to 1906, the king was now supposed to serve the interests of the political parties. This was a most blatant demonstration on the part of the Serbian assembly of disregard for the principle of the crown's sanctity and non-responsibility, whence derived – albeit implicitly – a relativisation of the monarchical principle as such.

## D. OBSTRUCTION

The drastic violation of electoral freedoms during the 1906 elections, and the subsequent reduction of the parliamentary principle to majority right – which Pašić's government took to the extreme of openly relativising the very principle of legality – provoked a corresponding reaction from the minority. One response, as shown above, was an invitation to the crown to become an active political player in the parliamentary game, and a related elaboration and consolidation of the view of the minority parties – especially the Independents – on a parliamentarism in which the head of state would use his constitutional privileges. Their concrete political aim – a caretaker government – was not achieved. At the same time, and basically with the same aim, the minority in its struggle against the Old Radical government chose to apply the ultimate instruments available to it as a parliamentary opposition. The radicalism of one side provoked radicalism in the side counterposed to it, and the opposition began to struggle against the ruling majority by means of obstruction. Aiming to bring down the government and to organise new elections, the freedom of which would be guaranteed by the crown, the minority practised a more or less open obstruction from the first day to the last of the assembly elected in 1906, and subsequently also in the newly elected assembly up until the formation of the Radical-Independent government. In this way the minority transformed that ultimate instrument at its disposal into a regular instrument for fighting the majority, and in so doing made obstruction the basic feature of parliamentary practice in 1906–8.

The assembly standing orders of 1903 offered wide possibilities for obstructing the work of parliament. Drafted in 1899, under conditions of near-absolute domination by the Radical Party, they followed the 1888 constitution in giving considerable rights to the minority, offering the latter enviable possibilities for taking part actively and effectively in control by the assembly of the government's actions. Specifying a high degree of protection for the rights of deputies, the lawmakers did not also envisage sufficient measures to prevent their eventual abuse, in all likelihood



because the minority was then politically very weak and there was no experience of obstruction.

The standing orders of the assembly – harmless for the majority government at a time of Radical Party unity under the 1888 constitution, and in the first period after the May coup – with Serbia's entry into a period of true party pluralism, and with a correlative rejuvenation of parliamentary life, became a powerful weapon in the hands of the parliamentary opposition in its struggle against the ruling majority. Under conditions in which absolute domination of the outciple of majority rule was negating the liberal essence of parliamentary government, the prevailing standing orders – thanks to the wide possibilities they offered for obstructing the assembly's work – proved to be an important obstacle to transformation of the parliamentary regime into its opposite. This fact was all the more important in that the executive power, which after 1906 was fully assumed by the government, already enjoyed wide prerogatives in relation to the assembly. In short, under the political conditions of Serbia in 1906–8, obstruction could be seen more as an ultimate instrument designed to preserve the very essence of the parliamentary regime than as a deviant form of parliamentary practice. Of obstruction in Serbia at this time, one might say what a Greek author said about obstruction in his own country at the start of the century: since 'deputies are tied to their party chiefs by a contract of *do ut des*', resulting in 'an excessive stability of the majority', 'the minority has at its disposal only one form of struggle against the government', namely obstruction – a 'weapon which in itself is abnormal and to be condemned', but which 'has become a necessity in our country'.<sup>1024</sup>

The Radical Party, for its part, as soon as it first experienced serious obstruction in 1907 got down to the serious business of revising the standing orders, something that would be concluded only under the joint

1024 N. Saripolos, quoted from Henry Masson, *De l'obstruction parlementaire*, TD, Montauban 1902, p. 130. When comparing Serbia to Greece, one should note that the executive was weaker in Greece than in Serbia, primarily because, as discussed above, the assembly's right to decide the budget was not limited.

Radical-Independent government in early 1911. The draft amending the standing orders produced by Stojan Protić envisaged the most drastic known measures against obstruction, taken from the British experience with Irish obstruction. It included the possibility for the assembly speaker to close a debate at any time, as well as the ‘guillotine’, i.e. the possibility at the government’s suggestion to set a time limit by which a given subject had to be decided, but which in the case of the budget could not be less than fifteen days.<sup>1025</sup> This meant, said Slobodan Jovanović commenting on Protić’s proposal, that if the majority decided to use this legal device, then the budget debate became a pure formality.<sup>1026</sup> As Jovanović subsequently wrote, parliamentarism on the British model was for Protić ‘a war machine designed to destroy parliamentary obstruction.’<sup>1027</sup>

The draft bill on the new standing orders did not come up for discussion in the assembly elected in 1906, since before that it had been dissolved as a result of obstruction. Owing to the fact that changes to the standing orders needed the Independent Party’s agreement, the assembly did not adopt the aforementioned measures contained in Protić’s proposal, so that

1025 For the draft amendments to the Law on Standing Orders see *Parliamentary proceedings, 1907–1908*, 6.2.1908, pp.44, 48. From the start of the 1890s, and in reaction to Irish parliamentary obstruction, the British standing orders envisaged a radical curtailment of the rights of the parliamentary minority. The first measure introduced in this regard was called ‘closure’, and meant the right of the majority, with the speaker’s agreement, to stop a debate at any time. A more drastic form of this measure was the ‘guillotine’, first used in 1887, by which parliament could pass a resolution to decide in advance the duration of each phase of the legislative process, at the end of which the debate is seen as terminated. The speaker plays no role in this case. This is decided in fact by the government, with the support of its disciplined majority. W.E. Anson, *op.cit.*, vol.1, pp. 263–8. Anson views the second measure, the guillotine, as wholly unjust, because it calls into question the basic rights of the parliamentary minority. *Ibid*, pp. 266–8.

1026 Jovanović’s detailed analysis of Protić’s draft of the new standing orders for the assembly is in *Arhiv za pravne i društvene nauke*, 5, 1908, no. 1–2. Jovanović, who took part in the drafting of the proposal for the new standing orders, opposed drastic measures against obstruction.

1027 S. Jovanović, *Iz istorije i književnosti*, 1, p.437.

the new standing orders did not do away with obstruction, though they did make it more difficult.<sup>1028</sup>

During Pašić's government of 1906–8, the minority resorted to obstruction on all political issues. Achieving almost no success on the less important ones, yet determined to force the government to make concessions, it found the solution in preventing the assembly from passing the budget. Although the government had the constitutional right to extend the budget by decree, which it used on such occasions, obstruction of the budget nevertheless proved to be a most serious threat, the only one that made it retreat. Thus, given on the one hand a relatively large and perfectly disciplined parliamentary majority that hardly ever questioned government policy, and on the other a policy of disregarding any criticisms made by the minority using regular parliamentary means and procedures, in the 1908–9 period obstruction on the budgetary question proved to be the only way to ensure ministerial responsibility to parliament.<sup>1029</sup> One might say that, in a certain sense, ministerial responsibility during this period took the form of government responsibility to the parliamentary minority. Key issues like the fate of the government, or dissolution, were decided in relations between the government and the parliamentary minority, rather than the parliamentary majority. The reconstruction of the government in 1907, the dissolution of the assembly in 1908, and finally the replacement of Pašić's homogeneous cabinet by a Radical-Independent coalition

1028 The minister of the interior, Protić, drew up the legal proposal for amending the standing orders at the start of 1907. Nastas Petrović, who on 30 May 1907 replaced Protić in the post, submitted it to the assembly on 6.2.1908. The proposal was put before the newly elected assembly immediately after the formation of Pašić's coalition government by the new minister of the interior, Ljuba Jovanović. The proposal did not come onto the agenda during the 1909 term, however, and was raised again in the subsequent term, on 7.10.1908, by Protić, a month after Jovanović's resignation and his own appointment to the post of minister of the interior. Considerably altered in the committee of the assembly, it was finally adopted on 26.2.1911.

1029 The only time when a few deputies of the majority refused to follow the government had to do with the issue of an allowance for Crown Prince George, as discussed above.

government under Pera Velimirović, were all the direct consequence of obstruction. In this last case, to be sure, an important role was played also by the consolidation of a Liberal-Progressive coalition, thanks to which the ruling Radical Party lost a significant number of seats at the elections.

#### i. The 1907 obstruction

At the end of November 1906, the Independent opposition announced with an interpellation by Luba Davidović its intention to ‘wage a struggle by all legal means’ against ‘Mr Stojan Protić’s unbridled police.’ Following seventeen days of debate ending in early February 1907 – during which Protić was described as ‘the supreme example of present-day partisan politics’, and his resignation as a precondition for the return of legality – the opposition proposed a motivated return to the order of business, by virtue of which the government was asked to ‘end attacks on ... self-governing bodies and individual citizens belonging to the opposition, and to respect the equality of citizens before the law.’<sup>1030</sup> Prime minister Pašić explicitly declared that the whole cabinet supported the interior minister, and that the government would accept only a simple return to the order of business. This was passed with only Radical votes, while the whole opposition left the chamber at the moment of voting. During the debate itself, the Independents made it clear that the interpellation had been only a first step. ‘One can govern in a parliamentary regime only on the basis of cooperation between political groups. Without cooperation between political groups, you will not be able to govern successfully even with a majority of one hundred deputies’, warned Živojin Hadžić.<sup>1031</sup> A few days later, Prodanović openly threatened the government and its majority with a new method of struggle. ‘If you are planning ... to introduce the system that Petkov has introduced in Bulgaria, you may rest assured that you will not find here

1030 Milan Petković, *Parliamentary proceedings*, 1906–1907, 2.2.1907, p. 2667; and 7.2.1907, p. 2799. On the accusations against Protić as minister of police raised in the debate about this interpellation, see the section ‘Parties and elections’ above.

1031 *Parliamentary proceedings*, 1906–1907, 3.2.1907, p. 2697.

such a small opposition... This will either be a proper assembly, or you will be unable to do anything here without calling in the gendarmes... to drive us away.'<sup>1032</sup> This was an announcement of obstruction – final stage in the series of 'all legal means' to which the Independent Party, when making the interpellation discussed above, had warned it would have recourse. It implemented its threat at the start of the debate on the budget for 1907, which was placed on the order of business only on 28 February 1907; and it began its obstruction determined to prevent the assembly from voting the government – which faced termination of the last approved budgetary twelfth at the end of March – either a new twelfth or a new budget.

For nearly three weeks obstruction by the Independents, though evident, was unofficial.<sup>1033</sup> On 23 March 1907, however, the day after a special debate on the budget had started and a bill to adopt a budgetary twelfth for the month of April had been proclaimed urgent, the Independent deputy Aleksa Ratarac read out in the assembly a proclamation by his party's club of deputies on beginning the obstruction, in which the Independent Party carefully explained its decision. Pašić's government, the proclamation read, had attained power from the position of a minority by 'deceiving' the king, and in doing so had violated 'the parliamentary order' and 'political tact'. It had then conducted elections that were 'decided by the police'. The Independent Party had revised its intention to use obstruction to prevent verification of the deputies elected in this manner, after the government gave it 'its word of honour' that 'the violence would cease'. 'The government did not keep its word of honour.' It was violating laws 'without restraint or shame, with its interior minister professing a monstrous theory about the government's right to disregard laws' since 'the assembly will validate it'. 'The minister violates laws, the assembly approves! What about the country? The people? Justice? The constitution? The laws? The majority and its government do what they wish, not being bound by laws, constitution or state institutions.' 'It is high time for Serbia too to become

1032 *Parliamentary proceedings*, 1906–1907, 10.2.1907, p.2867.

1033 See, for example, the sessions of 10, 16 and 17.3.1907.

a legal state!... That is our message. More than that: it is our pledge.'<sup>1034</sup> The intention behind the Independent Party's decision, commented Pašić, was to disrupt and weaken the parliamentary regime. It would be a 'terrible step', he added, if they 'persisted' in this.<sup>1035</sup> The Independents not only stuck by their decision, however, but also succeeded in their intention of preventing the assembly from voting the government a budget.

During the 1907 obstruction, two basic methods of blocking the assembly's work stood out. The first was for deputies to demand – on the basis of their right to express doubt that a quorum existed for making decisions – that a roll-call be held, which the president was bound to accept (Art. 117), and then immediately after demanding this to quit the session, thus leaving it without a quorum.<sup>1036</sup> Since this manner of obstruction could work only in situations where the number of majority deputies did not add up to the required quorum – which was one half plus one of the constitutionally specified number of deputies (Art. 109 of the constitution and Art. 116 of the standing orders) – the moment it had decided to leave the government without a budget, the Independent opposition adopted a new and more reliable form of obstruction. By addressing numerous short questions to ministers, which Art. 66 of the standing orders allowed them

1034 *Parliamentary proceedings*, 1906–1907, 20.3.1907, pp 3739–41.

1035 *Parliamentary proceedings*, 1906–1907, 20.3.1907, pp. 3741–2.

1036 In order to prevent this method of obstruction, Protić's draft for the new standing orders envisaged that 'deputies quitting the assembly chamber before or during the roll-call' would be treated 'as present'. This absurd solution was rejected, but the new standing orders prohibited leaving sessions without specific permission until after the roll-call (Art. 117). Protić had also proposed that, if a session had to be closed because of the lack of a quorum, the next session's agenda 'could make decisions irrespective of the number of deputies present'. This was also rejected, since it contradicted the constitutional prescription on the quorum necessary to make decisions (Art. 109). *Parliamentary proceedings*, 1907–1908, 6.2.1908, p.43. See also the parliamentary debate about this article, *Parliamentary proceedings*, 1910–1911, 26.1.1911, pp. 15–17.

to do at the start of each assembly session, the Independent deputies prevented any return to the order of business.<sup>1037</sup>

1037 S. Jovanović insisted, with reference to Articles 66 and 88 of the standing orders, that obstruction by way of oral questions had been possible because the assembly had wrongly interpreted the standing orders. According to Art. 66, before a return to the order of business deputies 'may pose short oral questions to the government or individual ministers'. Art. 88, para 1., on the other hand, speaks of deputies' *right* to ask questions 'at the start of the assembly session', the content of which had to be submitted to the minister in advance in written form, and further stipulates that 'following the relevant minister's reply, only the person who had asked the question could speak again'. According to Jovanović, the assembly had erred in treating such oral questions as the deputies *might* ask according to Art. 66 as their *right*. The article in question, he argued, did not oblige the minister to respond to an oral question, so there was no right but only a possibility that oral questioning might be permitted. Jovanović thus believed that the assembly could have denied the minority this highly effective method of obstruction, and decided 'at any time' to return to the order of business, but that it had not done so because of its wrong interpretation of the standing orders. 'Parlamentarna hronika', *Arhiv za pravne i društvene nauke*, no.2., 1906, p. 410; and no. 5, 1908, p. 155. See also *Ustavno pravo*, p. 233. One might say in response that according to the constitution (Art. 121) there were only deputies' questions as such, which ministers were obliged to answer within a given term. Even if the standing orders did not mention the minister's reply, this duty on his part was assumed. The difference between Art. 66 and Art. 88 lies in the fact that the former says nothing about the minister's reply, while the latter does, albeit in relation to rules for the debate following the reply. So Jovanović's interpretation could refer only to the fact that Art. 66 uses the expression 'may pose', while the other article states that a deputy 'has the right to pose' questions. It seems to us that we are dealing here in fact with imprecise wording rather than the lawmaker's intention to omit oral questions from a deputy's constitutional right to pose questions. The lawmaker could have done this only by prescribing that all questions must be written, or like the constitution spoken only about questions, without differentiating between oral and written ones. This was indeed done in the new standing orders, by omitting the word 'oral' from Art. 66 and keeping only 'short' questions, which implied that all questions other than interpellations had to be 'short'. See Art. 66 and Art. 88 of the new standing orders. That the lawmaker did indeed wish to eliminate two kinds of question is testified to by the statement made by a member of the assembly committee scrutinising the proposed law, Ljuba Jovanović, who stated explicitly that the bill recognised only one kind of question to ministers, the procedure of which was regulated by Art. 88. *Parliamentary proceedings*,

Given the number of Independent Radical deputies, and the provisions of the existing standing orders, ‘the opposition can continue with obstruction for three or four years’, noted Dragiša Lapčević immediately after the proclamation by the Independent deputies’s club. ‘This means’, he concluded, ‘that the government will not have a budget.’ In his view, ‘a serious party’ would ‘promptly dissolve the national assembly and organise new elections’. This was categorically demanded by ‘the parliamentary system, which should be protected, nurtured and defended’. ‘Any other way leads to either a partial or a full coup d’état’, said Lapčević, having in mind the possibility that the assembly might be postponed with an extension of the budget by decree, as was ‘being heard and discussed in the *čaršija*’.<sup>1038</sup> On 26 March, the last day for adopting the budgetary twelfth, Lapčević once again invited the government to dissolve the assembly. The government, however, realising that the assembly would not return to the order of business, even though this meant that the budgetary issue would be decided without popular representation, opted not for fresh elections but for postponement of the assembly, On 26 March 1907 the assembly was decreed postponed until 27 May, and the old budget extended by four

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1910–1911, 25.1.1911, p.12. However, Slobodan Jovanović’s view that, according to the standing orders of 1903 too, the assembly could decide at any time to return to the order of business is questionable too, because even assuming that deputies did not have the right to pose oral questions, they could have submitted any number of written ones, which had to be read out in the assembly. This last provision – the obligation to communicate the content of a question – may be derived from the aforementioned para. 1 of Art. 88, which links the right to submit written questions with *the start of a parliamentary session*, i.e. the period before a return to the order of business. For if it had not been necessary to inform the assembly of what written questions said, then the right to submit them at the start of the session would have been meaningless. With this wording of Art. 88, the assembly’s ability to return to the order of business at any time could be realised only by limiting the time during which written questions might be submitted to the assembly, which is what the lawmaker indeed did in the new standing orders, by prescribing in Art. 88 that written questions ‘at the start of the assembly session can last for an hour before a return to the order of business’ (italics, O.P.).

1038 *Parliamentary proceedings*, 1906–1907, 20.3.1907, p. 3743.



months, starting with 1 April. This was the first though not the last time that Pašić's government, in its struggle against the assembly, used a constitutional limitation of the latter's budgetary powers in favour of the crown, in other words the executive. Instead of resigning, when confronted by an assembly that would not give it a budget, it postponed that assembly and continued to run the country with a budget approved by the king through his decree instead of by the assembly.

Parliament reconvened on 27 March 1908, at the end of the prescribed postponement. Since the Independent opposition did not give up its intention to continue obstruction unless at least its minimal demand was met – that Stojan Protić be removed from his post as minister of police – Pašić's government did now resign, but without acceding to the Independents' demands, which it called 'inappropriate and unjustified'.<sup>1039</sup> However, when Pašić's cabinet was reconstructed on 30 May, Protić's place was taken by Nastas Petrović. 'The generation and the posterity that remembers how obstruction "succeeded" against the "lawless" Protić will never again consider obstructing', the deputy Sima Katić was to declare quite a while later, having in mind the murder in prison of the two Novakovićs, for which the new minister was responsible.<sup>1040</sup> In the spring of 1907, however, the Independent opposition took Protić's replacement by Petrović as an acceptable concession; so on 1 June 1907, at the first assembly session following the formation of the new government, Ljuba Stojanović announced that obstruction would cease. He stressed at the same time that the Independent Party did not consider that the crisis had been resolved in a correct manner. He argued that the whole cabinet should have resigned, the assembly been dissolved and new elections been held. Nevertheless, the very fact that the new government did not include a man who 'had publicly, in the assembly, propounded the theory that the government could break the law provided that its majority subsequently approved it' showed that the obstruction 'had been successful', said Stojanović. 'We shall soon see whether

1039 *Parliamentary proceedings*, 1906–1907, 27.5.1907, p. 3926.

1040 *Parliamentary proceedings*, 1910–1911, 19.1.1911, p.15.

we err in this judgement.' If, however, the new government should 'follow the path of the previous one', the obstruction would continue, concluded the leader of the Independents, since 'Serbia must become a legal state'.<sup>1041</sup> The debate on the budget was then resumed, and the budget for 1907 finally adopted by the assembly on 14 June 1907.<sup>1042</sup>

## ii. The 1908 obstruction

Freed from Protić, the Independent Party on the very day that it abandoned obstruction initiated a battle against prime minister Pašić. Ljuba Stojanović made an interpellation in which, relying on testimony by one of the Radical leaders and a former envoy to Vienna, Mihailo Vujić, he accused Pašić of having used 'ruses' and 'machinations' to bring down the Independent government in the spring of 1906. 'The national assembly sternly condemns prime minister Nikola Pašić' for 'a scheming attempt in February 1906, at the time of the Customs War against Austria-Hungary, to overthrow the Serbian government with foreign aid' – such was the content of a motivated proposal for returning to the order of business submitted by Dragutin Pečić. The Independents were joined by the Liberals, but their proposal for a return to the order of business was even more severe: Pašić had 'gained his post with the aid of foreigners and intrigues', and should, therefore, 'be removed from his post and placed under life-long police supervision, in Serbia and abroad, in the interest of order, peace and security.'

This interpellation, which together with all others under debate was terminated through a simple return to the order of business,<sup>1043</sup> marked the beginning of a new period of struggle by the parliamentary opposition, which was this time aiming at Pašić, or rather the government as a

1041 *Parliamentary proceedings*, 1906–1907, 1.6.1907, pp. 3931–2. See also Lj. Stojanović and Lj. Jovanović in the same vein, during negotiations on the composition of a four-party coalition, ASANU, 12884, draft reply to a proposal on composition of the government, undated.

1042 *Parliamentary proceedings*, 1906–1907, 14.6.1907, p. 4347.

1043 *Parliamentary proceedings*, 1906–1907, 20 and 23.6.1907, pp. 4467, 4527 and 4545.

whole, and in which the Independents would no longer be alone. During the whole of the 1907 session – which, as we may recall, began with the murder in prison of the two Novakovići; the postponement of the assembly by decree immediately after its opening; the ‘united opposition’ rally, to which the government responded by placing the army on alert; and fresh violation of electoral freedom during the municipal elections – the parliamentary opposition acted more or less in unison, demanding the government’s resignation, and new and free elections.<sup>1044</sup>

As in the previous year, obstruction began before being officially announced, in effect at the very start of the budgetary debate – on 15 January 1908. A fresh incentive for attacking the government was the sum allocated for the crown prince’s appanage, which contrary to the constitution was entered into the budget bill and furthermore was linked to intrigues with the court. After the middle of March, moreover, the trade agreement with Austria-Hungary became an additional reason for severe criticism of the government, since the opposition believed it to be disadvantageous for Serbia. There was latent obstruction up to the very moment when the budget debate was concluded, conducted almost exclusively by way of lengthy speeches dealing for the most part with the government’s overall policy. Obstruction became open on 21 March, at the start of the budget bill’s second reading, and was made official on 24 March. As in 1907, this was done by Ljuba Stojanović. The obstruction during the previous session, he said, had been directed against the minister of the interior. ‘Our hopes and aspirations have not been realised’, concluded Stojanović, and ‘it is our duty’ to ‘continue’ the obstruction with a demand for new elections. The remaining opposition parties – the Social-Democrats, Liberals and Progressives – promptly joined the Independent deputies’ club. Their leaders – Dragiša Lapčević, Vojislav Veljković and Dragić Samurović – made a joint declaration that, in the absence of free elections, they would continue obstruction in the new assembly too.

1044 See the section ‘Parties and Elections’ above.

As in the previous year, the government was left without a budget, and without a budgetary twelfth for the month of April. Since by its postponement of the assembly after Captain Novaković's murder it had exhausted its right to a postponement by decree for this session, at the first subsequent sitting on 31 March 1907, the day before the last approved budgetary twelfth expired, the government read out a decree dissolving the assembly and extending the old budget for another four months.<sup>1045</sup> The government had been reshuffled the day before: Nastas Petrović, Radomir Putnik and the minister of construction Jovan P. Jovanović were replaced, while Marko Trifković and Kosta Stojanović were appointed as, respectively, minister of the interior and minister of construction, while General Stepa Stepanović became the new defence minister. This reconstruction, however, was not conveyed to the assembly on 31 March.

The obstruction directed against Pašić's government had thus succeeded for a second time too, with the government being forced to agree to new elections, as demanded by the opposition. The latter saw this as a partial success only, however, since it judged the new elections to be as unfree as those of 1906. Consequently, when the new assembly convened for the first time in a preliminary meeting on 5 June 1908, it became clear that obstruction would continue unless Pašić's government resigned. It was only in the face of this threat – of an extra-budgetary situation, i.e. of a possible new extension of the budget by decree, which meant complete negation of the parliamentary system – that Pašić decided to submit his resignation and create space for negotiations between the Radical and the Independent parties on a joint government. The new assembly did not meet until an agreement had been reached and a new coalition government under Velimirović formed on 7 July 1908. A second preliminary meeting was held on 10 July, and the new session decreed open on 11 July 1908. Having gained power – as well as a promise, backed by guarantees from the king, that the coalition government would organise new elections by 14 September at the latest – the Independents finally abandoned

1045 *Parliamentary proceedings, 1907–1908*, 21–31.3.1908, pp. 516–91.

obstruction, recognised the new assembly, and made it possible to pass a new budget.<sup>1046</sup> This was adopted in the assembly on 28 July, and confirmed by royal decree on 31 July 1908, the day when the four months for which the previous year's budget had been extended by decree ran out. The voting in principle best illustrated all the dissatisfaction that the Radical-Independent agreement had caused not just among the Liberals, Progressives and Socialists, but also among the Independents themselves. Apart from the Radicals, only the Independent leaders Stojanović and Davidović and a few Independent deputies were present during the first vote on the budget. Apart from the Radicals, only the two leaders voted for the budget, but not the other Independent deputies. Forced to abandon obstruction, the Independents in this fashion manifested their dissatisfaction with the compromise forged by their leaders.<sup>1047</sup>

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In both 1907 and 1908, the crown's constitutional authority to extend by decree an expired budget was used to prolong the term of a government that had failed to secure a new budget in the assembly. In March 1907, instead of resigning the government postponed the assembly and extended the budget by decree, not by two months – which is when the postponed assembly was to meet again – but by four months. A year later, in 1908, the government was once again left without a budget because of its conflict with the assembly; once again, despite that, it refused to resign. This time it had to resort to dissolution, because it could no longer legally postpone the assembly during that term. In the first case, the conflict ended with the government and the assembly making a deal, and in the second with elections. The seriously weakened parliamentary order was thereby restored. But the fact remains that in both cases the government used the right to prolong the budget by decree against the assembly, to which in

1046 D. Đorđević, *Carinski rat*, p. 462.

1047 *Parliamentary proceedings*, emergency session of 1908, 19.7.1908, pp. 432, 441; 28.7.1908, p. 746. See also 'Parties and Elections' above.

the absence of that right it would have had to submit. In the event of dissolution, the government's resignation would have left the announcement, preparation and conduct of elections to the new government – which, indeed, was the basic aim that the assembly wished to achieve by refusing to pass the budget in 1908.

The right to prolong the budget by decree thus in practice proved to be a serious constitutional limit on ministerial responsibility. The government used it twice against the minority, but it could equally have applied it had it been a minority rather than a majority government. It is nevertheless a fact that Pašić's government did not use extension of the budget by decree against the majority, whose support it enjoyed, but against the assembly minority, with which it was in conflict and which, by its obstruction, was preventing the majority from providing the government with a budget. Is this circumstance relevant to our judgement on the government's (un)parliamentary conduct in 1907 and 1908? The answer is most definitely no. Whether or not the conduct of the minority – its obstruction on the budget issue – was correct from the standpoint of the idea of parliamentary government is a question in its own right, and will be considered further on. But even if one were to take the view that it was not correct, that would not minimise the unparliamentary character of the government's behaviour: a government that prolongs its life although denied a budget in the assembly cannot be called parliamentary, even if this was due to obstruction. Left without a budget, the government also remained without the confidence of the assembly as an institution. To argue the opposite is to overlook the fact that in parliamentary regimes the opposition represents a constitutive factor of the assembly, as indeed of the system as a whole. How and to what extent the opposition participates in parliament's decision-making is a matter of the standing orders, and above all of political tolerance.

As for the actual obstruction carried out in 1907 and 1908, through the effects it caused it posed a question of basic importance for Serbian parliamentarism. An action that under parliamentary regimes is considered

exceptional and at all events undesirable, albeit in certain circumstances an unavoidable and justified way of protecting the rights of the parliamentary minority – in sum, an unhealthy occurrence in parliamentary life – proved during the two years of Pašić's government to be a device for ensuring ministerial responsibility of prime importance for Serbian parliamentarism. This naturally raised the question of the legitimacy of this practice from the viewpoint of the principle of majority rule, whose primacy under the 1903 constitution no political current fundamentally questioned, other than that represented by Živojin Perić. However, since obstruction was carried out on the issue of the budget, and involved the assembly's right to reject the budget as such, it also raised the question of whether such a use of the assembly's budgetary powers was in accordance with the idea of parliamentary government: i.e. whether the assembly should be accorded the right to reject the budget in principle. In this, as in most other questions of parliamentary rule, the parties of the minority took one view and the strongest party, the Radicals, took another. The former defended obstruction, which they saw as a practical-political category under the prevailing conditions of Serbian parliamentarism, and resolutely defended the assembly's right to reject the budget in principle. The Radical Party, on the other hand, embraced an abstract model, and treated obstruction – and rejection of the budget as a way of overthrowing the government – as unparliamentary, judging them in the light of that model. The conflict over this issue, as on most other issues, was fought mainly between *Samoupravna*, i.e. Protić, and *Odjek*, i.e. Prodanović; but the Independent Party's position was shared by all minority parties in Serbia.

Regarding the legitimacy of obstruction, the arguments advanced by both sides were largely the same as those put forward in the polemics over the role of the king, and over the choice between homogeneous and coalition government, as described above. Generally speaking, it was a matter of how to understand the rights of the majority.

The minority parties believed that those rights, though undeniable, had to have clear limits in regard to both strict respect for the principle

of legality and true adherence to a liberal concept of democracy, the very notion of which contained the principle of respect for minority rights. Without this, and especially if elections were not free, the minority was not only able, but was even obliged, to resist the majority by all legal means. The Independent Party used *Odjek* to defend this view between February and June 1908, devoting to it, among other things, a series of articles under the heading of 'Fighting the majority'. 'One can talk meaningfully about the majority principle', wrote *Odjek*, 'only if the majority in question derives from free elections, and if it obeys the laws and constitution.' In the absence of this, wrote *Odjek*, the minority had the right to 'put an end by *legal* means to the government's *illegal* actions', which no one had ever contested except for Stojan Protić. Moreover, the opposition would bear great 'moral responsibility' if it failed to do so. For open violation of 'the constitution, law and public morality'... 'stimulates civil war and revolutions'. The majority principle, in short, 'should not be applied in an absolute sense', concluded *Odjek*, citing Georg Jellinek's *The Rights of Minorities*, the Serbian edition of which became available in 1901.<sup>1048</sup>

The other minority parties' view of obstruction, presented in some detail during the debate on the new parliamentary standing orders bill in January 1911, did not differ essentially from that of the Independent Party. For the Liberals and the Progressives, especially the former who had pioneered the use of obstruction under the Independent government, obstruction was a 'necessary evil'. They – Ribarac and Voja Marinković, for example – stressed their basic reservations towards this 'abnormal' and 'bad' occurrence, that prevented the institutions from functioning effectively; but they also believed that in regard to obstruction, Serbia should not model itself on European states with strong liberal and democratic traditions. For in these, Radomir Filipović and Voja Marinković explained, it was taken for granted that 'raison d'état demands strong criticism', and

1048 *Odjek*, no. 50, 51, 53, 54 of 27–28.2. and 3–4.3. 1908; no. 125 of 31.5.1908; 137, 139, 140, 141 of 16,18,19 and 20.6.1908. See Đorđe Jelinek, *Pravo manjina*, Belgrade 1902, published originally in *Branič*, no.10–12, 1901.



that the majority treats the minority scrupulously and with great tolerance, which was why obstruction in such countries was hardly ever justified. But in 'countries like Serbia', insisted Voja Marinković, obstruction should not be prevented, but on the contrary 'facilitated'. This was because abuse of power was the rule, and 'there is no counterbalance here against abuse of power, be it public opinion or the king. There remains only obstruction.' When the majority violated laws and persisted in doing so, added Stojan Ribarac, it was the duty of the opposition to initiate obstruction and call for 'the judgment of the people ... since there is no other instance'. Obstruction was better than a 'popular movement' or indeed 'civil war', commented Ljuba Đorđević, another Liberal.

The absence of a second chamber as potential counterbalance to an all-powerful majority was cited among the reasons used to defend obstruction. Those who cited this reason were the Progressives, the only party to advocate a bicameral parliament as part of its programme. In a system based on a single chamber, argued Voja Marinković, obstruction was the only way to prevent the parliamentary regime from degenerating into oligarchy, under which the majority would spend four years 'governing tyrannically'. Slobodan Jovanović, who likewise favoured a second chamber, used essentially the same arguments in his academic works to defend obstruction as the only way of 'moderating the assembly majority' and fighting 'abuse of power' in Serbia. To these arguments, he added also the fact that in Serbia one could not count even on the assembly officers to prevent the majority from abusing its power, because the speaker of the assembly was seen as 'the government's chief adviser and partner'. Under our conditions, therefore, the conflict between majority and minority could be resolved with an appeal to the people only through obstruction, concluded Jovanović, who like most participants in the public debate on this issue believed that the purpose of obstruction was to bring about early elections.<sup>1049</sup>

1049 *Parliamentary proceedings*, 1910–1911, 10.1, p.15; 13.1, p. 14; 17.1, p. 17; 20.1, pp. 8–9; and 21.1.1911. See also Slobodan Jovanović, 'Nov skupštinski

For Stojan Protić, who in response to *Odjek* presented his view of obstruction in some detail in April 1908, this understanding of majority rule was ‘incoherent and wrong’. Concepts such as ‘public morality’ and respect for ‘political freedoms’, to which *Odjek* appealed, were in his view indeterminate and imprecise. In the case of electoral freedom, concretely: ‘What is the criterion here, and who is the judge?’, asked Protić, if not the ‘constitutional and legal’ foundations of ‘our electoral laws and our electoral system’. Where ‘constitutional and legal guarantees’ for individual and political rights existed as was the case in Serbia, Protić argued, obstruction was ‘merely a cover designed to hide a struggle against the very principle of majority’.

Protić did not think, of course, that the majority principle excluded minority rights. Which minority rights could according to him be recognised, without endangering the majority principle? Rather than offering his own response, he cited those of (in this case less well known) foreign writers and politicians: the Englishman Richard Cobden and the German Hellmut von Gerlach. According to their view, he said, the minority ‘had in general only this right: to strive and work hard to turn itself into a majority’. There were only two instances when ‘it can reasonably carry out obstruction’. The first was when ‘it has good reason to believe that the popular majority supports it at a time when a large and important issue is on the agenda’, and the government is unwilling to subject itself to a ‘new judgement by the electorate’. The second was ‘if parliament is not an expression of the popular will, thanks either to an unjust electoral system or to an unjust division of electoral units’. Thus, for Protić, acceptable reasons for obstruction could be only certain well-defined political issues, but never the government’s rule in general; only an unjust electoral system, but not also unfree elections in practice, given that it was impossible to determine objective criteria for judging whether political freedom existed in practice. What motivated the opposition to obstruct, continued Protić – ‘the fact that the elections in its view were not free’; or that the government ‘was allegedly spreading

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poslovník’, *Arhiv za pravne i društvene nauke*, 5,1908, pp. 229–302.

corruption, and “innocent” people were dying in police custody and on Terazije’ – was nowhere, not in any parliamentary state, a motive for obstruction. In other words, argued Protić, obstruction as practised by the minority parties was ‘anti-parliamentary and anti-democratic’. ‘The gentlemen of the opposition have thus far failed to tell us what authority they are following ...which example from a civilised and parliamentary state argues in their favour.’<sup>1050</sup>

This last remark by Protić touched upon the conflict’s very point of origin. What for him, on every concrete issue of Serbian parliamentary practice – including on the issue of obstruction – was conclusive proof, for the opposition, i.e. the minority parties, was of only relative importance. Protić’s starting-point was a presumption that the practice of ‘civilised and parliamentary’ states was fully and unreservedly applied in Serbia. The opposition, on the other hand, believed that adoption of a principle did not imply also copying all the practical forms and ways in which this – in conformity with real political and social conditions – was realised in the place of its birth; and furthermore that overlooking the realities of the country of its reception could lead only to negating the very principle that was to be established.

The substance of the reply that the minority parties addressed to Protić on the issue of obstruction was as follows. Protić, who did not deny that obstruction was permitted in certain conditions, when elaborating on these had failed to realise that they could not be the same in all countries, yet in a *parliamentary* system were always determined by the meaning and essence of the majority principle: the need to respect minority rights. If, in the democratic and parliamentary experience of ‘civilised and parliamentary’ states, pressure by the ruling party and its police on the electorate simply did not exist; if such countries did not know of cases of armed attacks by uniformed army officers upon national deputies with whom they disagreed; nor of cases where a minister rightly suspected of having murdered an imprisoned political opponent nevertheless won the majority’s

1050 *Odlomci*, pp. 73–83.

confidence – then writers, guided by the experience of those countries, would not include among reasons justifying obstruction the problem of electoral freedom; or the problem of relations between civilian and military authorities; or the problem of basic political freedoms; or, indeed, the question of the majority's attitude towards its ministers charged with political murders. But since the Serbian parliamentary experience pointed to precisely such problems, it was necessary to view obstruction in a different light in Serbia, and to include among the conditions under which it became legitimate the very one that Protić called 'incoherent and wrong'. In regard to this and indeed all other basic questions of Serbian parliamentarism, the Independents and the other parties kept reminding Protić that Serbia was not Britain, and that Serbian parliamentary institutions had to conform to Serbian political conditions. On one such occasion, precisely during an argument about obstruction, Protić retorted: 'As the late Tucaković said: "We're not Englishmen and I'm not Gladstone". But though we're not Englishmen, we do wish to become like them; and if that's what we wish, then we must rely on their experience and adopt their institutions ... which helped them to achieve great glory and national greatness.' Protić said this while defending himself from criticism voiced by the opposition against his new bill on the assembly's standing orders, which followed the British example by including even the notorious 'guillotine' as a measure against obstruction.<sup>1051</sup>

The fact that in 1907 and 1908 obstruction was carried out on the budgetary issue invested this entire debate with a special meaning. It clarified an important aspect of ministerial responsibility: the rule that the government's whole policy is subject to scrutiny during the budget debate, and that rejection of the budget is used as a regular device for posing the question of confidence. Taken to its ultimate consequences, this practice provoked a reaction from the ruling party that, through Protić, posed the question of its conformity with the principles of parliamentary rule. In actual fact, it was precisely the Radical Party which, at the time when it was

1051 *Parliamentary proceedings*, 1910–1911, 21.1.1911, p.23.

in opposition to the Independent government, had introduced the practice of rejecting the budget as a way of expressing no confidence in the government. 'It is the national assembly's right to drive out such a government by rejecting the budget', Nastas Petrović had cried out during the budgetary debate in December 1905, after he and most of his party colleagues had delivered a comprehensive criticism of the Independent government's whole policy practically without touching upon the proposed budget.<sup>1052</sup> After the Independents joined the opposition, however, this understanding or use of the assembly's budgetary rights acquired special weight: rejecting the budget as such was no longer a simple expression of no confidence that the government could ignore, but acquired the form of obstruction, which in the given circumstances was very likely to provoke the government's fall. That is why Protić reacted by questioning parliament's very right to bring down the government over the budget. Rejection of the budget as a regular way of expressing no confidence in the government nevertheless became an established rule, the propriety of which was asserted by all the minority parties without exception.<sup>1053</sup>

Protić linked the unparliamentary character of budget rejection as a way of expressing no confidence in the government to the question of the assembly's right to reject the budget in principle. In formal legal terms this question, which the constitution did not explicitly regulate, was in practice resolved in favour of the assembly, and Protić did not openly deny that it was present in the 1903 constitution.<sup>1054</sup> However, it was the use of this right that he saw as 'unparliamentary'; he argued, citing British constitutional practice, that the constitution should be interpreted in a manner that denied this right to the assembly.<sup>1055</sup> This brought him into conflict with the whole opposition, as well as with the greatest Serbian authority at the time in the field of constitutional law: Slobodan Jovanović. For they all argued

1052 *Parliamentary proceedings*, 1905–1906, 9.12.1905, p.995.

1053 See, for example, Ž. Perić, Lj. Đorđević and V. Veljković, *Ustavno pravo*, pp. 307, 312.

1054 See note 340 on p. 187 above.

1055 *Parliamentary proceedings*, 1907–1908, 22.1.1908, p. 435.

that the assembly's right to reject the budget in principle was not just in accord with the idea of parliamentary government, but even that the latter was inconceivable without such a right. In maintaining that it was not desirable to limit obstruction in Serbia as much as might be justifiable in certain other countries, they stressed that it should as a rule lead to dissolution and elections, in other words to 'the people's verdict'. Indeed the ultimate means whereby, through obstruction, the assembly might bring the government to account before the people was precisely rejection of the budget in principle. This was 'the assembly's strongest right', argued the respected Liberal deputy Ljubomir Đorđević. 'It is only possession of this right that allows the assembly not simply to dismiss certain ministers, but even to remove the whole government.'<sup>1056</sup>

What was the basis of Protić's judgment that rejecting the budget in principle – or, more generally, rejecting the budget as a way of expressing no confidence in the government – was unparliamentary?

Protić was a great advocate of the need to reduce the assembly's prerogatives in financial matters, and soon after the May coup he started to agitate for them to become more circumscribed. As early as December 1903, he submitted a proposal that the assembly's standing orders be changed in such a way as to transfer to the government's exclusive competence all bills dealing with financial expenditure: in other words, that initiative by deputies be excluded in such matters. Limitation of deputies' legislative initiative, as conceived by Protić, was already present in the existing legislation: it was contained in Art. 18 of the law on the state budget passed under the 1901 constitution – but the standing orders that had been adopted under the 1888 constitution did not recognise the restriction. However, Protić sought to prevent initiative by deputies in all financial matters, and not just in regard to the state budget. In addition to citing the British example, he argued for the utility of this solution in terms of efficiency of the system and the demands of rational financial management, to which

1056 *Parliamentary proceedings*, 1911–1912, 14.11.1911, p.13. See also S. Jovanović, *Ustavno pravo*, pp.307, 312.

the assembly by its very nature could not adequately respond. Faced with strong resistance from the assembly, however, Protić did not submit such a proposal again.<sup>1057</sup> On the occasion of the vote on the new budgetary law for 1910, his proposal took over a provision from the old law according to which 'all proposals for state expenditure derive from the government' (Art. 20 of the budgetary law of 1910).<sup>1058</sup>

The position that the assembly should not have the right to reject the budget in principle was in line with this concept of the assembly's financial power, and in fact represented a further step towards its limitation. Protić borrowed this concept from English constitutional practice, though it is worth recalling that the 1901 constitution, whose retention Protić had strongly advocated after the coup, did not recognise any right for the assembly to reject the budget in principle. There was an important difference, however, between limiting the deputies' initiative in financial matters and denying the assembly the right to reject the budget in principle. Apart from the fact that one could hardly question its rationality, the former was in the spirit of the 1903 constitution – which, let us recall, deleted from the 1888 constitution the right of the assembly to enlarge individual sections of the proposed budget – and, most importantly, did not affect the assembly's budgetary power as the formal-legal foundation of ministerial responsibility. The latter, on the other hand, in addition to being based on an incorrect reading of the constitution, did indeed threaten the legal foundations of a parliamentary rule that was already shaken by the right of the executive to extend an expired budget by decree.

Protić's evocation of British constitutional practice in this, as in a great many other questions of parliamentary government was only partly correct, since not only was it in conflict with reality, but it also neglected certain formal-legal facts. It was duly noted that the British parliament's budgetary right was a 'constitutional fiction', since there is no known case of the

1057 *Parliamentary proceedings*, 1903–1904, 1.12.1903, pp. 223–6. See also S. Jovanović, *Ustavno pravo*, p.190.

1058 *Parliamentary proceedings*, 1909–1910, 9.2.1910, p. 1794.

government losing the confidence of parliament on the issue of the budget.<sup>1059</sup> However, the fact that in modern British parliamentarism the House of Commons has never used its budgetary right as an ultimate weapon to bring down the government does not prove that such a step would be unparliamentary; merely that the British parliament was never forced to protect the principle of ministerial responsibility, or any other important principle of parliamentary government, by having recourse to this ultimate weapon – which does indisputably belong to it – against the executive. On the other hand, the budgetary right of the British parliament, albeit a ‘constitutional fiction’, is totally unrestricted, in the sense that the executive cannot administer the country for a day without a budget approved by parliament. More generally the British constitution, hence also British parliamentarism, does not know of – nor could approve – what was an important feature of Serbian parliamentarism: the existence of extreme constitutional measures that the executive can use against the assembly, of which the most important – though not the sole – is the right of the crown, i.e. of a (non) responsible government, unilaterally to extend an expired budget.<sup>1060</sup> Most important, of course, was the fact that these rights of the executive in relation to the assembly were not a ‘constitutional fiction’, and that the government used them without hesitation as the ultimate weapon in its struggle against the assembly. The constitutions of classic constitutional monarchies entrust the executive with great powers, and it is difficult in them to achieve a parliamentary regime if the executive does not use such powers with moderation and discretion. In the Serbian constitution these powers were much greater, and their free application would have rendered a parliamentary regime practically impossible. In such conditions, demanding of the assembly nevertheless to give up rights granted it by the constitution as an ultimate instrument against the government led to the establishment of such relations between the government and the assembly as would have made Serbian parliamentarism fall further

1059 S. Low, *op.cit.*, p.96.

1060 See the section on ‘Legal Foundations’ above.



behind British parliamentarianism rather than draw closer to it. For it meant denying the Serbian assembly the ability to force a government, which was using its constitutional prerogatives (and even violation of the constitution, moreover) to breach the principles of parliamentary rule, to resign – thereby restoring the parliamentary order thus undermined.<sup>1061</sup>

## 2. The experience of coalition 1908–11

The Radical Party's ambition to govern Serbia on the British cabinet model suffered a defeat in the 1908 elections. But the attempt by the minority parties to draw the king into the parliamentary game also failed, and the Radicals no longer faced a threat on that front. However, the disappointing election results that reduced them to a very weak majority, and the opposition's determination to bring down their government, if need be by creating an extra-constitutional situation in the country, forced them to retreat and to accept, for a while at least, a concept of government quite contrary to the one they had been advocating. There followed a period of cooperation between parties, albeit forced and insincere – 'without much warmth', as Dimitrije Đorđević would say – during which all Serbian political parties except for the Social-Democrats practised being coalition partners.<sup>1062</sup> The coalition would go through several phases in the period 1908–1911. The form of a technical government – originally intended to be of brief duration, and whose sole task was to remove the threat of an extra-constitutional state and to hold new and *free* elections – lasted for nearly one year and a half, since new and on this occasion serious foreign-policy considerations did not permit the risk of party conflicts of the kind

1061. Obstruction on the budget (or some other important law) is recognised even in theory as being in accordance with the rules of parliamentary government. R. Redslob, *op.cit.*, pp. 3–4. Redslob links this with the right of dissolution, which he understands not just as a right of the crown, but in a certain informal sense also as a right of the assembly.

1062 D. Đorđević, *Četvorna koalicija*, p. 214.

that Serbia had experienced in the preceding period. With the end of the foreign-policy crisis, the agreement on urgent new elections was set aside and technical governments gave way to a governmental coalition between the two largest parties, which in view of its programme of major legislative reforms – largely achieved too – possessed the true character of a parliamentary coalition.

### **A. CRISIS OF THE PRINCIPLE OF MINISTERIAL RESPONSIBILITY – TECHNICAL GOVERNMENTS JULY 1908 – OCTOBER 1909**

The joint struggle waged by the opposition, with the aim of forcing the king to abandon the ruling majority and replace it by a caretaker government that would conduct free elections, failed to accomplish the desired result. A Radical-Independent coalition emerged on the basis of an agreement between the two parties, mediated by the king, which Dimitrije Đorđević described as a ‘an extended caretaker government of a sort’; but it too failed to organise new elections.<sup>1063</sup> Its true result was the arrival in power of the Independents, and a grand compromise that the majority Radical Party was forced to accept.

The resignation of Pašić’s government on 5 June 1908, and its agreement to negotiate a coalition, was not the only concession that the weakened Radical Party had to make. The Independents were still resolutely demanding a government without Pašić and Protić, indeed one in which only moderate Radical politicians would be included. Following a stubborn and prolonged resistance, which lasted for over a month, during which the king played an important role as mediator, the leadership of the Radical Party was forced to withdraw and allow the government to be formed by politicians who, albeit Radicals, were not to their taste.<sup>1064</sup>

1063 D. Đorđević, *Četvorna koalicija*, p. 213.

1064 On the negotiations over the composition of the new government, see D. Đorđević, *Carinski rat*, pp. 460–62.

Presenting his government to the assembly convened in emergency session on 11 July 1908, the new Radical prime minister, Petar Velimirović, declared that the two parties had decided to 'work in agreement after strained party polemics and strife'. The agreement was to be implemented in two phases: the first involved the formation of a purely Radical government from the party's moderate wing, after which three Independents would join it.<sup>1065</sup> The Radicals composing the new government did indeed enjoy the reputation of being moderate, and most importantly of being somewhat distant from Pašić and Protić. The ministry of foreign affairs went to the Radical Milovan Milovanović, who on many issues was closer to the Independents than to his own party. The interior ministry went to Svetozar Milosavljević, a politician for whom, as his political opponents acknowledged, though 'he had been a revolutionary in his youth', establishment of the rule of law was now an 'idée fixe', and whose sole concern was to 'maintain the reputation of a non-partisan individual who would give the fusionists no chance to achieve anything'. As for the prime minister, *Nedeljni pregled* described him as a man 'whose only recommendations for the post were his goodness and pacific nature ... at the most critical moments... for the state'.<sup>1066</sup> A month later, on 11 August, the Independents gained as agreed three cabinet posts hitherto left vacant: those of justice (Kosta Timotijević), the economy (Kosta Glavinić) and construction (Miloš Savčić). Of eight cabinet posts (setting aside defence), five were held by Radicals and three by Independents.

1065 See statements by P. Velimirović and Lj. Stojanović, *Parliamentary proceedings*, emergency session of 1908, 11.7.1908, pp. 28–9. See also the section on 'Parties and Elections' above, pp. 310–11.

1066 *Nedeljni pregled*, 1–2, no. 25, 1908, pp. 4, 19, 378. The Liberals too were happy with the new minister of the interior, who would keep his post for a while also in the following, government headed by Novaković. A 'sudden improvement' followed S. Milosavljević's appointment to the interior ministry, the Liberal deputy Jovan Stojković stated in the assembly: *Parliamentary proceedings*, 1908–1909, 3.3.1909, p. 117. The remaining ministers were Mihailo Popović (minister of finances and deputy minister of construction), Andra Nikolić (education and religion), and Stepa Stepanović (defence).

The new government's composition promised a big change. The assembly's Radical majority, largely unchanged, had been elected by votes that had in fact been cast for Pašić's old government.<sup>1067</sup> An assembly of this nature was supposed to support a government whose programme and composition, though predominantly Radical, nevertheless represented a serious about-turn in relation to the previous government – a victory by its opponents in fact. Did this mean that the Radical majority had indeed adopted a new policy, turning away from their true leaders towards their critics?

The answer came very quickly, almost at once after the adoption of the 1908 budget. It turned out that the change had not been all that great after all; that the Radical majority had not abandoned its leaders; and that, like their leaders, they did not view the government as their own. The party leadership took pains to demonstrate even in a symbolic manner its supremacy vis-à-vis its own government. Thus, in a by-election held in August 1908, the Radicals loyal to Pašić put up their own candidate, Nikola Uzunović, against the Radical minister Milovan Milovanović, in contravention of the agreement between the two parties. Uzunović defeated Milovanović, who although he was the ruling coalition's candidate lost his parliamentary seat.<sup>1068</sup> In the assembly itself, from the very start of the regular 1908 session, the Radical majority refused to support a government in which most ministers belonged to their own party, but continued to follow the party leaders who had been excluded from the government. Sitting on the right of the assembly together with the Independents, they attacked their own government more assiduously than did their colleagues

1067 Between 1881 and 1911 the choice of candidates for the assembly was wholly in the hands of the party's main committee. With the change of the party statute in 1911, this became a responsibility of the municipal and district committees; but the decision on who would head the lists or be a qualified candidate, and the ranking of candidates on individual lists, remained under the main committee's control. See the party statutes of 1881, 1889 and 1911 in V. Krestić and R. Ljušić, *op.cit.*, pp. 133, 190, 450, 452–3.

1068 *Odjek*, no.216, 17.9.1908. See also ASANU, 12579, 17.

on the assembly's left.<sup>1069</sup> The most frequent and open attacks by Radical deputies were directed against Milovanović, with Milovanović's opponent Uzunović leading the onslaught.<sup>1070</sup> The government and the majority did not enjoy 'normal relations'; in Jaša Prodanović's accurate assessment, this was 'an attempt by the older Radical group, which is in alliance with us, to bring down ... the whole present cabinet.'<sup>1071</sup> The situation recalled that of almost two decades earlier. As before under the 1888 constitution when the Radicals were gaining their first parliamentary experience,<sup>1072</sup> so now too under the 1903 constitution they showed that the only government acceptable to them was one headed by their party leader, Nikola Pašić. Any other solution they saw as imposed, so they undermined it.

The discord between the Radical majority and the government became even more open with the arrival of the 'annexation crisis', when two concepts of what Serbia's reaction should be clashed: on the one hand, Milanović's moderate position based on the principle of territorial compensation; on the other, Pašić's warlike stance demanding autonomy for Bosnia-Herzegovina. The minister was wrong, argued Stojan Protić during the debate on an interpellation directed at Milovanović, if he thought that our Austro-Hungarian policy could be one of peace-making.<sup>1073</sup> It seems that the decision to bring down the government was finalised then. Stojan Protić and Nastas Petrović 'are openly advocating a crusade against the government', noted *Odjek*.<sup>1074</sup> 'During the dangerous annexation crisis', Jovan Skerlić would say later, 'the leadership of the Radical Party waged an underground campaign against the government ... headed by one of the oldest and most eminent Radical Party members, Pera Velimirović.'<sup>1075</sup>

1069 See, for example, A. Žujović and Mihailo Srečković, *Parliamentary proceedings 1908–1909*, 8.10. and 13.12. 1908, pp.28–9, 249–50.

1070 *Parliamentary proceedings 1908–1909*, 23.1.1909, p. 563.

1071 *Parliamentary proceedings 1908–1909*, 29.1.1909, p. 656, and 4.2.1909, p.710.

1072 See p. 127 of this book.

1073 *Parliamentary proceedings 1908–1909*, 20.12.1908, p. 319.

1074 *Odjek*, no.216, 17.9.1908.

1075 *Parliamentary proceedings*, 1913–1914, 18.10.1913, p.228.

Counting on Russia, which was refusing to recognise the annexation, and relying on a belligerent public, Pašić was busy undermining the government not just in the assembly, but outside it too. 'We all recall', Skerlić continued in the speech cited above, 'the September days when the Radical Party leaders ... mobilised a street mob, arrived with this unbridled mass in front of the ministry of foreign affairs, and then, after confining the terrorised minister Milovan Milovanović in a small room, rushed onto the balcony and addressed incendiary speeches to the crowd gathered in front of the ministry.'<sup>1076</sup>

The absurdity of the parliamentary situation at this time was cogently described by Živojin Perić. Noting that one of the governmental parties – the Independents – defended the policy of compensation, while the other – the Radicals – attacked it, he concluded: 'The present government is truly a unique case...*Samouprava* represents one (Radical) part of the government and *Odjek* the other (Independent) one. All this means that right now we do not have a government... for otherwise we should have to accept that one and the same government stands for both a policy of compensation (Mr Milovanović) and a policy of autonomy (Mr Pašić), which is impossible... Mr Velimirović's government represents neither the Independent Party nor the Radicals. And since it certainly does not represent the views of the Nationals or the Progressives', the question is posed: 'whom in the assembly does Mr Velimirović's government represent? ... It is not difficult to guess the answer: No one!' Such was the accurate and logical conclusion reached by Perić in *Nedeljni pregled*.<sup>1077</sup>

1076 *Parliamentary proceedings, 1913–1914, 18.10.1913, p.228.* In January 1909 the belligerent faction's view would prevail over Milanović's policy of compensation, and the latter would adopt Pašić's position, or a policy of autonomy. In March 1909, however, Russia, yielding to Germany's ultimatum, recognised the annexation, and the Serbian government did the same on 18 March 1909. At that time Stojan Novaković was prime minister, Milovanović minister of the interior, and Pašić minister of construction. On the policy of compensation, the public mood and the 'annexation crisis' in general, see *Istorija srpskog naroda*, pp. 168–73.

1077 *Nedeljni pregled*, no.34, 1908, p. 552.

It was impossible for the government to keep going under such conditions, and inter-party negotiations opened in December 1908, mediated once again by the king, with a view to forming a government composed of all parties bar the Socialists. The negotiations went on for nearly two months, mainly because the Radicals stubbornly and persistently demanded, as they had done six months earlier, that Pašić should be made prime minister, which the Independents and the Progressives rejected with equal determination. The Independents also refused at any price to accept Pašić as foreign minister, or Protić as minister of the interior. 'The struggle of our two parties over the past two years', said Ljuba Stojanović, explaining his party's position to Ljuba Jovanović, 'was as you know directed also against the policies conducted by these two in their respective departments.'<sup>1078</sup> Velimirović submitted his resignation several times during these negotiations, only to withdraw it at the king's request.<sup>1079</sup> At the very end of the negotiations, still holding to its condition regarding the premiership, the Radical leadership decided to use its majority in the assembly to bring down the government.

During the debate on an interpellation submitted by the Liberals against minister Kosta Glavinić, a leading Radical deputy, Miloš Trifunović, proposed a motivated return to the order of business, accusing Glavinić of having harmed the state by reducing the tax on logging. Broadening the attack to include also Miloš Savčić, whom Uzunović described as 'the greatest concessionaire and entrepreneur in Serbia', the Radical deputies asked for the resignation of the whole government.

The government had left no doubt that it was itself ready to withdraw. This could not but increase the indignation at the method chosen by the Radicals to break with it. Kosta Glavinić, a respected university professor known for his personal honesty and integrity, had been accused of

1078 Draft reply by L. Stojanović to Lj. Jovanović's proposal on the composition of the new government, undated, ASANU, 12884. See also Lj. Jovanović's letter to Lj. Stojanović of 16.12.1908, ASANU, 12497.

1079 D. Đorđević, *Četvorna koalicija*, pp. 214–19.

participating in financial misconduct against the state treasury. Apologising for being 'upset', Glavinić stressed in his reply to the interpellation that he was speaking not because of those who were attacking him, since he was 'already condemned'; his speech was for the parliamentary record, to defend before history his own 'dignity', which he had 'jealously guarded for many years'. Recalling that he had been the last to agree to join the new government, he saw his acceptance as a mistake, feeling himself unsuitable to be a minister 'in the conditions that have come to prevail in our country'. This, he explained, was because: 'I will not, could not and would not be guided in my work by any consideration of whether the group on the left or the group on the right would like it or not.'

By stating that he would accept only a simple return to the order of business, he helped the Radical majority to decide the government's fate. On 6 February 1909 the assembly rejected a simple, and accepted Trifunović's proposal for a motivated, return to the order of business.<sup>1080</sup> On the following day the government submitted its resignation to the king, which this time was accepted. The fall of Velimirović's government enriched Serbian parliamentary practice under the 1903 constitution with a new experience. For this was the first – and also the last – instance of a government falling in parliament because of the adoption of a motivated return to the order of business, i.e. through a vote of no confidence after an interpellation.

However, interpellation as a device for posing the question of ministerial responsibility had been used successfully – for the first time under the new regime – even before the whole government was brought down by such means. At secret assembly sessions on 15 and 16 December 1908, Dragoljub Joksimović of the Independent Party and Petar Mišić, one of the retired officer plotters elected to parliament on the Radical ticket, interpellated the defence minister Stepanović, charging him with malversation

1080 *Parliamentary proceedings*, 1908–1909, 26.1, 29.1, 3–6.2. 1909, pp. 616–758.



linked to military supplies.<sup>1081</sup> Following this Stepanović resigned, and on 23 December General Mihailo Živković was chosen as the new minister of defence.

Given the secret nature of these sessions, it is impossible to be sure how this happened, but it is likely that there was no formal vote of confidence in the minister. This question would be posed later, under Pašić's coalition government, when the Stepanović affair would once again be placed on the agenda. The opposition of that time, as well as those who had interpellated, would insist that the minister had fallen in the assembly, and that his fall had been caused by an interpellation followed by an exceptionally stormy debate and serious charges. Prodanović, a minister in Pašić's coalition, would deny this assertion by the opposition, arguing that: 'Stepanović did not fall in the assembly', because the assembly did not vote on the issue of confidence. Minister Stepanović – Prodanović would say in May 1911 – came into conflict with certain deputies and himself decided to withdraw.<sup>1082</sup> More will be said later about Prodanović's reasons for this assertion, and about the general significance of this conflict. It suffices to state here that Prodanović was probably right to argue that the assembly did not vote on the issue of confidence, since no one disagreed with him; but also that his assertion about Stepanović not having fallen in the assembly was so formal that it makes no difference. Stepanović, in any case, resigned because his position was called into question through an interpellation, submitted by two deputies of the two ruling parties on a highly sensitive and – as it would turn out later – major affair. He resigned either in order to avoid a vote of no confidence, or because he wished, by calming spirits down with his resignation, to avoid further investigation of the case by the assembly.

He failed to achieve the latter, however. On 7 January 1909 Triša Kaclerović submitted two interpellations to the new minister of defence, Živković, citing numerous misappropriations and irregularities in

1081 D. Đorđević, *Četvorna koalicija*, p.215.

1082 *Parliamentary proceedings*, 1910–1911, 5.5.1911, pp. 6, 10.

connection with military supplies, with far-reaching consequences for the quality of armaments. Responding to these interpellations, the new minister confirmed that irregularities and instances of malversation did exist. This reply, and the debates conducted in secret session, led the assembly on 18 April 1909 to decide to appoint an investigating committee that would carefully examine all the important issues raised by these interpellations. What would become known as the 'Rašić-Vlajić' affair was to have important political repercussions in the following period, and the events connected with it would highlight the aforementioned problem of the political responsibility of the defence minister, who was becoming increasingly independent from the rest of the government.<sup>1083</sup>

By using their majority in the assembly to bring down the government, the Radicals displayed their power in the belief that this would leave a suitable impression upon the concluding stage of negotiations on the formation of a new government, thus improving the chances that their condition regarding the premiership would be accepted. The other parties, however, continued to reject with undiminished determination any possibility of having Pašić as prime minister. In a situation when the 'annexation crisis' was just reaching its peak, Serbia once again faced the danger of being unable to secure a government through regular, parliamentary means. The king contributed to the solution of this problem, by ordering the parties involved in the negotiations to submit a list of ministers to him within three days. He warned that if they failed to do so, he would 'take matters into his own hands.'<sup>1084</sup> Pašić retreated in the face of this threat; he agreed to accept the post of minister of construction, and the crisis was resolved. A decree on the formation of a new government was issued on 11 February 1909. In addition to four Radicals and two Independents, this included also Ribarac and Novaković.<sup>1085</sup> Novaković became

1083 See report by the parliamentary committee of 29.5.1910, pp. 1–3. The report has 315 pages. It was distributed among deputies, but never placed on the agenda of the assembly.

1084 D. Đorđević, *Četvorna koalicija*, pp. 219–20.

1085 V. Veljković was not a minister in Novaković's government as claimed in D.

prime minister, Milovanović remained foreign minister, while Protić did not join the government. The widely praised Milosavljević continued as minister of the interior until mid June, when he was replaced by Ljuba Jovanović.

*Nedeljni pregled* stated at the outset of Novaković's government that 'it has the confidence of the whole assembly apart from one deputy'.<sup>1086</sup> In fact it had two opponents: in addition to Triša Kaclerović, Živojin Perić – who finally left his party in connection with the annexation crisis – did not approve the coalition either. According to Perić, the Liberals and the Progressives had made a big mistake by agreeing to 'share responsibility' with the Radicals – who 'up to the annexation refused to share government with anyone' – 'for the misfortune that Serbia has suffered under them'. Responsibility for this misfortune lay solely with the Radicals, that is to say with their foreign policy of relying on Russia – their 'anti-Central – European' policy. By sharing responsibility with them, argued Perić, the Liberals and the Progressives had missed their opportunity to appear at the right moment as an alternative to the ruling Radicals.<sup>1087</sup>

It became clear at the beginning of March, however, that *Nedeljni pregled's* assertion of near – unanimous confidence on the assembly's part was mistaken. The government was attacked and denied confidence by all except for the Radicals, albeit never in a way that would bring it down. The intention to keep the government going until after the crisis had died down was clear; but so too was the wish to demonstrate that its composition was temporary and its character purely technical. When in mid February Ribarac as minister of justice issued, or rather countersigned, a decree amnestying 5,750 political prisoners, the Independents submitted an interpellation against him, contesting this act both legally and politically. The Independent Party would not 'at this moment pose the question of confidence, but will do so on another occasion', declared Kosta Timotijević,

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Dorđević, *Četvorna koalicija*, pp. 224, 228.

1086 *Nedeljni pregled*, no.9, 1909, p.132.

1087 *Nedeljni pregled*, no.12, 1909, pp. 180–81.

complaining in particular that people involved in the counter-plotters' movement had been included among the amnestied political prisoners. Milorad Drašović stressed that the Independents would vote for a simple return to the order of business only 'for the sake of state interests'. Voja Marinković noted that this was the beginning of 'a campaign against the new coalition government'. This was good, he continued, because 'I do not believe, gentlemen, that we can work together; I do not believe that the present state of cooperation can last.'<sup>1088</sup> An interpellation against Milovanović – related to the conduct of the Serbian consul in Salonika, Vlado Ljotić, suspected of large-scale theft and embezzlement of state money – likewise highlighted the relationship between government and assembly at the time of Novaković's government. The Independents proposed a motivated return to the order of business, which the minister rejected on the grounds that this amounted to an expression of no confidence, while promising at the same time to do all in his power to ensure that Ljotić would be properly punished. The minister had understood 'correctly' what this meant, Voja Marinković commented on Milovanović's deduction. 'Unfortunately', he continued, the assembly would now certainly 'not agree to pass a vote of no confidence in the government'. Marinković was right. Following Milovanović's declaration that he would take the return to the order of business as a question of confidence, the Independents dropped their proposal, making do with having expressed their lack of confidence in the minister informally.<sup>1089</sup>

The crisis of Novaković's government opened formally in mid August 1909 with the resignation of Ribarac, immediately after which Novaković too submitted his resignation.<sup>1090</sup> The resignations were withdrawn after a few days, and the government remained in existence for almost two

1088 *Parliamentary proceedings*, 1908–1909, 7.3.1909, pp. 1227, 1239, 1241–4, and 1263.

1089 *Parliamentary proceedings*, 1908–1909, 7.4.1909, pp. 1500–04.

1090 *Parliamentary proceedings*, 1909–1910, 3.12.1909, pp. 992–5. On the lack of enthusiasm on the part of the Liberals and Progressives to continue in the coalition, see *Nedeljni pregled*, nos 28–9, 1909, pp. 425–6, 431.

more months. As soon as the 1909 parliamentary session opened on 8 October, however, Ribarac followed by Novaković submitted irrevocable resignations, and on 11 October 1909 a new Radical-Independent coalition came into being. The Independents accepted Pašić as prime minister, but in return gained four ministries, the same as the Radicals. In addition Protić, though in the government, did not get the interior ministry, which was left in the hands of Ljuba Jovanović. However, when Ljubanović resigned on 12 October 1909 Protić once again assumed that post. Already finance minister, he thereafter ran the interior ministry too as deputy minister. Of the Independents, those who entered the government were Jovan Žujović as minister of education, Kosta Timotijević as minister of justice, Jaša Prodanović as minister of the economy, and Velislav Vulović as minister of construction. The ministry of foreign affairs in the new government remained in the hands of Milovan Milovanović.

## **B. ERA OF SYSTEMIC EFFICIENCY – THE RADICAL-INDEPENDENT COALITION OCTOBER 1909-JUNE 1911**

Presenting his government to the assembly on 12 October 1909, Pašić declared that the new government would ‘continue the policy of the previous four-party coalition headed by the esteemed Stojan Novaković.’<sup>1091</sup> By referring to Stojan Novaković’s authority, unquestioned in Serbia at the time, and to his government taken as a manifestation of inter-party tolerance and cooperation on matters of national interest, Pašić undoubtedly wished maximally to increase his government’s authority in the eyes of those dissatisfied with the new coalition.

The real programme of the Radical-Independent coalition, however, had nothing in common with that of the four-party coalition. For its very essence consisted in an agreed reform of legislation covering all important areas of politics and the state. Or, more precisely, in completing all the legislative projects that had occupied an important place in the

<sup>1091</sup> *Parliamentary proceedings*, 1909–1910, 12.10.1909, p. 47.

practical-political programmes of either of the two parties, but that had remained unrealised in the previous period, thanks variously to short-term governments, weak majorities or institutional blockage. From the very moment that the newly constituted assembly began its work, the government kept presenting it with important bills; and the same tempo was maintained also in the 1910 term. Most of these bills were enacted before the coalition broke up in June 1911, and they included: standing orders for the assembly, an electoral law, a budgetary law, a law on municipalities, a law on district and county organisation, a law on direct taxation, a law on a loan for railways and armaments, a law on retail outlets, a law on district or town magistrates. Before the period of joint rule ended, the Radical Party tried to pass through the assembly also a highly restrictive press law, but the coalition collapsed before this could be done. When the government presented the bill on the loan for armaments and railways, submitted to the assembly on 11 November 1909, as the work of the previous coalition, Stojan Novaković responded: 'That, gentlemen, is not true!... That is someone else's work: we are in no way responsible for that loan.'<sup>1092</sup> Novaković's comment applies equally to practically all the other legislative proposals of Pašić's coalition government.

The leaders of the Independent Party evaluated highly the entire phenomenon of the coalition in Serbian parliamentary life, not just while it lasted but also after its collapse. Party passions in the country had calmed down and a sense of tolerance begun to develop in the assembly, Jaša Prodanović would explain subsequently, after the coalition had broken up. For him, as for the other leaders, it was equally important that the Independent Party had managed to get the assembly to pass a series of laws of which it was very proud. For the first time in Serbia, Prodanović continued, 'enforcement and investigation passed from the police to the courts';<sup>1093</sup>

1092 *Parliamentary proceedings*, 1909–1910, 5.12.1909, p. 1087.

1093 This was one of the most important laws adopted in the 1909–14 period. Up to this time, the investigative procedure in criminal cases as well as the administrative procedure in civil trials were carried out by police bodies. With this law, the courts assumed these duties. But the idea of a public prosecutor

'*kuluk* [compulsory unpaid labour] was abolished';<sup>1094</sup> and a law on shops was adopted,<sup>1095</sup> which greatly improved the position of the workers.<sup>1096</sup> As for the Radicals, they did not boast much about the coalition's achievements mainly because they were against it in principle. Nevertheless, many of the laws which they considered most important – beginning with the changes to the assembly's standing orders – were finally adopted thanks largely to their cooperation with the Independents. The budget for 1909, and that for 1910 too, were adopted in principle on the very day that discussion of the financial committee's report began, and soon afterwards with equal speed on their first and second readings.<sup>1097</sup> The government had no trouble passing the budget even in March 1911 – the debate on the principle of the bill took only four relatively brief sessions.<sup>1098</sup> The only two bills

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 was never realised, however. The decision to file a charge in criminal cases remained with the minister of police. The 'transfer of criminal investigation and trial from the police and municipal authorities to the courts' was part of the Independent Party's programme. V. Krestić and R. Ljušić, *op.cit.*, p.318.

1094 The cancellation of the *kuluk* for the building and maintenance of roads was also part of the Independent Party's programme. V. Krestić and R. Ljušić, *op.cit.*, p.320. The May 1910 law on public and overland roads suspended the *kuluk* for the building and maintenance of state roads, but not for municipal ones. The *kuluk* was replaced by a tax. Numerous deputies of both Radical parties were against ending the *kuluk* in order to avoid the payment of a tax. *Parliamentary proceedings*, 1908–1909, 6.3.1909, p. 1209; *Parliamentary proceedings*, 1909–1910, 4.5.1910, pp. 2903–45.

1095 The draft law on shops was put to the assembly for the first time in March 1904 as a private member's proposal. It was then removed from the agenda, with a promise from the minister that the government would put it on the agenda 'in the following year'. Between then and March 1910, all attempts by the government to introduce the law failed. The drafting of this law caused much conflict. Prodanović submitted it to the 1909 assembly on 8.3.1910, and it was finally passed into law on 11.6.1910.

1096 *Parliamentary proceedings*, 1911–1912, 26.11.1911, p. 2. See also J. Žujović, *Govori na konferenciji Samostalne radikalne stranke 4. oktobra 1909. godine u Beogradu*, Belgrade 1910, pp. 10–36.

1097 *Parliamentary proceedings*, 1908–1909, 26.2., 6.3. and 13.3. 1909, pp. 1039, 1205, 1344; *Parliamentary proceedings*, 1909–1910, 24.3, 1.4 and 8. 4. 1910, pp. 2548, 2673, 2810.

1098 *Parliamentary proceedings*, 1910–1911, 28–31.3.1911, pp. 16–39.

that caused prolonged debate were those amending the law on elections and the law on the assembly's standing orders.<sup>1099</sup>

However, while the ruling parties saw the speed and ease with which the bills were passed as proof of the system's efficiency and of inter-party tolerance, the opposition parties saw them as a suspension of the assembly, or rather of its role in political decision-making. Placing bills before the assembly 'is just a formality', said Živojin Perić. 'We, who do not belong to the club' of the majority, 'may indeed speak against here ... but these will be purely *theoretical* speeches, because they come after ... decisions already taken.'<sup>1100</sup> The assembly 'has been left with nothing to do'. 'The government has usurped both the executive and the legislative power', and the deputies have become 'assembly furniture and a voting machine', as Živojin Hadžić put it when motivating his departure from the Independent deputies' club.<sup>1101</sup> 'Every issue, be it one of the utmost importance, is sown up in a few minutes' so that 'the thunderous majority can promptly caw out "yes"', noted Triša Kaclerović.<sup>1102</sup> Never before had 'the work of the assembly been observed with less interest ... What we do here is no longer of any concern', complained Pavle Marinković.<sup>1103</sup>

The deputies did indeed show little interest in the work of the assembly, which led them also to miss its sessions. Thus, for example, only 87 were present at the vote in principle for the 1909 budget, and only 84 for the 1910 one. This only partly reflected the dissatisfaction of those deputies of the majority who had in the meantime dissociated themselves from their parties specifically because of the coalition; in the main, it was a matter precisely of what the opposition deputies perceived – apathy caused

1099 The electoral law was on the agenda of assembly sessions from 11.5 until 3.6.1910; the standing orders formally from 18.12.1910, but really only from 10.1.1911 until 26.2.1911, because the assembly took time off for a Christmas holiday from 18.12.1910 to 10.1.1911.

1100 *Parliamentary proceedings*, 1909–1910, 1.12.1909, p. 927.

1101 *Parliamentary proceedings*, 1910–1911, 20.1.1911, p. 17.

1102 *Parliamentary proceedings*, 1909–1910, 14.11.1909, p. 566.

1103 *Parliamentary proceedings*, 1910–1911, 30.3.1911, p.36.



by their awareness that all political issues had already been decided in government by agreement between the two groups, and then between the leaders of the deputies' clubs. 'In the interest of public law and morality', Ribarac protested in March 1910, the speaker's office should apply the prescribed measures against deputies who absent themselves without reason from assembly sessions: confiscation of the deputies' daily allowances.<sup>1104</sup> Although this was often threatened, the allowances were never confiscated from the deputies.

The agreement between the two government parties functioned quite well throughout the period of this legislative business. There were indeed dissidents – from both parties – among the deputies of the governmental majority, and indiscipline caused by dissatisfaction with the coalition became more marked with time, but this did not seriously threaten the government, given its huge majority. The two Radical parties would suffer the consequences of the coalition only after its break-up, and particularly in the elections of 1912. While the coalition lasted, however, they could feel pleased with the great efficiency with which they managed state affairs and saw through a large number of laws. In short, the problem of collective responsibility was hardly felt before the government's fall. Divisions appeared mainly in that bills were defended in the assembly almost exclusively by deputies from the party whose ministers had presented them; the other majority deputies helped by voting for them, usually by the smallest number of votes needed for their adoption.

An exception to the rule that the government remained united behind its legislative proposals until the end of the coalition period was to emerge in May 1910, during the debate on the government's amendments to the assembly's standing orders. This, however, was due to a disagreement between two ministers from the same Radical Party – Ljuba Jovanović and Stojan Protić – over the issue of electoral quotients. The interior minister Ljuba Jovanović, like a number of other prominent Radicals including Andra Nikolić and Mihailo Popović, strongly held the view – defended

1104 *Parliamentary proceedings*, 1909–1910, 30.3.1910. p. 2626.

indeed by the opposition as a whole – that the double quotient was unconstitutional. This led him to propose an alteration to the electoral law, which would have removed the unconstitutional nature of Article 88 of that law. The minister's proposal was rejected in committee, and the old, unconstitutional solution retained. The latter was defended with great vigour in the assembly, regardless of its unconstitutional nature, by the finance minister Protić, together with a few Radicals who insisted on the superiority of majority over proportional representation, and homogeneous over coalition government.<sup>1105</sup> Jovanović, who had submitted the bill in the government's name, refused to accept the committee's proposal and stuck to his position, which could only mean that he would treat the final decision as a confidence vote. 'The government is not united on this issue,' Protić declared, thus opening the question of confidence and confronting the assembly with a choice between himself and Jovanović. Since it was not difficult to conclude that voting for a single quotient meant a vote of no confidence in Protić, hence also in prime minister Pašić, i.e. in the government as a whole, the assembly rejected the minister's proposal in favour of the committee's. Those Independent leaders who were present on this occasion – Stojanović, Davidović and Pečić – voted together with the opposition, while a few Radical deputies, including Andra Nikolić, voted for the minister's proposal, i.e. for a single quotient. The assembly thereby expressed its lack of confidence in the minister of the interior, who was also denied the support of the government.

However, despite the fact that this related to the central question of the legislative proposal, and that he had taken a strong position on the double quotient being unconstitutional, Jovanović declared after his proposal had been rejected in the assembly that he would not make an issue of it. A Liberal deputy, Radoslav Agatonović, rightly commented that for the interior minister to remain in government was contrary to parliamentary procedure. It was a 'good example... of how difficult it is to defend parliamentarism in the face of a minister's unparliamentary action

1105 See 'The electoral system' in the section 'Legal Foundations' above.

and behaviour'.<sup>1106</sup> In view of the great importance of this question and the minister's lengthy defence of his own proposal, the case of the 1910 amendments and additions to Article 88 of the electoral law did indeed amount to a violation not just of collective responsibility, but also of ministerial responsibility in general.

Nevertheless Jovanović did not stay in the cabinet to the end. He resigned together with Jovan Žujović on 12 September 1910, before the opening of the 1910 assembly session. After this it became more difficult to sustain cooperation. The government remained 'incomplete' until the coalition's break-up; instead of a reshuffle, for which an agreement between the two parties was needed, deputy ministers were appointed for education and the interior. This was contrary to the law on central administration (Art.12), which prescribed that a deputy minister was appointed only when the existing minister was unable to execute his duties due to illness or absence. Such cases – appointing deputies to non-existent ministers – had happened before, but never for such a long time and always in expectation of a government reshuffle or early elections.<sup>1107</sup> This time the rump government functioned, in defiance of the law, for nine months. The two Radical parties had exhausted all possibilities for reaching an agreement and a government reshuffle was no longer possible. At the same time, party discipline within the ranks of the majority was growing steadily weaker. During the voting on a bill designed to widen the circle of officials whose position in the state administration would prohibit them from being also parliamentary deputies, the government proposal, which was strongly defended by the Independents, was adopted by a majority of only three votes. In other parliaments, 'this would lead to the government's

1106 *Parliamentary proceedings*, 1909–1910, 17.5.1910, p.3133, 18.5.1910, p. 3150 and 3.6.1910, pp. 3380–82.

1107 Up to this time, the longest illegal deputisation for a minister had occurred under Pašić's government, when it lasted from 30.3.1908 to 7.7.1908. The deputies were confirmed on the day before the assembly's dissolution. A complete new government was formed on 7.7.1908, before the start of the new assembly's regular sittings.

fall', noted Kaclerović. Aleksa Žujović too invoked parliamentary procedure on this occasion. Recalling the first parliamentary fall of a Serbian government back in 1874, Žujović recounted how Jovan Marinović had in his day thought he should resign, even though he enjoyed a far stronger majority than the present government.<sup>1108</sup>

### **C. MINISTERIAL RESPONSIBILITY AND THE 'CONSPIRATORS ISSUE' – EXACERBATION OF THE PROBLEM**

An increasingly aggressive display of political ambitions on the part of the military was a fact. From the opposition's point of view, the responsibility for this lay with the ruling Radical parties, and especially with the Old Radicals who had been governing the country uninterrupted since 1906. The Radicals 'have founded their whole regime on purely military force', Pavle Marinković declared in January 1911, 'and the military element has never been stronger in the state or in politics than it is today.'<sup>1109</sup> Triša Kaclerović likewise saw Serbia in 1911 as a 'military camp', and singled out the ruling Radicals as being mainly responsible for this.<sup>1110</sup>

Apart from being in power, which made them automatically responsible, the Radicals did indeed give cause for this judgement. At a time when *Pijemont* was writing about a 'righteous army' as representative of the people on the one hand, and about the 'immorality', 'barbarity' and 'treachery' of the political parties on the other, Protić continued in the assembly to propose 'substantial punishment' for anyone writing against the conspirators, on the grounds that this was in the interest of both the army and the state as a whole. 'Let us settle this question too with the suppression of press freedom, and we shall then solve all the questions and problems of Serbdom's unification': such was Dragiša Lapčević's bitter,

1108 *Parliamentary proceedings*, 1910–1911, 4.5.1911, pp. 7–8. At the time of Marinović's decision to resign, he had a majority of only three. See the section on 'Historical Foundations' above, p. 90.

1109 *Parliamentary proceedings*, 1910–1911, 13. 1.1911, p. 9.

1110 *Parliamentary proceedings*, 1910–1911, 29.3.1911, p. 42.

cynical comment, which alluded to the government's inability to distance itself from the plotter circles that were increasingly building up their reputation on militant demands for the unification of all Serbs, and imposing a concept of politics that saw the suppression of political freedoms and parliamentary institutions as a precondition for the successful realisation of national aims.<sup>1111</sup>

But the Radical Party, even though it had displayed great ardour in defending the plotters as executors of the coup of 29 May and had used all means to suppress any attempt to question the basic idea of 29 May, also from the very start showed itself as a ruling party to be very sensitive about attempts by the plotters – which meant the army – to challenge civilian authority. The opposition's strong criticism of the Radicals' alleged lack of will in this regard was justified only in so far as – partly through their own fault and partly due to objective circumstances – they were not sufficiently successful in suppressing such attempts. In the following period, however, the Radical Party would see the struggle against army domination of the government and the assembly as one of survival, made all the more difficult precisely by the failure of the opposition parties to lend it support.

In the early months of 1911, before the end of the coalition, both of these elements of the ruling Radicals' policy towards the conspirators issue – on the one hand, the view that impunity of the plotters as executors of the coup was more important than political freedoms; on the other, the struggle against their political ambitions – manifested themselves in a stark light in parliamentary life, influencing the work of the institutions. The assembly, which revived at this time, was faced with two delicate issues, both with a prehistory and both linked to the conspirators issue. One was the question of the criminal responsibility of former interior minister Nastas Petrović for the murder of the two Novakovićs in prison in September 1907, which was brought before the assembly in March and finally resolved in April 1911. The other, far more serious, pertained to the position of the defence minister vis-à-vis the government and the assembly. Placed on the

1111 *Parliamentary proceedings, 1911–1912, 5.10.1911, p. 8.*

order of business in February 1911, it remained open until the end of the period and over time became increasingly acute. Both issues also had in common the fact that each, in its own way, violated the principle of ministerial responsibility.

**i. The question of minister Nastas Petrović's criminal responsibility**

The first clear and open division within the government came in March 1911, when the question of former interior minister Nastas Petrović's criminal responsibility was opened. The interpellations about Petrović's political responsibility, hence of Pašić's government as a whole, had ended in December 1907 with a decision that the assembly 'leaves it to the court to decide the responsibility, if any, of governmental bodies.'<sup>1112</sup> In the meantime, the court of first instance had halted any further proceedings against the mayor of Belgrade, Cerović, and the commander of the gendarmerie, Vukasović, with a verdict on 12 May 1908 proclaiming the two to be innocent, on the grounds that the minister's presence at the scene of the crime and the order he had given absolved them of all responsibility. The court had thereby established that the minister was culpable for the crime committed at the prison, since the murder had occurred as a result of his order. The court of first instance had also ruled that it did not have competence, since the minister was subject to the law on ministerial responsibility, which meant that he should be brought before the state court. The decision of the court of first instance was confirmed by the court of appeal, which ruled also in matters of conflicting authority.<sup>1113</sup>

In October 1910 Stojan Ribarac decided to re-open the question of Nastas Petrović's culpability. In an interpellation on 29 October 1910 he asked the government to clarify its position on the nature of this crime,

<sup>1112</sup> See pp. 457–463 above.

<sup>1113</sup> See S. Ribarac, K. Timotijević and D. Pečić in *Parliamentary proceedings, 1910–1911*, 17.3, pp. 3, 6–7. Pečić read out the court's verdict in the assembly. See also *Nedeljni pregled*, no.28, 1908, p.137.

and thereby also on the issue of judicial competence: whether, in its view, Petrović should appear before a regular court charged with a common crime, or as a minister before the state court in line with the law on ministerial responsibility. In the former case the government and the assembly would have nothing to do with it, while in the latter case one or other of them should take the former minister to court.

Ribarac thus posed the very question – no doubt intentionally – to which the government really had no answer. Responding to the question on 17 March 1911, prime minister Pašić made this quite clear when he stated that different ministers had different views on the matter. As for those belonging to the Radical Party, while they acknowledged the competence of the state court, they did not consider that the government should charge Petrović.<sup>1114</sup> As the reason for this, Pašić cited the disagreement within the cabinet, as well as the fact that previous governments could have done it, yet had failed to do so. Pašić concluded that the government itself was ‘at liberty’ to take the initiative into its hands, if it found it appropriate.

Pašić’s reply was quite correct. The government was indeed divided on this issue. By contrast with the Radical ministers, those from the Independent party did not accept the verdict of the court of appeal on competence, and they insisted that Petrović should be tried before a regular court. It was a matter of the criminal act of murder, which came under the regular courts, argued the minister of justice, Timotijević, stressing that he was speaking in the name of the Independent ministers. This was why they were against the government initiating proceedings, and likewise left it up to the assembly to do so if it so wished. Thus the minister of justice, unlike Pašić, did not accept the court’s verdict, because he thought it was wrong. Yet ultimately, to judge by the statements of Pašić and Timotijević, the conflict within the government was not all that great: both groups of ministers held the view that the government should do nothing, and left it up to the assembly itself to proceed, if it found justification for doing so.

<sup>1114</sup> Among legal analysts, the competence of the state court was defended by Lazar Marković. See L. Marković, *op.cit.*, pp. 8–18.

The only difference – in Pašić’s favour – was that he accepted the court’s verdict on competence, whereas Timotijević did not. At all events, their respective responses to Ribarac’s interpellation indicated that the government was not united on this issue.

However, a declaration by finance minister and acting interior minister Stojan Protić was much more revealing, suggesting a far greater and more serious split within the government on the issue. The Radical ministers, said Protić, were against a prosecution because they held Petrović to be not guilty, in view of the fact that as a minister he had been duty bound to prevent an exchange of fire that the Novakovićs had initiated. Protić thus said what Pašić had omitted to say in regard to the question of culpability. His statement, which the Radical majority fully endorsed, was explained in legal terms by the deputy Dragoljub Arandelović, who said that he was speaking not as a Radical but as a lawyer and university professor. Petrović’s deed had not been illegal, he argued, and consequently not criminal, because the Novakovićs were killed in self-defence and the minister’s duty was to uphold law and order. It thus became quite clear that the Radical majority in the assembly would not initiate proceedings against Petrović.

The Independent ministers, together with their part of the parliamentary majority, were unanimous, however, that Petrović was guilty of murder; and they reminded Protić and Arandelović that the police investigation – whose results had been verified by a court decision – had excluded self-defence. So ministers Timotijević and Prodanović openly urged the assembly to begin proceedings, in the belief that this would result in a ruling by the state court that it did not have competence, which in turn would force the regular court to declare itself competent. These declarations from the two sides made it clear that the difference between the two governmental parties were in fact political in character, and that in reality they had the same attitude towards the court and the validity of its decisions. One side did not recognise the court, believing that it had evaluated the issue of competence wrongly, while the other side argued that the court had



evaluated the facts wrongly, hence also the issue of the deed's illegality. Neither side, however, felt that the decisions of the court should be accepted.

Yet the opposition insisted precisely on that. The court's verdict was such as it was, and it was not up to the assembly to hold a theoretical discussion about it, Voja Veljković and Živojin Perić admonished the Independents; the decision by the court of appeal was final, regardless of whether it was right or wrong. Ribarac and Mihailo Đorđević told the Radicals meanwhile that, according to the facts verified by the court, there had been no reason for self-defence. It had been a matter of pure 'bestiality', said Ribarac. So the government is 'refusing to recognise the court.' 'This is false parliamentarism and false constitutionality', cried Mihailo Đorđević – Serbian parliamentarism resembled parliamentarism under Louis Philippe. 'Gentlemen of the majority, you must be aware that Louis Philippe's rule was followed by the revolution of 1848. So take care how you act!', Đorđević threatened. The first duty of any government was to respect the courts and implement court decisions, warned Voja Marinković. Did final verdicts by the judiciary – sufficient even to condemn a former minister – really not, for the government and its majority, hold 'even the force of that shadow of suspicion that is generally sufficient to open proceedings against someone?', asked Perić rhetorically. One of the Independent leaders, Dragutin Pečić, shared the views of the opposition deputies. Having read the verdict of the first instance court, which the court of appeal had upheld, he stressed that the decision on competence was final and that Petrović's guilt had been judicially established. Addressing both groups in government, Pečić defended the honour of the courts, arguing that those ministers who held a different view should now change their minds.

Since the government was refusing to initiate proceedings against Petrović, it was left to the assembly to do so. On 18 March 1911 twenty Liberal and Progressive deputies submitted a proposal that Nastas Petrović should be brought before the state court. This was the first and only time under the 1903 constitution that an attempt was made to indict a minister

in accordance with the law on ministerial responsibility. The debate on the proposal began on 18 April and lasted for two weeks.

Nastas Petrović's defence, as well as the debate following the proposal for his indictment, confirmed even more nakedly than in 1907 the political nature of the crime, and – more interestingly still – showed how, eight years after the coup, the idea of law had not yet won out against the idea of revolution and its rights vis-à-vis its enemies: the plotters were still treated as symbols of the new regime, while their enemies were treated as enemies of the regime and people outside the law.

'In this country, the blood of the poor and oppressed continues to be treated differently from the blood of the arrogant and rich,' ran one of the earliest and most cynical sentences of Petrović's demagogic defence, because the latter, or rather 'their sons', still felt unable to 'accept the new order that makes all citizens equal'. The murdered Novakovićs were 'dangerous men, especially Milan Novaković, who was an open enemy of the revolution of 29 May', and who 'not only edited and published a paper in which he openly stressed this, but also ... quite openly worked ... to overthrow the legal order established on the basis of the 29 May revolution'. As for the court, it had not behaved in accordance with the rules, argued Petrović, because its job was not to determine responsibility, but merely to declare itself not competent. So far as he himself and his deed were concerned, the confidence that the assembly had voted him on the occasion of the interpellation in December 1907 had been confirmed by the people in the elections of 1908. The people had approved what he had done, and they are the highest court 'At the time when you were portraying me as a bloody executioner ... the election was taking place for the deputies of this assembly, and on that occasion I won more votes than ever before' – Petrović pointed self-confidently to this stunning fact. The opposition on the other hand, he added – with the Liberals and the Progressives in mind – had been unable to gain a single new voter 'for the past twenty years'.

Interesting in itself, Petrović's defence would not be of great significance had it been rejected as unacceptable. But no one from the ranks of

the Radical-Independent majority distanced themselves from it. Indeed, there were deputies who supported it and added arguments of the same kind used by Petrović. Novaković was a 'politician', a 'key opponent of the 29 May events', said Dragutin Vasić. Vasić judged the accusations raised in the assembly against Petrović in the following terms: 'treason is being preached here, approved, lauded'. Given that no one from the majority ranks questioned these and similar declarations, the Liberal deputy Radoslav Agatanović rightly noted: 'I wish to point out ... that you are accepting Nastas Petrović's statement without any reservation .. and finding that the murdered Novakovićs had to be murdered merely because they were opponents of the present order.' This shows, concluded Pavle Marinković, that 'the very same idea that carried out 29 May also carried out the murder in prison of the Novakovićs'. This is a threat to all of us 'who do not approve of this "holy order"', Živojin Rafailović warned.

The debate was concluded on 19 April 1911 with rejection of the Liberal-Progressive motion that Petrović should be indicted. This was the third and final time that the assembly debated Nastas Petrović's responsibility for the murders of the prisoners committed in September 1907. The vote on the motion did nevertheless show that there was a real difference on this issue between the ruling parties. The Independents voted in favour of the motion, while the Radical majority rejected it.<sup>1115</sup> It was a paradoxical situation, reminiscent of the period under Velimirović's government. The opposition and half the government found itself on one side, the remaining ministers and the bulk of the government's majority on the other. The issue did not affect daily policy, to be sure, but its significance in principle was very great. Nevertheless, the government did not see it as a sufficient reason for resigning, but remained for the time being in power.

<sup>1115</sup> *Parliamentary proceedings*, 1910–1911, 17.3.1911, pp. 1–42; 18.3.1911, p.1; 18.4.1911, pp. 3–20; and 19.4.1911, pp. 6–42. The voting (on the basis of Art. 16 of the law on ministerial responsibility) was secret, but the number of votes against and the number for – 60 to 82 – speaks for itself.

## ii. **Responsibility of the defence minister**

As already noted, the army's growing inclination to constitute itself as an autonomous political factor in the country after 1906 was reflected, at the level of the functioning of parliamentary institutions, in the position of the minister of defence in relation to the government and the assembly. The political disunity within the government resulting from the defence minister's autonomous activity – independent from the assembly and the rest of the cabinet, but coordinated with the conspiratorial circles – already manifested itself at the end of 1907, during the debate on the interpellation against Radomir Putnik.<sup>1116</sup> Stepa Stepanović's resignation after an interpellation in December 1908, and a subsequent interpellation against General Živković which ended with the establishment in April 1911 of a parliamentary committee to investigate the probity of military purchases,<sup>1117</sup> showed that the case of R. Putnik had not been an exception, but rather the first manifestation of a more serious problem that was to grow more difficult with time, undermining the very foundations of the principle of ministerial responsibility. On the eve of the coalition's break-up, fresh instances of questions being raised in connection with the defence minister's responsibility would exacerbate this to the extreme as a specific problem of the Serbian parliamentary system.

### a) The case of Colonel Ilija Gojković

The question of the defence minister's growing independence from the legal institutions of the regime was formally placed on the order of business in February 1911, during the debate on a bill dealing with supplementary and emergency military loans. It was one of those frequent occasions when the government sought subsequent approval for having spent emergency loans which, by law, had required the assembly's permission in advance. In this case, however, the defence minister had already spent the money

<sup>1116</sup> See pp.329–33 above.

<sup>1117</sup> See pp.529–30 above.

involved not merely without the assembly's prior approval, but also without the knowledge of the rest of the cabinet, including the minister of finance.

The deputies of the opposition vigorously opposed the government's bill, which they described as a 'pure and simple negation of the assembly's budgetary rights'. 'The ministry of defence is borrowing money without informing even the minister of finance, let alone the voters, the national deputies or the financial committee!', declared Voja Marinković. Colonel Gojković, he went on, apparently wished to 'to destroy every legal and constitutional barrier erected to prevent him from doing whatever he pleases ... as if this country were ruled by [Sultan] Abdul Hamid.' The national assembly should 'draw to the attention of all state bodies and all ministers that Serbia has a constitution... and a law on state expenditure, and that these two statutes must be obeyed. The grand national assembly and the regular national assembly did not make that constitution and those laws for display, or in order to boast that we have modern laws.' The ministry of defence was behaving like 'a state within the state', said Radoslav Agatanović, arguing that what was at stake was simply 'disrespect equally for the laws, the constitution, the cabinet, the national assembly and all institutions in general'. In 'the new era, the new state' that 'you are building', Agatanović appealed, 'as you often say' we must 'be agreed...that a minister, whoever he be, ends up in the dock for violating the constitution and breaking the law'.

Agatanović's appeal did not bear fruit and the bill was passed. The government's defence, however, was feeble and unconvincing. The minister of finance, Protić, alone spoke on the government's behalf. He did not deny the illegality or the irregularity of the manner in which the loans had been raised and spent, but defended the minister's behaviour as due to the 'critical situation' in which Serbia found itself. Protić's defence gave the impression that the government was not happy with a minister who,

as Agatanović said, behaved like ‘a state within the state.’<sup>1118</sup> This impression soon proved to be fully justified.

On 8 February 1911, only a few days after it had approved the military loans already spent, the assembly was supposed to vote on a new bill that once again directly involved the minister of defence. This time it was a question of arms procurement, hence military expenditure. The bill submitted to the assembly took no account of the views of a committee the assembly had established specifically in order to control the defence ministry’s use of armament loans, views formally delivered to the minister two months earlier and containing critical comments on the way in which the money had been spent. The document contained evidence proving conclusively that the ministry had opted for more expensive rather than cheaper purchases. The fact that the government had placed before the assembly a bill that wholly disregarded the views of the latter’s own committee provoked an exceptionally sharp, and as it turned out effective, resistance on its part, directed in the first instance against the minister of defence.

The criticism voiced by the Socialist deputy, Triša Kaclerović, was by far the most serious. In the assembly elected in 1908, Kaclerović – continuing the policy of his predecessors – was from the start noted in general for his defence of the autonomy of parliamentary institutions from the army’s political ambition, and in particular for challenging the legality of defence ministry activities. After praising the work of the assembly’s committee as a ‘rare example of frankness on the part of the Serbian assembly’, Kaclerović went on to accuse the defence minister of wishing to put himself above the assembly. The national assembly ‘must finally slam the defence ministry against the wall ... and tell it clearly and categorically: the national assembly is the supreme institution in this country, and the minister of defence has to obey its policy’, declared Kaclerović, demanding the resignation if not of the whole government, then certainly of its defence minister. The minister responded briefly, with just one sentence, but thereby provoked

<sup>1118</sup> *Parliamentary proceedings*, 1910–1911, 4.2.1911, pp. 4–16.

a reaction that was one of the most sharply critical heard to date in the Serbian parliament in relation to the army's role.

Colonel Gojković's reply included the comment that it was clear how dear 'patriotism and the fatherland had grown' to Triša Kaclerović. That was enough, however, to enrage Kaclerović. 'Those who voted for me,' he said, 'are no less Serb than Army minister Ilija Gojković is Serb.' 'I cannot allow,' he went on, 'that Army minister Ilija Gojković is a greater patriot than I am, not by the least particle beneath his nail...I shall never allow him to push me around, nor indeed any other deputy, as if we were his subalterns. Such manners are fit only for the barracks... here, however, he must do as we tell him and be directed by us – be directed by the national assembly.' This was a conflict between the civilian and military powers, continued Kaclerović in a calmer tone. 'The influence of the military circles, the influence of the conspirators since 29 May when they took power into their own hands, has shown itself in one form or another in the fall of the Radical government in 1905, the fall of the Independent government in 1906, and in very many other cases when the government, the national assembly and the civilian parties were forced to capitulate before the might of the army...If you choose to treat these incidents lightly, then you have voluntarily surrendered your rights... transferred the political centre of gravity to the barracks... If you do not wish to get another Greece, untrammelled rule by a military clique that has subjugated the whole nation... then there should be no differences between the parties on this issue,' Kaclerović pleaded.

At that moment, the differences between the parties on this issue really were not great. Voja Marinković promptly sided with Kaclerović, for he himself had from his very entry into parliament in 1906 been a known advocate of subordinating the army to the legal organs and political rule. The minister of defence, Marinković noted, was clearly 'uninterested' in the national assembly. He should be told: "In this country, Sir, it is parliament, or rather the responsible government, which conducts foreign policy and state policy in general, hence including defence, in a direction decided by

parliament. Therefore, you cannot disregard parliament's view of defence policy.' The Liberals intervened in a similar fashion, though not as purposefully as Kaclerović and Marinković. Particularly since the annexation crisis, in their interventions in parliament on military issues they had displayed a greater concern about relations within the army – internal divisions, affairs, etc. – than about its ongoing transformation into a separate political power. So on this occasion too, while being very critical, they spoke mainly about the numerous affairs that had recently shaken the army. However, what was most significant for the fate of the tabled bill, and of the minister himself, was the fact that the deputies from the two governmental parties – along with Gojković's cabinet colleagues – heard out the opposition's attacks in silence.

Knowing well what this meant, Gojković stated at the following session that it would be best to postpone the question of the contested loans, while at the same time promising that he would offer his resignation. Asked by the Radical deputy Andre Nikolić whether this meant that the minister was withdrawing his bill, Gojković replied that this was a matter for the government. Pašić then asked for a 'short break' to think it over, and when the session was resumed he declared that the government was withdrawing the bill, because the minister had resigned 'after encountering such opposition on this issue on the part of some deputies, that the government believes it best to remove it from the order of business – in effect, the government withdraws it.'

The comment that the government's decision elicited from Stojan Ribarac showed strong animosity, almost disdain, towards the minister of defence. The latter, Ribarac said, was not an enemy whose retreat should be aided by 'constructing golden bridges...On the contrary, he is the kind of enemy who normally gets the boot.'<sup>1119</sup>

No one, of course, took seriously Pašić's explanation of Gojković's resignation, because it would imply that a minister, and the defence minister

1119 *Parliamentary proceedings*, 1910–1911, 8.2.1911, pp. 9–13; 9.2.1911, pp. 4–21; and 15.2.1911, pp. 18–19.



at that, had fallen in the assembly because one Socialist and seven Progressive deputies had declared no confidence in him. On the contrary, he fell because the government and the opposition found themselves on the same side in this business. The 'individual deputies' mentioned by Pašić had merely defined the problem instead of the majority and its ministers, expressing the view of the political parties that the army must be subordinated to the legal political institutions. Owing to the support that the ruling Radicals extended on this occasion to the Socialists and the Progressives, Colonel Gojković's fall became an admirable, if rare, example of solidarity between the government and the whole assembly united in defence of the dignity of civilian rule and parliamentarism, and also in rejection of the patriotic demagoguery commonly used to dismiss individual national deputies and their political positions.<sup>1120</sup>

b) The case of General Stepa Stepanović

If in the case of Colonel Gojković the assembly proved the decisive factor in ensuring the defence minister's responsibility, ten days later the situation turned to its disadvantage. On 12 February 1911 Gojković was replaced in his position as defence minister by Stepa Stepanović. The assembly questioned the parliamentary nature of this appointment for two interrelated reasons. The first had to do with the way in which he took over the ministry: for Stepanović, addressing the army on assuming his post, stated that he had taken the ministerial post 'by irrevocable wish of the king.' A second reason, as the assembly saw it, was that Stepanović had obtained the post despite the fact that he had already fallen previously before the same assembly, in December 1908, implying that he had been appointed not just by the royal will, but also against the will of the assembly. Kaclerović

<sup>1120</sup> Prodanović insisted later, from opposition, that the Radical Party had allowed Gojković to fall because he favoured a review of the trial involving the main participants in the army affair, Rašić and Vlajić, who had been declared innocent. *Parliamentary proceedings*, emergency session of 1912, 11.6.1912, p. 42. The parliamentary committee's report shows that Gojković cooperated with its investigation.

opened both these issues with an interpellation, to which Pašić responded on 5 May 1911.

Pašić's explanation of how the new minister had arrived in his post was as follows: Stepanović had at first refused the portfolio, and it had only been when – at the request of Pašić and Prodanović – the king had 'demanded' of him to become minister 'in the interests of the army' that Stepanović had agreed.<sup>1121</sup> Kaclerović rejected this explanation. The minister of defence had to be a 'political person': as such, he assumed his post on the basis of the confidence of the assembly, not of 'the supreme commander'. 'The intention is too obvious', argued Kaclerović. 'The Army wants to make a show with this appointment, personified by the Army Minister, against the Government and the National Assembly, against the whole democratic order, so that the appointment of an Army Minister has on this occasion an excessively demonstrative character.'<sup>1122</sup>

Kaclerović was this time joined by Petar Mišić, a retired officer-conspirator and Radical deputy, who had left his party during the coalition period precisely over the question of Stepa Stepanović, with his December 1908 interpellation described earlier. Mišić and Kaclerović had their own reasons for contesting Stepanović's appointment. The former because he and the Independent Dragoljub Joksimović – both of them deputies from the majority – had caused Stepanović's fall in the assembly with their interpellation of December 1908; and the latter because with his interpellation of January 1909 he had initiated the parliamentary investigation of the 'Rašić-Vlajić' military affair, in which Stepanović had been implicated, and which had ended with a highly negative outcome for Stepanović. The committee's unusually extensive report, containing much evidence of former defence minister Stepanović's responsibility for the army scandals, had been completed back in May 1910 and was well known to the

1121 This explanation was carried also by *Samouprava*, no.45 of 25.2.1911.

Stepanović had allegedly refused the ministerial position on the grounds that he was not a good 'parliamentary speaker'.

1122 *Parliamentary proceedings*, 1910–1911, 5 May 1911, pp. 2–6.

assembly since it had been distributed to all deputies. The report had thus confirmed the evidence against Stepanović, or rather against the defence ministry at the time when he was its head, thus justifying his fall in December 1908. The assembly knew all this, yet Stepanović had once again become minister of defence.

Mišić and Kaclerović rightly interpreted this as an open disparagement of the assembly's original decision to investigate the affair, and a negation of the principle of ministerial responsibility before parliament. Two years after it had forced him to resign, 'the same assembly' 'is forced' once again 'to accept him as defence minister', stressed Mišić, adding that 'even reaction and tyranny rely on some principles'. Only in Serbian parliamentary practice, said Kaclerović, was it possible for a man to re-appear as minister of defence, to show up before the same assembly that had made him resign but not yet fully established 'that same minister's criminal and moral culpability'. To refer to the 'king's irrevocable will' in this situation was to suggest that the question of the defence minister's culpability had been resolved independently from – and against the will of – the assembly. However, stressed Mišić, what was particularly unacceptable in the whole thing was that Stepanović owed his appointment not to the king's confidence, but to that of 'other individuals'. Speaking of these 'other individuals', he mentioned Crown Prince Alexander, and openly expressed a suspicion that the army was using Stepanović to manipulate the crown prince, using him to undermine civilian authority and the constitutional order. Kaclerović was not acquainted with all the facts, Mišić said, and did not realise that the king 'has nothing to do with it'. 'The present king' stood by the constitution and the parliamentary order, but whether 'the future one' would do so too 'remains to be seen', concluded the former conspirator and former Radical, deputy Mišić.<sup>1123</sup>

<sup>1123</sup> *Parliamentary proceedings*, 1910–1911, 5.5.1911, pp. 6–8; *Parliamentary proceedings*, 1911–1912, 24.11.1911, p. 21. When Mišić spoke of the army's manipulation of the crown prince, he was referring to the fact that on Apis's initiative, and at the request of defence minister Stepanović, Alexander had become inspector-in-chief of the army, whereby 'the future king' was

This time the parliamentary majority came out in support of the minister of defence, questioning the accuracy of what Kaclerović and Mišić were asserting. Jaša Prodanović assumed the role of chief defender. The parliamentary principle was in no way violated by Stepanović becoming minister of defence, said Prodanović. Stepanović, moreover, had not fallen in the assembly in 1908, since the assembly had not voted on whether it had confidence in him, so this could not be cited as an argument against his resumption of the cabinet post. As for the fact that he had accepted the portfolio at the king's request, this could not be taken as an infringement of the parliamentary principle. For this principle, Prodanović argued, assumed a government of the parliamentary majority, but which individuals would form the cabinet 'is not for parliament to decide'. In Britain too, the king had the right to choose individuals, provided that the prime minister could form a government with them. The king had used only his 'moral influence' upon Stepanović to accept the post, which was entirely parliamentary. As for Stepanović's own statement, since he had resigned once before he felt the need to explain his return – that was all, concluded Prodanović. Following Prodanović's intervention, the assembly resumed its work without a specific return to the order of business.<sup>1124</sup>

Theoretically speaking, Prodanović was right: the parliamentary principle was formally unaffected by Stepanović's assumption of the post of defence minister in 1911. But Prodanović, who had spent many years in the Serbian parliament fighting to prove that the parliamentary form could be used to cover even acts that negated the deeper essence of the parliamentary regime, and who had disputed Protić's theoretical explanations from precisely that position, did not consider this time that anything other should be sought outside of the form.

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placed 'under the command of the defence minister'. *Parliamentary proceedings*, 1910–1911, 5.5. 1911, pp. 7–8. On the establishment of the army's supreme inspectorate, see D. Mackenzie, *Apis*, p.90.

1124 *Parliamentary proceedings*, 1910–1911, 5.5.1911, pp. 9–12.

The need to do so was felt so strongly, however, that Prodanović's defence appeared empty and implausible. One could not question in principle his comment that the king could choose a minister at will, provided the prime minister could form a majority cabinet. That assumed, however, that the minister enjoyed the confidence not just of the king, but also of parliament. This is why an important part of Prodanović's defence was the assertion that Stepanović did not fall in the assembly in 1908. It was just this argument, however, that proved contentious. For all that had happened in the meantime in connection with the 1908 attack on Stepanović in the assembly had shown that he withdrew then precisely from fear of the assembly. Prodanović, as both a deputy and a minister, knew the content of the assembly committee's report on 'the Rašić-Vlajić' affair, which stated among other things that a large part of the defence ministry's confidential archive relating to this affair had been stolen.<sup>1125</sup> He knew too that, following pressure from military circles in connection with Stepanović and Putnik – the scandal's prehistory had begun when Putnik was still minister of defence<sup>1126</sup> – it had been decided that the committee's report would not be discussed in the assembly. In short, he knew – as did the whole assembly – that Stepanović had fallen in 1908 because the assembly had raised the issue of the affair in which he had been involved, or rather for which as defence minister he had been responsible; and that the formulation about 'the king's irrevocable wish' with which he had justified his new ministerial portfolio was supposed to cover up the affair. The assembly accepted it on this occasion, and the report distributed to deputies in May 1910 was neither then nor ever made public, that is to say debated in the assembly.

The conflict between the government, whose view was defended by Prodanović, and the opposition resembled the one in 1906, in which Prodanović had played the opposite role. If Protić was right in 1906 when defending his party's advent to power, Prodanović was equally right in 1911 when defending Stepanović's appointment as minister of defence.

<sup>1125</sup> Report of the assembly's investigative committee, pp.246, 262, 264, 267.

<sup>1126</sup> *Ibid.*, pp. 244, 270–71.

From a formal point of view, the Radical Party came to power in 1906 in a parliamentary manner. The Independent Party, even though it had a majority, had resigned and the Radicals had come to power from opposition. British practice provided a convenient example at precisely this time (the fall of Balfour's cabinet), which could be used to claim that the advent of the Radical Party to power was in fact a parliamentary act – and Protić naturally did that. Similarly, in 1908 Stepanović did not fall in parliament, because parliament did not vote on the issue of confidence so this could not be called into question, while the king certainly could not be denied the right to exercise 'moral influence'. British practice offered plenty of evidence of this, and Prodanović – like Protić before him – did not omit to point this out. At the same time, Stepanović's fall in a parliament where the question of his participation in a serious military affair had been raised, like his return to government under the influence of the conspirators or the military circles that they headed, were just as real and indisputable as the fact that the change of government in 1906 had been caused by the Independents refusing – and the Radicals accepting – to govern under terms set out by the plotters. Both pertained to the domain of political relations rather than parliamentary form and procedure, which is why they could not be proved formally. Nevertheless Prodanović, who when in opposition had not spared his efforts to look behind the form for the essence of the governmental crisis and change, clearly willed by the plotters (nothing resembling which was conceivable, of course, in Britain), this time confined himself to the form, reducing the whole issue of the way in which Stepanović had joined the government to the issue of 'moral influence' – to which the king, imitating British parliamentary customs, was undoubtedly entitled.

Prodanović thus did not err when he said that the prime minister could form a government with Stepanović, and win confidence for it in parliament. Yet this was the same parliamentary majority before which Stepanović had fallen two and a half years earlier, on charges that had not at the time been proved; now, however, when the truth of the charges

against him had been confirmed, the assembly was no longer concerned with the issue. Prodanović did not find it necessary to ask why that was so. Mišić and Kaclerović did nevertheless provide a convincing answer: the affair was hushed up because the conspirators wanted Stepanović to be minister of defence.<sup>1127</sup>

### 3. Return to homogenous governments 1911–14

The collapse of the coalition in June 1911 revived all the unresolved questions in relations between the two Radical parties, and between all the parties in general. The return of a government of Old Radicals also in a sense returned those relations back to the point where they had been after the elections of 1908, and before the conclusion of the inter-Radical agreement. The objections voiced by the opposition against a homogeneous Radical government after the 1908 elections were still valid now, after the coalition's break-up – namely, unfree elections and consequent illegitimacy of the Radical parliamentary majority and its government. Meanwhile the Radical Party's position on the relationship between assembly and government – in other words, the issue of ministerial responsibility – remained unchanged: the government could violate laws and parliamentary procedures so long as it had support for that from the assembly majority, which – as Momčilo Ninčić would explain in February 1914 – had either to 'blindly' follow the government or to bring it down.<sup>1128</sup> The Independents and other minority parties continued to view this stance as 'dangerous' – or as

<sup>1127</sup> Later, speaking from opposition, Prodanović posed the question that he had avoided when he defended Stepanović's return. Why was the minister of defence hiding the committee's report, Prodanović asked Putnik in June 1912, adding that during his, Prodanović's, time in government all defence ministers excused themselves with not having read the report. *Parliamentary proceedings*, emergency session of 1912, 11.6.1912, pp. 41–2. On Stepanović's association with Apis, see V. Vučković, *op.cit.*, p.180; D. Mackenzie, *Apis*, pp.90, 94–5.

<sup>1128</sup> *Parliamentary proceedings*, 1913–1914, 24.2.1914, p. 1015.

Prodanović, having recovered his old ferocity, declared – ‘insane’; accordingly, they revived their theory about ultimate means.<sup>1129</sup> Among such ultimate means, alongside obstruction, the old idea of a united opposition occupied an important place – something that the political parties, as we have seen, were to take much more seriously this time round than in 1908.

Despite these similarities, the relationship between assembly and government in 1911–14 differed considerably from that prevailing in 1906–8, for two different reasons. The first was the considerably weakened, or even fictive, parliamentary majority on which the Radical government relied after the 1912 elections.<sup>1130</sup> Since this has already been discussed, it is necessary to stress here only that, with the government being reduced to a majority of one after these elections, inadequate majority remained a key problem of Serbian parliamentarism during the final three years of its existence.

The second important difference with respect to the 1906–8 period relates to the role of the army in the political life of the country. After the retirement of the five officer plotters and up until the annexation crisis, the conspirators issue, though very much alive, influenced party-political struggles far more than it did the institutions themselves. Under Pašić’s homogeneous government of 1906–8, parliamentary life taken as a whole developed relatively autonomously in spite of everything, and this period represents a unique experience in Serbia’s 1903–14 parliamentary practice. In the 1911–14 period, however, the army once more became an extra-constitutional factor of great political weight, acting alongside the regime’s legal bodies. The tendency on the part of the defence minister to act separately from the rest of the government, strongly present already under the coalition, now gained a new momentum and, following the Balkan Wars, led to an open conflict within the government between the representatives of the majority party and the minister of defence acting on behalf of the army. In this conflict, the Radical Party was left more or less to its own

1129 *Parliamentary proceedings*, 1913–1914, 27.5.1913, p.590.

1130 See pp.225 and 323–4 above.



devices. This, in addition to its tiny majority, further weakened the government's position vis-à-vis the assembly, and in the given circumstances also the capacity of the parliamentary regime to eliminate the greatest threat that had confronted it since its very inception.

The relationship between government and opposition during this time was not determined solely by the latter circumstances, but also by foreign-policy concerns. The escalation of the Balkan crisis, Serbia's preparations for war and the wars themselves attenuated the political conflicts, with the result that the assembly grew visibly more passive. Up to the autumn of 1913 the government, though weak and under strong pressure from the opposition, on the whole experienced no problems with the assembly – which in any case it hardly consulted. Between the autumn of 1913 and the summer of 1914, however, parliamentary life and political life in general regained their earlier dynamism; the kind that had characterised the era of homogeneous governments.

## **A. UP TO THE END OF THE BALKAN WARS – AN ASSEMBLY GROWN PASSIVE**

### **i. The Milovanović government**

The period of Milovanović's government was uneventful from the viewpoint of ministerial responsibility. The government resolved the problem of its majority by avoiding to work with the assembly. At the time of the government's formation on 25 June 1911, the assembly's 1911 term had already ended (on 19 May 1911). The assembly re-opened in the autumn on schedule, but as soon as it was constituted was postponed on 5 October by its own decision – at the initiative of the Radical majority, but unconstitutionally – until 10 November 1911. During the Christmas vacation – in accordance with established custom – the assembly stopped working, then before the end of January the government entered a crisis that it resolved by dissolving the assembly, on 1 February 1912.

Under Milovanović's government, the assembly was never in a position to learn officially the reasons for the coalition's break-up and the new government's emergence, nor to express its own views. Neither on the occasion of the opening of the regular parliamentary session for 1912, nor later after the period of the assembly's postponement had expired, did the government present its programme to the assembly, despite the fact that its arrival had signalled a radical turn with respect to the previous three years of coalition. The government 'neither speaks nor whispers. It does not present itself or tell the assembly what it is, why it is here ... who appointed it, and who brought it here,' commented Dragiša Lapčević; the first word the government 'pronounced in the assembly was to tell it to go home.'<sup>1131</sup> 'This can only happen in Serbia under a Radical regime,' declared Ljuba Đorđević.<sup>1132</sup> 'A programme should be properly presented,' yet the government was failing to do so even after being warned by the assembly, Stojan Novaković pointed out in December 1911.<sup>1133</sup>

Immediately after the opening of the parliamentary session and before its postponement, all the opposition parties declared no confidence in the government, with the strongest of them – the Independents – entering a proviso that, in view of the escalating problems in the international situation, they would nevertheless treat the government 'with consideration'.

The assembly's first opportunity to deal with the new government came on 12 November 1912, at the start of the debate on the budget for 1912. In accordance with the established rules, the budget debate was in reality a debate on confidence in the government. The opposition parties, not bothering much with the actual budget bill, took the view that the proposal should be rejected as a way of declaring their lack of confidence in the government. Petar Mišić, Triša Kaclerović and Dragoljub Joksimović reopened the question of the 'Rašić-Vlajić affair'; the Liberals (Voja Veljković) and the Independents (Milorad Drašković) highlighted the 'scandalous

<sup>1131</sup> *Parliamentary proceedings*, 1911–1912, 15.11.1911, p. 8.

<sup>1132</sup> *Parliamentary proceedings*, 1911–1912, 14.11.1911, p.13.

<sup>1133</sup> *Parliamentary proceedings*, 1911–1912, 2.12.1911, p.1.

murders' of political opponents that had multiplied in 1910 and 1911; Pavle Marinković, speaking on militarism, mentioned the army officers' secret organisation the Black Hand; and Živojin Perić declared no confidence in the government because it was Radical, on the grounds that 'Radicalism' in his view was 'not only counterproductive but also dangerous for Serbia and the Serbian national cause', because 'it acts in accordance with Russia's diktat'. There were numerous personal attacks on Milovanović because of his private affairs.<sup>1134</sup>

The budgetary debate did nevertheless end on 13 December 1911 with the adoption of a budget, which extended the government's existence for a while. On 10 January 1912, however, Mišić submitted a new interpellation regarding the situation in the army and, after informing the assembly that the existence of a 'secret officer organisation' was a proven fact, accused the minister of defence, Stepanović, of backing the organisation.<sup>1135</sup> Milovanović – who, it seems, was closely connected with the Black Hand – managed to avoid replying to this interpellation, since the assembly was dissolved soon after that.<sup>1136</sup>

The only important parliamentary event under Milovanović's government was the fall of the justice minister, Dragoljub Arandelović, in the assembly on June 1912. During an emergency parliamentary session he was accused in an interpellation of having amnestied an individual sentenced for abusing children under the age of thirteen. The amnesty was publicly linked with the king and the crown prince. During the debate, on 6 June 1912, the minister promised to resign without waiting for a vote on returning to the order of business, 'in the interest of the assembly's dignity'. The matter was highly 'delicate', explained Arandelović, 'because persons

1134 *Parliamentary proceedings*, 1911–1912, 4.10.1911, pp.6, 15; 5.10. 1911, p.8; 14.11.1911, p.10; 18.11.1911, p. 16; 24.11.1911, pp. 18–21; 28.11.1911, p.2.

1135 *Parliamentary proceedings*, 1911–1912, 10.1.1912 (appendix).

1136 On Milovanović's links with the Black Hand and Apis, see V. Vučković, *op.cit.*, pp. 179–80; D. Mackenzie, *Apis*, pp. 80, 100; V. Kazimirović, *op.cit.*, vol. 2, pp. 248, 150–51.

are being implicated here who have nothing to do with it.' Replying to one of the interpellant's statement that he was happy with the minister's readiness to admit the error, Arandelović declared firmly that he did not think the amnesty had been an error, and repeated his reasons for resigning.

The opposition then asked for the whole government's resignation, but the latter promptly distanced itself explicitly from its colleague. The minister of the interior, Marko Trifković, stated that the amnesty had been a political error, and that the government and the assembly majority dissociated themselves from this act; however, he continued, since the minister responsible had resigned, any further discussion on the government's responsibility was superfluous. The prime minister Milan Milovanović confirmed this position of the government. The minister of justice, Milanović insisted, had acted on his own on this issue, and the government 'did not support' him. The opposition accepted this explanation. The government stayed on, albeit without Arandelović, whose resignation was accepted the very next day.<sup>1137</sup> Hence, the minister had withdrawn because he had lost the confidence of the assembly. There was no formal confidence vote this time either, because the minister's resignation had rendered it unnecessary. However, the assembly's lack of confidence was clearly expressed by the fact that the assembly majority backed the government's explicit refusal to side with the interpellated minister.

## ii. Pašić's return to power

On 18 June 1912. Milovan Milovanović died in office Marko Trifunović took his place provisionally, before ceding it to Nikola Pašić on 30 August 1912. Pašić was joined by Protić as interior minister, and by Paču as finance minister. In addition to becoming prime minister, Pašić also took over the ministry of foreign affairs. In this way the government acquired the form of a true Radical government.<sup>1138</sup>

1137 *Parliamentary proceedings*, emergency session of 1912, 6.6.1912, pp. 10–19.

1138 It included also for a while the former Independent, Mihailo Poličević, and Kosta Stojanović, one of those Radicals who wavered for a long time between

The timing of Pašić's return coincided with the start of the Balkan Wars, which exercised a similar influence on the course of parliamentary life as the annexation crisis had exercised in its day. Up until the autumn of 1913, or more precisely the opening of the 1913 parliament, Serbia found itself – in Jovan Skerlić's imaginative words – in a state of 'political moratorium'. The reasons for this 'political moratorium', Skerlić would explain in October 1913, was that 'for all political parties in the country', Pašić's cabinet was no longer 'a Radical government, but a Serbian one.'<sup>1139</sup> Despite its single-party character, the assembly – called into emergency session on 20 October 1912 – declared its unanimous (with the exception of Dragiša Lapčević) confidence in it, with an address that solemnly and enthusiastically approved the king's speech and decree mobilising the army, and obediently approved emergency military loans raised without its prior knowledge.<sup>1140</sup> The government, in return, kept the parliamentary session of 1912 open until the wars ended, i.e. from 1 October 1912 until 20 September 1913.

The fact that the assembly was in session during the Balkan Wars did not mean, however, that the government actually consulted it. On the contrary, the assembly met only rarely: for example, only seven meetings were held during the first six months. The government made on its own even those decisions for which it constitutionally needed the assembly's prior approval, and – following its old theory about 'indemnity' – brought them before the assembly for approval subsequently. 'This is a big mistake', Voja Marinković declared on the occasion of one of many such post facto approvals of military loans that the government had granted itself and spent without reference to the sitting assembly. This was a 'violation of the assembly's rights' and of the constitution, Milorad Drašković agreed, adding also, however, that 'the army needs to be supplied', and that his party would

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the Old Radicals and the Independents. The two left the government on 18 June 1912, and were replaced by Marko Đuričić and Velizar Janković, both loyal to Pašić.

<sup>1139</sup> *Parliamentary proceedings*, 1913–1914, 18.10.1913, p.228.

<sup>1140</sup> *Parliamentary proceedings*, emergency session of 1912, 22.9.1912, p. 3; and 24.9.1912, pp. 7–16. The emergency session lasted until 30.9.1912.

therefore leave the debate with the government for a later occasion.<sup>1141</sup> The assembly approved in similar manner other illegal decisions on the part of the government, even in cases when no objective reason for avoiding the proper procedure could be found.<sup>1142</sup> During the Balkan Wars the assembly was ‘completely sidelined’, more than ‘ever in our parliamentary history’, Jovan Skerlić said in his aforementioned speech. It was reduced to ‘a machine for approving loans already spent and acknowledging accomplished facts.’ Skerlić was basically right, but the responsibility for this lay as much with the assembly as with the government.

A rather more serious conflict between assembly and government broke out in connection with the adoption of the budget for 1913. The assembly had given its approval at the very start of the session for the old budget to be extended by twelfths until 1 May 1913. At the same time, on 10 October 1912 the government placed before the assembly its budget bill for 1913. This, however, turned out to be a copy of the budget for 1912, even bearing the signatures of former government ministers (including that of the late Milovanović). Describing it as ‘practically identical’ with the expired budget, the government justified its conduct by the lack of time under war conditions to compose a new budget. In April, however, as the approved twelfths were about to expire, it nevertheless withdrew the budget bill and asked the assembly for an extension of the previous budget by the remaining eight twelfths, which the assembly approved on 19 April. Adoption of the budget bill in its entirety would have been ‘a fiction’, as Laza Paču rightly noted in presenting the government’s proposal concerning the twelfths. The opposition protested against the latter proposal, however, both for political reasons – ‘disregard for the assembly’ (the Progressive Milivoje Jovanović, and Voja Veljković) – and for legal reasons, claiming that it was unconstitutional. This meant that Serbia would have no budget for 1913, said Milorad Drašković, even though the constitution

1141 *Parliamentary proceedings*, 1912–1913, 30.3.1913, pp. 181–3.

1142 One such case, for example, was the postponement of the 1912–13 municipal elections. See footnote 930 on p. 450 above.

required that a budget be passed. Paču argued, however, that adoption of the remaining eight twelfths was against neither the constitution nor the budgetary law. He insisted that, according to the constitution, the assembly extended the budget until a new one was settled, and the law stated explicitly that the old budget could be extended for up to a year.

Paču was right on this. It is true that, as Drašković argued, Art. 173 of the constitution did prescribe that ‘the national assembly each year approves a state budget that is valid for only one year’; but, according to Art. 174, the assembly could provisionally extend the old budget ‘until a new budget is approved’. The wording of the two articles left open the length of time for which the assembly could extend an expired budget: was the time limit of ‘only one year’ set on the budget’s validity in Art. 173 stronger than the provision in Art. 174 giving the assembly the right to extend an expired budget ‘until a new budget is approved’? Drašković clearly believed that it was stronger, and that temporary extensions could be tolerated only within temporal limits of less than twelve months. He was refuted, however, not only by established practice, according to which the assembly’s right to extend the budget temporarily was not limited to any term, but also by the new budgetary law.<sup>1143</sup> Art. 33 of this law prescribed that the budget for the expired tax year could be extended for at most one year, which resolved this question – left open by the constitution – in favour of Paču’s interpretation.

Nevertheless, Drašković’s statement that adoption of the government’s bill left Serbia without a budget for 1913 was correct, and his next conclusion had far-reaching implications: namely, he added, the procedure for adopting the budget was ‘complex and expensive’, but this is what the constitution demanded. For ‘someone could later on say that it is cheaper and quicker to make decisions without the government and without the assembly’.<sup>1144</sup>

1143 The budget for 1902 was extended by twelfths to cover the whole of 1903 and the first few months of 1904. S. Jovanović holds this interpretation of the constitution to be correct. *Ustavno pravo*, p.230.

1144 *Parliamentary proceedings*, 1912–1913, 10.10.1912, p.7; 8.4.1913, pp. 262–9; and 19.4.1913, p. 343.

## **B. THE FINAL MONTHS – REVIVAL OF PARLIAMENTARY LIFE AND CRISIS OF THE REGIME. OPEN CONFLICT BETWEEN MILITARY AND CIVILIAN AUTHORITIES**

The return of peacetime conditions in the autumn of 1913 presented Serbian parliamentarism with its most serious test to date. The positions of all political factors in the country sharpened to the extreme. A strong and increasingly united opposition demanded early elections without delay, and used the ultimate weapon of obstruction to press the government. The army, its self-confidence enhanced by the Balkan Wars, acted openly as an extra-constitutional political force, and through the minister of defence undermined the integrity of the government as a political actor, thus directly disrupting the functioning of the constitutional instruments of government and the parliamentary order. The government, on the other hand, despite its negligible majority, nevertheless did not retreat, defending itself with all its might against both enemies – the united opposition and the army. All this had serious consequences: the government, instead of retreating when under blockade, openly and rudely violated the constitution, the laws, and the rules of the parliamentary order; while the opposition, eager to bring down the government, distanced itself from its struggle for the supremacy of civilian over military power and at a crucial juncture proved ready even to join the army in overthrowing Pašić's government.

The regular parliament of 1913 was for the first time since 1905 opened with a speech from the throne, which gave all political parties the opportunity to define their attitudes to the government and its programme. The most serious question posed on this occasion was the governance of the annexed territories seized in the Balkan Wars. In regard to the government, the parties of the opposition were united solely in that as they shared the view that this issue should be decided by a constituent assembly. They differed significantly, however, on the question of administration.

Three different concepts of how to govern the newly acquired territories emerged during the debate. The government favoured the introduction



of a civilian emergency regime of limited duration, up to ten years, under which the population would have limited rights and freedoms, without the right to vote, and be governed by decrees having the force of law. According to this Radical concept, all power in these lands would be in the hands of the executive, i.e. the government. The chief advocate of this programme was the interior minister Stojan Protić, who rejected a constitutional option on the grounds that rule by decree was more appropriate, given the limited duration of the arrangement in this part of the state territory.<sup>1145</sup> The Independents mostly did not make their position clear, apart from – in common with the other opposition parties – adopting the position that the decision should be made by a constituent assembly, rather than by the regular legislature as proposed by the government. The Liberals openly advocated a military regime, while a weak minority, composed of the Progressives and the Socialists, pressed for regular constitutional government of the kind that applied in other parts of the kingdom to be extended to the annexed lands.

Vojislav Marinković explained his party's position as follows: one could not rule Old Serbia [Kosovo] and Macedonia as if they were colonies, because they are 'Serbian lands and people'. How was one to explain to a population that was predominantly 'urban' and 'in cultural and political terms relatively highly developed', asked his brother Pavle Marinković, that they should have fewer rights than other Serbian citizens, not to speak of their 'brothers on the other side of the border' – in Bulgaria and Greece – where the constitutional order was extended in its totality to the areas seized in the Balkan Wars. Recalling the negative experience of Ireland, he warned that it would be impossible to suppress 'the separatist movement' by 'pressure and emergency rule'. He went even further than this, however: a just treatment of the population in the annexed lands would, he believed, 'give hope to all unfree South Slavs'.<sup>1146</sup>

1145 *Parliamentary proceedings*, 1913–1914, 19.10.1913, pp. 249–51; 24.10.1913, p. 398.

1146 *Parliamentary proceedings*, 1913–1914, 10.10.1913, p. 878; 11.10.1913,

Stojan Protić saw all this quite differently. His attitude to the annexed lands was based on the right of the stronger, in the same way that in parliamentary battles he defended the right of the majority: 'We did not ask them about their liberation, so our brothers will certainly let us govern them for five or six years in the way we see fit', he replied to the advocates of full constitutional rule in the new areas. Unlike Marinković, Protić viewed the population of the annexed territories as politically and culturally inferior to the Serbian population, and used precisely this alleged inferiority to argue the inappropriateness of introducing full constitutional rule in the newly seized lands. The constitution of the Kingdom of Serbia was made for a higher 'level of political development and culture' than existed among the population of the new lands, was his response to the Progressives and the Socialists. We are 'more advanced and mature, gentlemen; there is no reason and it would indeed be unwise to ask them how they should be governed during the first years of their freedom'. Protić rejected the assertion by Dragiša Lapčević and Vojislav Marinković that the constitution did not envisage the introduction of a special administration or temporary regime in any part of the state territory, declaring that the existing constitution applied only to the state territory as specified in the constitution, whereas 'what we have taken ' was 'Old Serbia, not the Kingdom of Serbia!'<sup>1147</sup> He made no effort to explain further what his response actually meant, thus leaving his interpretation of the legal status of 'Old Serbia' unclear. It was not an easy question, but it could be deduced from his response that he adhered to the view that the annexed territories were not legally constituent parts of Serbia.<sup>1148</sup> It is more likely, however, that

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pp. 109–13; 18.10.1913, pp. 243–4; 1.3.1914, pp. 1138–41.

1147 *Parliamentary proceedings*, 1913–1914, 19.10.1913, pp. 249–51; 24.10.1913, p. 398.

1148 Živojin Perić wrote about the problem of the legal status of the lands conquered in the Balkan Wars. In his view, the reply to whether 'Old Serbia' had become an integral part of the Kingdom of Serbia depended upon the interpretation of the monarch's constitutional right to sign international treaties. If this right included also the treaty on annexation, then the king's signature on the peace treaty amounted to annexation of the conquered lands, which

Protić did not endorse this final conclusion, merely did not find it necessary to argue his position further.

The carelessness of Protić's reply to Lapčević and Marinković had an explanation. For the proposal that full constitutional rule be applied to the annexed territories was not a realistic alternative to the Radicals' proposal of emergency rule, for the simple reason that political support for it was negligible, being limited to the Progressives and the Socialists. In December 1913, presenting the bill on the annexation of 'Old Serbia' to the Kingdom of Serbia, and on its administration, Protić stated bluntly that the fact that 'only the two extreme currents' the Conservatives (Progressives) and the Socialists – were demanding a fully constitutional regime 'freed him from the obligation' to spell out in greater detail the arguments in favour of emergency rule.<sup>1149</sup>

A much more serious alternative was a 'military regime', defended by the Liberals – backed by the army – as 'dignified and strong', 'supremely pure and mercilessly just', a regime that would 'secure and prepare both the legal and the constitutional freedom of the individual'.<sup>1150</sup> Protić and

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made them automatically part of Serbian state territory. This further implied that the existing Serbian constitution applied also to them, and that the eventual introduction of a special regime demanded a new constitution. The citizens of the annexed lands would vote, of course, in the election for the constituent assembly on the same basis as other Serbian citizens. The actual system of administration by decrees, and the introduction of a special administrative regime through legislation, were unconstitutional. The view that the newly annexed lands were not part of Serbian state territory, on the other hand, assumed that the signing of the peace treaty had not amounted to annexation of these lands, which meant that they were not legally an integral part of Serbia until a law on annexation had been passed. In that case, however, any debate on the constitutionality of Serbian rule in the new territories prior to the adoption of such a law would be pointless. Perić himself favoured the former view, but as to how the new territories should be governed, he preferred a special administration. V.J. Peritch, *La question constitutionnelle en Serbie*, Paris 1914, pp. 9–12.

1149 *Parliamentary proceedings*, 1913–1914, 16.12.1913, pp. 491–505.

1150 Borivije Popović and Radoslav Agatonović, *Parliamentary proceedings*, 1913–1914, 11.10 and 15.10.1913, pp. 113, 153. Generals Radomir Putnik and

his party saw this as a real alternative to the government's proposal, which is why they thought it necessary to define their attitude to it properly in the assembly.

This was a 'military dictatorship', argued Stojan Protić, and the Liberal Party's proposal should therefore be rejected as 'anachronistic'.<sup>1151</sup> The belief that administration 'in the hands of the army' would be 'an honest absolutism', an absolutism guided by 'the purest of motives', represented a 'dangerous illusion', argued Dragoljub Arandelović on behalf of the Radical Party. 'A number of our officers entertain the illusion that they would be as good at governing counties as at winning battles ... and there are officers too who believe that to deny them the holy right to administer these lands is to sin against the fatherland.' To give them power would be 'a most costly experiment', concluded Arandelović.<sup>1152</sup> It is impossible to defend 'constitutional freedoms' under a military regime, added the deputy Ilija Ilić.<sup>1153</sup>

It was not easy to defend the Radicals' proposal either, however, from the angle of defending 'constitutional freedoms'. The government was rejecting military in favour of 'police dictatorship' – such was the common assessment of both those demanding full constitutional government for the new territories and those who favoured a military regime.<sup>1154</sup> Accusing the government of hypocrisy, the Liberals questioned whether a state of emergency under civilian authority was any better than a state of emergency under military authority. The only difference, they said, was that the former empowered the police and the latter the army. And it was this in particular, they argued, which made their proposal superior to that of the government. Since 'by contrast with the police, the army was not controlled

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Živojin Mišić proposed that the annexed areas be placed under military administration for five years. V. Vučković, *op.cit.*, pp. 182–3.

1151 *Parliamentary proceedings*, 1913–1914, 16.12.1913, p. 505.

1152 *Parliamentary proceedings*, 1913–1914, 23.10.1913, p.353.

1153 *Parliamentary proceedings*, 1913–1914, 21.10.1913, p. 282.

1154 *Parliamentary proceedings*, 1913–1914, 18.10.1913, p. 239.

by any party', a military regime was preferable to that advocated by the government – such was the basic conclusion of the Liberal Party.<sup>1155</sup>

The October 1913 parliamentary debate on the administration of the new territories indicated that the army's desire to assume state powers was more alive and real than ever before. A military regime that, being outside the parties, was 'supremely pure and mercilessly just', was openly hailed in the Serbian assembly. Such messages in fact came from the Black Hand, and were no longer delivered just in the pages of *Pijemont* and similar journals, but now also from the assembly podium. The ruling Radical Party resisted these messages openly and resolutely, thus affirming itself as the most determined opponent of any form of military government, even if limited solely to the newly annexed areas.

The ruling party's concept for administration of the annexed territories won the day.<sup>1156</sup> The conflict between government and army remained unresolved, however, and grew in intensity. The issue that reflected it most directly in parliamentary debates over the following months was that of the 1914 budget, which likewise reflected the whole relationship between government and assembly during the 1913 parliamentary session.

On 15 October 1913 Pašić's government decided to bring before the assembly its problem with the defence minister, Miloš Božanović. Instead of the budgetary bill, which the government was constitutionally bound to present to the assembly 'at the very beginning of its work', a letter from finance minister Laza Paču was read to the deputies, informing them that the budgetary bill was not ready and that the responsibility for this rested

1155 *Parliamentary proceedings, 1913–1914*, 24.10.1913, p. 392.

1156 The annexation was formalised by the king's proclamation of 25 August 1913.

The new parts were governed exclusively through decrees, but by the decree of 20 November 1913 the Serbian constitution was partially extended, omitting the sections on government dealing with the assembly, suffrage, etc. The law on the annexation of 'Old Serbia' [Kosovo] to the Kingdom of Serbia and on its administration, submitted to the assembly on 16 December 1913, legalised this regime, including administration by decrees with the force of law, which would last for a maximum of ten years. See *Ustav za Staru Srbiju*, Belgrade 1913, and *Parliamentary proceedings, 1913–1914*, 16.12.1913.

with the minister of defence. Despite warnings from the minister of finance, the letter went on, the defence minister had not completed in due time his ministry's budgetary proposal. The assembly proved remarkably tolerant, by deciding not to meet between 1 November and 12 December in order to help the government draft the budget. When the assembly did meet again on 12 December, however, the government submitted to it not a budgetary bill but a request to extend the twelfths of the previous budget until 1 March 1914. This was yet one more blow against the principle of legality, and this time the opposition reacted. The government's request represented 'a parliamentary and financial scandal, and a brutal attack on the constitution and the law', as well as 'a suspension' of one of parliament's most important rights, stated Jaša Prodanović who was soon joined by the heads of the Liberal and Progressive parties.

The leaders of the ruling party – Protić, Ninčić and Paču – argued that the government's proposal was in fact entirely correct. The government could extend the expired budget 'by as much as it wants, provided that the national assembly approves this in advance', insisted Paču – who seemed to have changed his mind since March 1913, when he had argued for extension of the 1912 budget by way of twelfths for the remaining eight months of 1913. For while at that time he had referred to the existing budgetary law, stating that its Art. 33 explicitly permitted extension of the old budget for a year, he now referred to a constitutional decree (Art. 174) according to which the assembly was able to extend an expired budget until a new one was passed. In the former case Paču's proposal was within the limits of the budgetary law, but not in the latter, since he was asking that the 1912 budget should be extended by twelfths until 1914. Which is why Paču this time avoided mentioning the budgetary law.

Ninčić followed Paču in defending the government's proposal by reference to the constitution. Unlike them, however, Protić did not forget the budgetary law, but attempted to use it to prove the correctness of the government's bill. It was indisputable, argued Protić, that according to the law the budget for the past tax year could not in any shape or form be made

valid for more than a year. But this limitation referred only to the budget as a whole, not to its extension through twelfths as proposed by the government. So according to the new budgetary law, in Protić's interpretation, an expired budget could as a whole be extended for at most a year, while the same budget could be extended forever by way of twelfths.

Protić justified his interpretation of Art.33 of the budgetary law as follows. The limitation in question had been introduced, he said, in order to minimise possible abuse by the executive of the right to extend the budget by decree. In other words, according to Protić, the meaning and purpose of the article of law was to limit to one year the time for which it was possible to govern with an expired budget without the assembly's approval, but on the basis of a royal decree.

This line of reasoning is illogical, however. For Protić said himself that, according to the new budgetary law, the assembly did not have the right to extend the budget as a whole for more than a year; but could do so only by way of twelfths. The new law thus did indeed introduce a new and previously unknown limitation upon the assembly's right to extend an expired budget. However, if the meaning of this law was merely to limit possible abuse by the executive of its right to extend a budget by decree, and to prohibit in principle the same budgetary law from lasting for more than two years, then the introduction of any new limitation upon the assembly's right would be illogical.

However, Protić's explanation was also inaccurate. By prescribing a time limit of one year during which an expired budget could lawfully (i.e. with the assembly's permission) be extended, the lawmaker could not possibly have referred – as Protić suggests – to extending the budget as a whole, because the new law prohibited this. For the latter prescribed, in paragraph 2 of the same Art. 33, that a lawful extension of the budget could be proposed only 'for one or more twelfths', which – like the time limit on extension of the budget – was another novelty in comparison with the previous budgetary law. In short, the formulation 'in no shape or form' could refer only to extension by twelfths – hence, either legally with

the assembly's approval or by decree on the executive's part – with the latter constitutionally being in any individual case for only four months.<sup>1157</sup>

Paču, Ninčić and Protić failed to win the assembly minority to their view of the correctness of their proposal about the twelfths, and the Independents, Liberals and Progressives left the assembly in protest, thus depriving it of the necessary quorum.<sup>1158</sup> A few days later the Radicals nevertheless managed to bring together a sufficient number of deputies, and on 22 December 1913 the budgetary twelfths were adopted in violation of the law.

The government's budgetary bill for 1914 was put to the assembly only on 3 February 1914, a full four months later than the constitution allowed. This time round the assembly was unwilling to tolerate the government's conduct, and on 19 February 1914 the Independents and Liberals announced their obstruction by leaving the assembly. Although the Progressives decided to stay, the assembly was nevertheless often left without a quorum during the debate that started on 22 February.<sup>1159</sup> A quorum would be secured and the budget eventually passed on 31 March 1914, as *Politika* would report, thanks to the fact that the Radical deputies' club repeatedly reminded its members by telegram of their duty to attend so that the budget could be passed.<sup>1160</sup>

1157 On the possibility of a repeated consecutive extension of the budget in accordance with the constitution, and also with the new law, see the section on 'Legal Foundations' above.

1158 *Parliamentary proceedings*, 1913–1914, 15.10.1913, pp. 146–7; 12.12.1913, p.465; 13.12.1913, pp. 484–90; 16.12.1913, p.494 and 19.2.1914, p.888.

1159 Since the changes to the standing orders, it had become impossible to prevent the assembly from returning to the order of business by posing short questions. Accordingly, once the opposition had decided to revert to obstruction in the 1913 assembly term, it resorted to the method of leaving the chamber. Provided that the opposition cooperated, this was largely effective, given the weak majority and poor discipline among the deputies. See, for example, the sessions of 8 and 10 March. *Parliamentary proceedings*, 1913–1914, 8.3.1914, pp. 1287–8 and 1309–11.

1160 *Politika*, no.3648, 9.3. 1914, no. 3650, 11.3. 1914 and no. 3671, 1.4.1914. The parliamentary records from 10.3.1914 onwards have not been preserved,



Finance minister Paču repeated at the start of the debate that responsibility for the budgetary bill's lateness lay with the minister of defence, who had not only been late with the budget for his own department, but had also submitted one that the government could not accept because of the scale of the projected expenditure. The defence minister, Paču said, had envisaged that 'the entire [adult male] population of the new territories would be subjected to military service within three years'. The government could not accept this expense, so finalisation of the budgetary bill had once again to be postponed.<sup>1161</sup>

No one doubted the truth of Paču's testimony – the public had already been informed about the conflict between the government and the minister of defence – but it diverged so much from the principles of the parliamentary order that it caused a storm on the Progressive benches. In their view, the government had violated the principle of collective responsibility, infringed the constitution and the laws, and negated the assembly's budgetary rights. The government had failed to agree with the minister of defence and, unable 'to get rid of him', rather than resigning had deliberately committed an unconstitutional act, declared Voja Marinković and Miloje Janković, by negating not just any but the basic right of the assembly: its budgetary right. Quite apart from this, Marinković continued, only 'one half' of the country was represented in the assembly. The invitation to the representatives of the new lands had been postponed 'to a distant future', even though the population there was to bear the financial burden of the state in the same way as the population of pre-war Serbia. And 'the first principle of parliamentarism and constitutional life', recalled Marinković, was the rule that no one pays taxes for which they have not voted, whether directly or indirectly. The Progressive Party, in short, would not support a

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so that the assembly's work after this date is here reconstructed on the basis of the press, mainly the daily *Politika*.

1161 *Parliamentary proceedings, 1913–1914, 22.2.1914, p. 979.*

government that 'disregards basic parliamentary conventions', and would vote against the budgetary bill regardless of its content.<sup>1162</sup>

Having been four months behind with its budgetary bill and having justified this by telling the assembly about its problem with the minister of defence, the government was certainly aware that this amounted to a serious violation of the principle of ministerial responsibility. The reason why it nevertheless behaved in this manner was as follows. In February 1914, at the time when it presented its budgetary bill to the assembly, it had already succeeded in 'getting rid of' the problematic minister: on 4 January 1914 General Miloš Božanović was replaced in his post by Colonel Dušan Stefanović. Like Božanović, the new defence minister too belonged to the plotters' circle, but unlike his predecessor he was reputed not to be under the influence of the Black Hand.<sup>1163</sup> The government must have seen this as a great success, sufficient to win it the assembly's subsequent confidence. All the more so given that, when removing him from the cabinet, it had also openly condemned General Božanović for something else that the public found disturbing.

What had happened was that Božanović, acting alone and against the will of other ministers, had managed to gain amnesty for an officer condemned for battering a soldier to death after the latter had refused to obey an order. Immediately after his release from prison, the pardoned officer was given a gold medal for courage, promoted to a higher rank, and appointed to a very important post in the army.<sup>1164</sup> The officer in question, Major Velimir Vemić, had played an important role in the 1903 conspiracy and was an influential member of the officers' secret organisation, the

1162 *Parliamentary proceedings*, 1913–1914, 24.2.1914, pp. 1001–5; and 25.2.1914, p.1025.

1163 V. Vučković, *op.cit.*, pp.181, 183; D. Mackenzie, *Apis*, pp. 116–17; and V. Kazimirović, *op.cit.*, vol. 2, pp. 252–3. Božanović was seen in the assembly as the most prominent member of the plotters' circle in the army and very influential in the Black Hand. Živojin Rafailović, *Parliamentary proceedings*, 1913–1914, 14.2.1914, p. 825.

1164 V. Vučković, *op.cit.*, p.183.

Black Hand.<sup>1165</sup> The government rightly saw Božanović's conduct as an attack both on its political integrity and on civilian authority, and distanced itself openly and publicly from the minister. By adding this problem to those concerning the budget, Pašić's government managed to secure his dismissal, which it saw as a great achievement on its part.<sup>1166</sup>

However, a debate on the Vemić case – following an interpellation submitted on the issue by the Socialists – showed that the government had not succeeded in strengthening its position in the assembly by distancing itself from the amnesty extended to Vemić. There were two reasons for this. The truly and consistently anti-militarist parties – the Progressives and the Socialists – found the government's distancing of itself from the politically ambitious and disobedient military circles lukewarm and insufficient, so they withheld their support. Others on the other hand, and especially the Liberals and certain Radical dissidents, did not view with sympathy the government's reservations about the army, so were encouraged all the more to question the government's policy.

Kaclerović, who had submitted the interpellation on the Vemić case, was the most forward in his accusations. Citing an additional 'fifteen or so' soldiers who had died after being maltreated by officers, he stated that Vojnić had killed the soldier 'in cold blood and intentionally' with his fifth and final bullet, although the soldier was begging for mercy. This kind of officer had been decorated with a gold medal for courage, stressed Kaclerović, and concluded: 'The government is impotent before

1165 Vemić was one of the conspirators whose name appeared in diplomatic negotiations with Great Britain over the identification of the group of army officers whom the Serbian government had to retire as a condition for the re-establishment of diplomatic relations. Ljiljana Aleksić-Pejković, *Odnosi Srbije sa Francuskom i Engleskom 1903–1914*, Belgrade 1965, p.163. He subsequently became secretary of the Black Hand. D. Mackenzie, *Apis*, pp. 78, 130.

1166 V. Kazimirović cites the view of the British envoy to Belgrade according to which Božanović's removal from the government was Pašić's first attempt 'to confront the increasingly powerful Black Hand'. V. Kazimirović, *op.cit.*, 2, pp. 252–3.

the power ... of an irresponsible factor like the officer corps, and especially the plotters, who wish to rule autocratically by praetorian methods ...to conduct domestic and foreign policy alike.' Arguing that the government was responsible for having tolerated a minister who was 'a delegate of the praetorian officer current', Kaclerović proposed a motivated return to the order of business, demanding the government's resignation and the formation of an investigative committee to examine the case.

The Radical deputies were no less trenchant in accusing Vemić and the military circles. The minister of defence, said the deputy, Milorad Protić, should 'seriously investigate officers with the ambition and desire ... to steer the state and the assembly, and to interfere in political matters ... Some higher officers openly tell me, a national deputy, that they will destroy the constitution one fine day, and that they cannot accept that such interpellations about them are submitted in the assembly.' However, stressed M. Protić, it was the previous and not the current minister who had been responsible for the Vemić case, and the government had done well in freeing itself from Božanović.

The government's formal answer, however, was supplied by Pašić, and it differed from that given by the deputy cited above. Pašić firmly and clearly denied Kaclerović's assertion that the government was in conflict with military circles wishing to influence its policy. Božanović had withdrawn solely because of the budget, and because he had granted a pardon without the government's knowledge – that was all, Pašić replied. Given that the minister had resigned, there was no point in questioning the government's responsibility further. 'Some people are trying to invent irresponsible factors' declared a Radical dissident, Pera Jovanović, coming to Pašić's aid. Pašić thus denied the existence of the conspirators issue as a problem of army interference in politics in the same way in 1914 as he had done in January 1905, or in the summer of 1906.

The Independents treated the Vemić case as a 'humanitarian issue' (Milorad Drašković), and avoided linking it to the question of principle of the government's conflict with the former defence minister. Recalling

many other cases similar to Vemić's, when criminals had likewise been amnestied without the government distancing itself from the minister of defence, they supported Kaclerović's proposal for a return to the order of business. Provoked, however, by M. Protić's charge addressed to his party of 'collusion with the officers', Milorad Drašković retorted: Protić 'is accusing us today ... of hampering his showdown with the officers. Yet it was you' – he said, addressing the ruling Radicals – 'who chose Božanović'... and 'you wished to do the same two and a half or three years ago', at the time of the joint government – he added, insisting that Božanović would already then have become defence minister, had the Independents not opposed it.<sup>1167</sup> Drašković's response rightly noted the Radical Party's share of responsibility for failing to keep the political ambitions of the military in check, while omitting to speak about his own Independent Party's share. Drašković spoke about a period that was behind them, whereas M. Protić had in mind the fight into which his party had entered in 1914 with no support from the Independent Party.

As for the Liberals, they relativised Vemić's culpability entirely. It had been war, and Vemić's conduct should be judged in that light, said Živojin Rafailović, recalling his own past struggle against 'the irresponsible factors, as we used to called the plotters'. One of the most respected of Liberal deputies thus drew a clear line of demarcation between his past and present attitude towards the conspirators. The Radical dissident Aleksa Žujović adopted the same position, albeit more explicitly. 'From a purely military point of view, Vemić deserves only to be rewarded', he said, stressing that the soldier had refused to obey an order.

In speaking of the relationship between government and assembly in connection with the problem of the army's political ambitions, most interesting was the clash that occurred during the debate on the interpellation, between Voja Marinković on the one hand and Pašić and Protić on

<sup>1167</sup> Others too pointed out the Radicals' earlier fondness for Božanović. The Radicals 'had always adored that man Božanović', said Živojin Rafailović. *Parliamentary proceedings, 1913–1914, 14.2.1914, p. 825.*

the other. Given that in this case the government had clearly distanced itself from the minister, and furthermore that it had been in open conflict with him since the end of 1913, Marinković – who supported Kaclerović's proposal for a return to the order of business – felt called upon to explain why the Progressive Party, which considered its anti-militarist stance to be a key aspect of its policy, was nevertheless refusing to declare confidence in the government.

Like Kaclerović, Marinković insisted on the existence in Serbia of a serious inclination on the army's part to seize power from the legal institutions, which the government in his view was fighting in a completely wrong way. It was true, he said, that the government – especially in its paper – had condemned the minister for amnestying Vemić without its knowledge, but that was not enough. What the government should have done, he argued, was to appear before the assembly and state publicly that irresponsible factors existed, so that a judgement could be made 'as to whether these irresponsible factors were stronger than the government and the parliament'. The government instead was fighting this battle 'sur-reptitiously': it formally denied through prime minister Pašić that such factors existed, yet asked the assembly to absolve it from responsibility for the crimes they had committed. Instead of entering together with the assembly into an open and principled struggle to defend the civilian institutions from the onslaught of the military circles, argued Marinković, the government had instead chosen the method of compromise. 'Every six months it makes a new deal with them...While seeking a compromise, it incites public opinion to battle in order to sacrifice us as soon as it has clinched an agreement.' Therefore, he concluded, the Progressive Party held the view that the whole government was responsible for the Vemić case, and was declaring no confidence in it. Until such time as the government openly admitted to the existence of a conflict with the army and called upon the assembly 'for help', Marinković explained, the Progressive Party would not stand 'in the front line' to save the government from 'the irresponsible factors'.

Protić's reply was different – more concrete and open than Pašić's. The Progressive Party would never receive such a request, was Protić's response to Marinković, and he added that 'political people...knew what to help and what not to help.'<sup>1168</sup> Marinković had no reply to this comment.

Unlike Pašić, Protić did not deny the existence of 'irresponsible factors'; on the contrary, taking this as an undeniable fact, he sent a message to Marinković and his party that a common political interest demanded a common political struggle. However, the Radicals and the Progressives, fighting against the same enemy, viewed differently the methods to be used in this struggle. As the strongest party, determined to preserve its power at all costs, the Radicals adopted the approach that Marinković rightly called bargaining, aware that an open clash with the army would greatly increase the risk of their losing power. The Progressives, on the other hand, being one of the weakest parties, with no hope of forming a government, like the Socialists advocated a principled struggle, convinced that seeking compromise would not moderate the army, but could destroy parliamentarism. The outcome was that in the spring of 1914 the Radical Party was left to fight an increasingly ambitious army practically on its own.

This last fact was even more visible outside parliament. Moderate and restrained in parliament, the Old Radicals – and especially Protić on their behalf – launched an open attack on the army in the press, accusing it of 'praetorianism'. However, in contrast to the previous period when they had to defend themselves against accusations of being too soft on the plotters, now, seeking to save the civilian governmental order, they were being accused of fighting against an imaginary enemy. The Liberals and the Independents openly reproached them with this, with the former, imbued with strong nationalist fervour, taking the lead in supporting the army. The Radicals had fallen victim to a 'an imaginary and unjustified fear that officers might seize power', wrote *Srpska zastava*, the Liberal Party organ. 'The Radicals were never friends of the army, and especially of the officers

1168 *Parliamentary proceedings*, 1913–1914, 1.2.1914, p.578; 13.2.1914, p. 798; 14.2.1914, pp. 818, 822–5, 828, 831–3, 835–6, and 838.

... Up to the end of the Balkan Wars, their curbing of the army was concealed'; now, however, 'they have launched themselves against the army and begun a desperate struggle against it'. This, the Liberal Party explained, was caused by their intention to appropriate for themselves the credit for the successfully accomplished wars, won by the Serbian army with courage and sacrifice. 'If we were to rely on information coming from Radical sources, we should have to venture out heavily armed', wrote the Independent paper *Odjek*. Defending themselves from the Radical charge that they 'had placed themselves at the service of the sabre and the boot' and 'had betrayed democracy', they answered that the Radicals were falsely painting a Serbia dominated by praetorianism, insinuating that they did so as an excuse to strengthen the police.<sup>1169</sup>

The start of the Radicals' open conflict with the army coincided with the beginning of a struggle by the united opposition for holding early elections. The question of a caretaker government – hence, also the role of the king – once again became topical. The opposition was guided by the same aim as in 1908: to persuade the king to deny confidence to the existing government, and to give a mandate to the minority to form a caretaker government. As in 1908, so again in 1914, the opposition failed in its attempt to come to power by way of a caretaker government. A parliamentary crisis of several months' duration caused by its obstruction once again ended with dissolution of the assembly and the scheduling of new elections for 1 August 1914.<sup>1170</sup> The conduct of this task was once again denied to the minority, and offered instead to the existing Radical government headed by Pašić. After some hesitation between the Independents and the Radicals, the king had opted for the latter and left to them to organise the new elections.

1169 *Srpska zastava*, 18.5.1914; *Odjek*, 25.4.1914 and 6.5. 1914.

1170 The manner in which the obstruction, initiated in May 1914 and ending with the assembly's dissolution and the scheduling of new elections, was conducted by the united opposition is not known, given the absence of parliamentary minutes for this period.



The advantage held by the Independents in the competition for a caretaker government derived from the military circles' support of them. The Radicals, on the other hand, threatened the king that, if he denied them the caretaker government and give it instead to the Independents, they would treat him as a 'constitution wrecker'.<sup>1171</sup> But the outcome was ultimately determined not by their threat, but by foreign diplomats, i.e. by the Russian government's insistence that Pašić should stay on.<sup>1172</sup> Squeezed between domestic extra-constitutional forces and Imperial Russia, King Peter surrendered to the latter. It was at this point, writes Slobodan Jovanović, that 'there started to emerge...what would become obvious during the World War – that Pašić's hold on government derived not just from his personal abilities and the power of his party, but also from foreign influence.'<sup>1173</sup> Under conditions in which the government's fate was decided on the one hand by army officers, on the other by foreign diplomacy, responsible government had ceased to exist.

As for King Peter, immediately after he had given the Radicals the mandate to form a government to organise the elections, he transferred the exercise of his royal powers to Crown Prince Alexander, in a 'concealed abdication'. It was widely assumed that he did this 'because he was unable to keep the promise he had given to the plotters that he would remove Pašić'.<sup>1174</sup> However, more important than the motives that guided him was the fact that this act was the natural end-game of his rule, during which he had never managed to win autonomy in the (non-)exercise of his royal power. From the very arrival of Peter Karađorđević on the Serbian throne, including during this last crisis, the army on the one hand and the parties on the other had made it very clear that, for them, his capacity to rule was

1171 S. Jovanović, *Moji savremenici*, pp. 199–200, 202. See also Dušan Bataković, 'Sukob vojnih i civilnih vlasti u Srbiji u proleće 1914.', *Istorijski časopis*, no. 29–30, 1982–3, p. 486; V. Kazimirović, *op.cit.*, vol. 2, p. 259.

1172 S. Jovanović, *Moji savremenici*, p.200; V. Vučković, *op.cit.*, pp. 188–9; A. Drag-nich, *op.cit.*, p. 102.

1173 *Moji savremenici*, p.201.

1174 *Moji savremenici*, p.201.

conditioned by their confidence in him. This latest pressure on him was merely one more manifestation of their specific interpretation of the nature of King Peter's rule as a monarch – an interpretation that in its ultimate consequences questioned the very principle of monarchy. It is probable that King Peter decided that the time had come to leave the struggle for the authority of royal power to his successor.

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The policy of national unification and territorial expansion, which after the May coup became the main aim of the state, meant that Serbia spent the 1903–14 period either in a state of war or preparing for war. This policy inevitably made the army the most important state institution, whose authority and power grew as the moment of its direct engagement neared. The Balkan Wars, which led to a vast enlargement of the state territory, and the conquest of an area that under the name of 'Old Serbia' had formed the essence of the myth of 'avenging Kosovo', increased its authority beyond all measure. In the absence of developed institutions of civil society, the growing power of the army could not be kept within the bounds of constitutionality. It could be said from this point of view that the Radical Party – which was in power practically throughout this period, and which abandoned its programme of social revolution to concentrate instead on creating conditions for a successful realisation of the policy of national unification and territorial expansion – was most responsible for the burgeoning of militaristic tendencies in Serbia at this time.

On the eve of the First World War, however, when the military circles began to question the constitutional order more openly than before, it was the Radical Party as the party of government that turned out to be more aware of the danger than much of the opposition. The parties of the opposition – who had lost patience in their long struggle against the rule of Pašić's Radicals, whom they unanimously accused of systematically violating the fundamental values of the constitutional state and parliamentary government, of legality, and of political and especially electoral

freedoms, in the name of majority right – made the removal of the Radicals from power the very essence of their practical policies. In pursuit of this aim, they finally managed to reach agreement. Once the initial Liberal-Progressive electoral coalition had been joined by the Independents, the possibility of electoral victory for the first time appeared real. This was true testimony to the dynamism of parliamentary life, which during the course of eleven years had taken Serbia beyond party monism, produced several political parties or groups, and increased the degree of political tolerance, in that the Serbian parties finally succeeded in drawing a line between past and present, and turning away from the time when political options were exhausted in the contest between Radicals and anti-Radicals.

Their agreement, however, had another side also. Burdened by many years of failure to bring down the Radicals, the minority parties placed party struggle before defence of the institutions, and uniting against the Radical Party they appeared ready to accept direct help from the military circles, despite the fact that the latter made no secret of their intention to place themselves above the institutions and abolish them. The Radical Party government, which they were unable to bring down on their own, by now appeared less acceptable even than a new military coup.<sup>1175</sup> This suggests that the Serbian political parties' commitment to constitutionality and parliamentarism was of short duration, and that they had not really acquired a full understanding of their true worth. Having spent themselves too soon in a struggle for power, they overlooked the line separating a

1175 It is a well-known fact that in the summer of 1914 the opposition parties, albeit seemingly without the Progressives, for the purpose of bringing down Pašić and his government were ready to accept help from Colonel Apis and his organisation, including apparently support for a military coup. Apis held frequent talks, in particular, with the Independent leaders Davidović and Drašković, and the Liberal leaders Veljković and Ribarac, on the possibility of a joint overthrow of Pašić. See Vučković, *op.cit.*, pp. 189–91, and D. Bataković, *op.cit.*, pp. 484–5, 488, 490. Bataković alleges that the opposition's joint electoral list 'judging by the coverage in *Pijedmont*' enjoyed the plotters' support. See also V. Kazimirović, *op.cit.*, vol. 2, pp. 258, 261.

party struggle for power from a dangerous game with the constitutional institutions.

It seemed that the warning message that the Progressive leader Pavle Marinković had addressed to the Radicals in 1906 was now being realised: 'Why do you feign blindness...? On the morrow, when their political bill is presented, they will drive you away ... declare your government incompetent and yourselves incapable of maintaining law and order in the country.' On the eve of the First World War, when this 'political bill' finally arrived, the Radical Party with its decade-long 'bargaining' with the plotters did manage to maintain itself in power, but without securing dominance over them as extra-constitutional factors.<sup>1176</sup> In this respect, Serbian parliamentarism appeared weaker in 1914 even than it had been at the outset.

1176 Some scholars characterise the army's influence in Serbia at that time as 'dual power'. See Andrej Mitrović, *Srbija u prvom svetskom ratu*, Belgrade 1984, pp. 39–40. V. Vučković and D. Bataković share this view of the power of the military on the eve of the First World War.

## CONCLUDING OVERVIEW

Serbian parliamentarism was of too short duration for its basic institutions to acquire a definite form. The role of the king, and the party system, and the relationship between assembly and government, were all in a state of flux throughout this time. Apart from the first three years, the king did not influence the fate of governments; but practically all political parties other than the ruling one advocated a concept of parliamentary rule in which the king mediated between assembly and government, leaving open to the very end the possibility of the king's re-activation. Homogeneous government predominated, but the belief that coalition was the best form of government in the given party-political reality was so strong, that the question of choosing between homogeneous and coalition governments structured parliamentary battles during this whole period. The party system, which Serbian parliamentarism itself encouraged in the direction of coalition governments, travelled a path from *de facto* monism via short-lived bi-partyism to party pluralism dominated by one strong party – which by the end of this period, however, was not able to secure a sufficiently strong parliamentary majority to preserve homogeneous government. The electoral system – which greatly privileged the strongest party and thus also the idea of homogeneous government, but which simultaneously also encouraged electoral alliances that over time strengthened the proportionality in practice of the electoral system, hence also the idea of coalition government – played an important role in this. All in all, if one sought to define the Serbian parliamentarism of 1903–14 in any of its aspects, one would end up endorsing Milan Vasiljević's otherwise casual remark: that Serbian parliamentarism was 'in its infancy'.<sup>1177</sup> In this sense, its short duration is a factor of crucial importance for understanding the Serbian parliamentary experience.

<sup>1177</sup> M. Vladislavljević, *Razvoj ustavnosti u Srbiji*, p.61.

If, however, one sets to one side its strictly institutional outline and looks at the essential limitations of the experience – those witnessed in everyday practice and barely covered by the form – then the explanation is to be found not in its short duration, but in its historical prematurity, which resulted in a disharmony between the nature of the adopted institutions and the real social and political foundations on which they rested. Eleven years of parliamentary practice under the 1903 constitution sufficed to highlight this discordance; critical contemporaries of the period were fully aware of this, and cited it as the basic reason why ‘the much praised Western institutions quickly degenerate on our ground’<sup>1178</sup> and give ‘quite different results’<sup>1179</sup>.

It is rightly held that parliamentarism is primarily and inextricably linked with liberalism. In other words, it is defined as a collection of unwritten rules of the political game derived from the protracted evolution of the English middle class, the central thread and very essence of which derived from the ideology of liberalism. It acquired its democratic content only later, after the liberal political regime had already been established, but its new, democratic quality did not touch on its liberal essence. Theories of parliamentarism stress, therefore, its incompatibility with any other democratic concept other than one of a liberal character; i.e. a concept of democracy that endorses as prior and unquestionable the principles of individualism and political pluralism, and that in accordance with these principles presupposes tolerance and respect for minority rights. This direct, organic link between parliamentarism and liberalism makes this kind of system the most subtle, but also the most fragile type of modern representative system based on the principle of division of powers.

The weakest point of Serbian parliamentarism lay precisely at this level. At the start of the twentieth century the Serbian liberal tradition was very weak, as were the conditions for adoption of liberal political thought by wider social layers. At the turn of the century Serbian society

1178 *Nedeljni pregled*, no.11,1908, p.180.

1179 S. Ribarac, *Parliamentary proceedings*, 1910–1911, 20.1.1911, p.10.

was overwhelmingly agrarian, very poor, largely illiterate, barely educated, while the urban class was in its infancy. The parliamentary system thus preceded the bourgeoisie. From this point of view, as well as that of political and constitutional development in general, the Serbian experience differs completely from the European. In Europe, the citizen was formed first and political parties only much later. In Serbia the opposite happened: political parties, as a mechanism of modern political regimes, emerged before the transition from an agrarian and patriarchal community to an urban society had been completed. Their membership was consequently recruited from the peasantry, whose dominant political consciousness was to a considerable extent in thrall to an egalitarian and collectivistic spirit, characterised by a poorly developed notion of individual freedom and, above all, a marked degree of intolerance. The national idea in this consciousness was commonly reduced to waging territorial wars, in which the Kosovo myth and 'avenging' it had a particularly important place. This structure and these peculiarities of Serbian society fundamentally determined the nature of the political parties, their ideology, their understanding of democracy and even of the state itself. All this could not fail to influence parliamentary life, creating the true and deepest source from which derived the basic limitations of Serbia's parliamentary and democratic experience.

Linked to this, what particularly hampered the normal functioning of parliamentary institutions was the circumstance that, at the time of its establishment in 1903, the process of pluralisation of the political scene was at its very conception. Serbian parliamentarism began its life under a de facto monism: the Radical Party, controlling nearly ninety per cent of seats in the first parliament elected after the May coup, did not really have an opposition. In that sense, therefore, a parliamentary regime as such began to function only in 1904, after the Radicals split into two parties: the Old Radicals and the Independent Radicals. The separation of the Radicals was not an act, however, but a process: long, difficult and frequently accompanied by attempts to recreate party unity. The process was burdened also by the absence of any visible or clear ideological and

programmatically separated; by a strong and often emotional attachment to primordial Radicalism; and by a prevailing belief that the party split amounted to a 'schism among the Serb people', and was therefore a 'misfortune' and 'crime', for which the two parties blamed one another. Given these features, the very process of division of the Radical body testified to the deep implantation of monist politics in contemporary Serbian society. It was only in 1906, following the great, unchallengeable and final election victory of the Old Radicals over the Independents, that the separate political identity of each became consolidated. In that sense the period up to 1906, though formally characterised by bi-partyism, was in actual fact a process of primary political pluralisation.

Pluralism as a principle of political life was adopted very slowly, and with difficulty. Convincing evidence of this is to be found in the basic formulae used for exerting political influence and winning votes. So far as the Radicals were concerned, as a clearly dominant political current they tended to treat themselves as one with the Serb people, and viewed Radicalism as the only legitimate political option in Serbia. In the political struggle they characterised the remaining two older parties, the Liberals and the Progressives, as 'reactionary', parties of 'the propertied', the personification of 'frock coats' facing the peasant 'jerkin and sandals'. Just as frequent as such formulae, designed to win the sympathy of the average voter for the idea of social equality, were ones appealing to the deeply rooted idea of 'avenging Kosovo', and to xenophobia, which in addition to a deep fear of Austria-Hungary also included a strong aversion towards the West in general. The Radicals' opponents were usually reviled as 'Austrian spies' and 'Obrenović's lackeys', this latter meaning 'traitors', since the Obrenović dynasty symbolised a policy of reliance on Austria-Hungary. Such disqualifications were most often used by the Radicals; but the identification of party-political loyalty with patriotism was common also among the other parties. In short, the process of true political pluralisation lagged far behind party pluralisation, and it was at this level that the



patriarchal, collectivist and indeed egalitarian essence of the dominant political consciousness was most exposed.

Linked to this was also an insufficiently developed idea of political freedoms, best shown by the virtually never-ending electoral campaigns. Their essential feature was in fact flagrant violation of the principle of free election. Malpractice and abuses came primarily from the government side, but poverty and great ignorance played an important role too, because they nurtured fears and prejudices. This used to transform electoral competition into electoral wars, which included even murders. Intense intolerance was stimulated also by the circumstance that the elections were always won by the government party, thus creating the impression that power was immutable.

At the level of institutions, the greatest difficulties arose from the tendency of the almost permanently ruling Radicals to treat parliamentary government as unfettered rule by the majority. This included also a readiness to place the will of their party above the laws and the constitution, and a failure to differentiate between party government and a party state. This understanding of parliamentary government as unfettered rule by the majority, which the Radical Party brought to Serbia and which in the final instance led to a party state, was closely related to its self-image as the only 'people's party', hence also the only legitimate one. Expressing an essentially collectivist vision of the state, both these beliefs were deeply rooted in the history of the Radical Party. Some twenty years earlier, the latter with its concept of 'people's state' had evolved into a party of radical democracy of a populist-socialist type, which enjoying the support of the great mass of the population claimed to be one with the Serbian people. The Radical Party departed over time from its 'people's state' programme and accepted the framework of constitutional monarchy, but without abandoning its earlier self-image; and during the few years of its rule under the 1888 constitution it wove the concept of party state into the tradition of Serbian constitutionalism, dressing it up precisely in a parliamentary form. This reveals more clearly than any other aspect of the Serbian parliamentary experience of

1903–14 the weight of historical inheritance. The party state, which Slobodan Jovanović identified as a permanent aspiration of the Radical Party, represents the most lasting achievement of Serbian Radicalism. Having put down deep roots, this survived all the Radical Party's ideological mutations and became an integral part of Serbia's culture and mentality.

The elevation of majority rule into a supreme principle, accompanied by drastic violations of electoral freedom, elicited an equally radical response on the part of the minority, the most combative element of which were the Independent Radicals. Under the slogan of struggle for free elections and a 'legal state', the opposition resorted to stubborn obstruction in parliament; threatened a new 'revolution'; and advocated an active role for the king, insisting on his duty to rise up in defence of the laws and constitution, against what they called 'one-party absolutism'. The parties of the minority never ceased to demand the formation of a special 'caretaker government' that would secure free elections, which reduced itself to a demand addressed to the king to take over the conduct of elections.

Another important limitation of Serbian parliamentarism was the strong influence of the army in political life. Militarism was a problem that Serbian parliamentarism faced throughout its existence, and was expressed in two ways. First, in direct army influence on the composition of governments, which marginalised the political role of the legal institutions of government and called into question the basic meaning of constitutionalism as a system of limited, public and controlled government. Secondly, in a powerful nationalism and endless preparations for new wars, that increased the social importance and prestige of the army, which formed ties with all important political factors, including the political parties. Prominent individuals called for a 'new Serb patriotism' to confront 'cosmopolitanism', and called upon Serbia to prepare itself for realising 'the greatest territorial transformation of the Balkan peninsula', while appealing to the political parties to cease mutual struggle.<sup>1180</sup> All this stimulated a militarisation of broad public opinion, in which individual

1180 See J. Cvijić, 'O nacionalnom radu', *Srpski književni glasnik*, 18, 1.3.1907, pp. 355–62.

freedoms and constitutionality were in any case feebly embedded and easily lost out in competition with the idea of national liberation and unification.

All in all, the political content of Serbian parliamentary institutions in 1903–14 departed substantially in practice from the basic principles of the parliamentary state. The parliamentary form was nevertheless more or less respected, so that from a strictly constitutional and legal point of view the Serbian regime of 1903–14 was parliamentary. This contradiction between the form and the substance of parliamentary institutions represents one of the basic features of Serbian parliamentary history in this period, and also a most difficult problem for research. In reality, the introduction of parliamentary institutions in 1903, and their functioning over eleven years, turns out to be a problem of the implantation of modern political institutions in a pre-modern society. This makes the practical scope of these institutions, and especially their effectiveness at the level of a true modernisation of political life – assuming therein reinforcement of the principle of individualism and society's political pluralisation; raising the level of tolerance; and penetration of the principles of legality and the legal state into the political consciousness of citizens – into a question of essential significance. The answer to this question determines the importance of the Serbian parliamentary experience of 1903–14 for the history of modernisation of the Serbian state in the twentieth century.

Searching for this answer has been an important task of the present research, though not in equal measure for all aspects of the aforementioned question. Democracy, especially the substance of the dominant democratic concept and, linked to that, the problem of pluralism; political freedoms and respect for the law; the character and ideology of the political parties: these questions have been given serious attention in this book, though they have been viewed primarily from the standpoint of the functioning of institutions rather than as subjects in their own right.

Is it possible then, and in which domain of parliamentary life, to catch the signs of a modernisation of political life that could be interpreted as being directly caused by the functioning of institutions? The answer to this

question is affirmative, and furthermore some segments of political life display a marked dynamism.

In this sense, one should point in the first place to the already mentioned pluralisation of the party-political scene, and the rising tolerance in inter-party relations associated with it. The split in the Radical Party here played the key role, because it marked Serbia's departure from *de facto* party monism. But the process of pluralisation did not stop there. The disappearance of a hegemonic party enhanced the objective importance of the other parties, encouraged their cooperation and, more generally, substantially enlivened party-political life. During the eleven years of the functioning of parliamentary institutions, Serbia left party monism behind and several political parties or groupings were formed. On the eve of the war, the restructuring of the party scene was still continuing, heralding the formation of new party groupings. Party life appeared considerably more modern in this regard than it had been at the outset.

Among the important effects of the parliamentary period, one should include also an evident maturation of awareness of the importance of constitutionalism and law, and of respect for form and procedure in the course of political decision-making. These questions, which pertain to the very essence of the idea of the modern state, were constantly kept open and eagerly debated in the public domain of the time: in the assembly and outside it, in the press and journals. These debates were of great importance for the articulation of Serbian parliamentarism, and became one of its truly significant features. The party leaders, often reputed scholars and intellectuals, enriched the Serbian political tradition with their accomplished parliamentary speeches delivered in defence of the institutions of constitutionalism, freedom, legality and democracy, testifying in this way to the existence of a modern political elite. The parliamentary deputies included a considerable number of legal experts – lawyers, judges and also university professors – who from day to day interpreted the constitution, laws and rules of procedure; explained the meaning of institutions and the principles of the modern state; and appealed to the legal authorities and constitutional practice of foreign lands.

Great Britain with its constitutional customs was at the centre of attention. Referring to these as the model of modern constitutionalism became a feature – indeed the norm – of debate in the ranks of the dominant party, thanks largely to the Old Radical ideologue Stojan Protić, who stubbornly and incessantly defended his belief that modern constitutionalism demanded a parliamentary government on the model of the British cabinet system. There was hardly a contested political issue of the day which did not elicit some reference to the British example. Although this was largely a device to cover mere party interests, the very use of this type of argument increased the importance – and consolidated the legitimacy – of the parliamentary form, and thereby raised the general level of political culture. The parties of the minority, which often reproached the ruling Radicals – and Protić in particular – with the inappropriateness of comparing Serbia with Britain, even described it as cynical, did not lag behind in constantly emphasising foreign models. On the contrary their leaders, in referring to the practical politics of the ruling party, supplemented a dialogue about their form with a dialogue about the essence of constitutionalism and parliamentarism. Jaša Prodanović, the leader of the Independents, was particularly prominent in this regard, but so were the leaders of the other minority parties – the Progressives Vojislav and Pavle Marinković, the Liberals Stojan Ribarac and Vojislav Veljković, and the Socialist deputies Triša Kaclerović and Dragiša Lapčević. They all shared the same faith in the value of parliamentary institutions and principles.

A great chasm separated them, of course, from the ordinary deputies, and even more so from the average voters; but with their political and often moral authority they strengthened the authority of these institutions and helped to develop an understanding of their importance. However, the time that the Serbian political parties and their leading elites had at their disposal was too short to allow one to judge their real capacity to make significant advances in this regard. This is a matter not just of the extent to which this was permitted by deep and long-lasting features of the society that determined their political culture, but also of how much the elite

itself was capable of remaining loyal in practice to the principles that it otherwise defended. From the standpoint of the stability of parliamentary institutions, it is a discouraging fact that – despite splendid examples of the struggle to defend the autonomy of institutions from the army’s political pretensions – resistance to militarist tendencies, especially among the minority parties, weakened over time, leading the bulk of the opposition on the eve of the First World War even to count on the army in their struggle for power. In the concluding months of Serbian parliamentarism, the influence of army circles on the work of the regime’s legal institutions reached a point at which those very institutions were brought into question, highlighting the inability of the political parties to recognise the line beyond which protection of individual party interests ends, and destruction of institutions begins. This cast a heavy shadow over the considerable achievements of the parliamentary period, and pointed to the fact that the deep crisis engulfing Serbian parliamentarism on the eve of the First World War was not induced from outside, but rather originated from within, from the depths of the social and political body of Serbia.

This in turn poses the question of how far the political parties’s capacity to resist militarism had been impaired by their unanimous preoccupation with ambitious national aims to be realised by war, and how far by their premature fatigue and exhaustion caused by the struggle for power. More generally, what were the real possibilities in Serbia for liberal-democratic institutions to survive, in conditions where the weak social foundations on which they rested combined with a powerful nationalism fixated on war? This belongs to a group of questions that are only indicated in this book, which form the extra-institutional aspect of Serbian parliamentarism. They are at the same time questions that have to be answered, if the history of the Serbian parliamentary experience of 1903–14 is to be properly understood.

# **ADDENDA**





# ADDENDUM 1

## GOVERNMENTS IN THE KINGDOM OF SERBIA 29 MAY 1903 – 22 NOVEMBER 1914<sup>1</sup>

### GOVERNMENT FROM 29 MAY 1903 UNTIL 12 JUNE 1903

President of the ministerial council	Jovan Đ. Avakumović
Minister of foreign affairs	Ljubomir Kaljević
Minister of defence	General Jovan Atanacković
Minister of national economy	Đorđe A. Genčić
Minister of construction	Aleksandar Mašin
Minister of the interior	Stojan M. Protić
Minister of justice	Ljubomir Živković
Minister of education and religious affairs	Ljubomir Stojanović
Minister of finance	Dr. Vojislav S. Veljković

### GOVERNMENT FROM 12 JUNE 1903 UNTIL 21 SEPTEMBER 1903

President of the ministerial council and minister without portfolio	Jovan Đ. Avakumović
Minister of foreign affairs	Ljubomir Kaljević
Minister of defence	General Jovan Atanacković until 2 August 1903 when his resignation was accepted and General Leonida Solarović was appointed
Minister of national economy	Đorđe A. Genčić
Minister of construction	Aleksandar Mašin
Minister of the interior	Stojan M. Protić
Minister of justice	Ljubomir Živković until 2 August 1903 when his resignation was accepted and Mihailo P. Jovanović was appointed
Minister of education and religious affairs	Ljubomir Stojanović until 2 August 1903 when his resignation was accepted and Dobra Ružić was appointed
Minister of finance	Dr. Vojislav S. Veljković until 2 August 1903 when his resignation was accepted and Aleksandar S. Borisavljević was appointed

1 R(udolf) M(ihail), KRALJEVSKIE VLADE OD 1903–1935, Beograd 1935. See also USTAVI I VLADE KNJEZEVINE SRBIJE, KRALJEVINE SRBIJE, KRALJEVINE SHS I KRALJEVINE JUGOSLAVIJE (1835–1941), Beograd 1988.

**GOVERNMENT FROM 21 SEPTEMBER 1903 UNTIL 26 JANUARY 1904**

President of the ministerial council and minister without portfolio	Sava Grujić
Minister of foreign affairs	Andra Nikolić
Minister of finance	Milić Radovanović until 30 November 1903 when his resignation was accepted and Sava Grujić was appointed as deputy
Minister of the interior	Stojan M. Protić
Minister of education and religious affairs	Ljubomir Stojanović
Minister of defence	Colonel Milan Andrejević
Minister of justice	Nikola P. Nikolić
Minister of construction	Vladimir Todorović
Minister of national economy	Todor Petković

**GOVERNMENT FROM 26 JANUARY 1904 UNTIL 27 NOVEMBER 1904**

President of the ministerial council and minister without portfolio	Sava Grujić
Minister of foreign affairs	Nikola P. Pašić
Minister of defence	General Radomir Putnik
Minister of finance	Dr. Lazar Paču
Minister of the interior	Stojan M. Protić
Minister of construction	Vladimir Todorović
Minister of education and religious affairs	Ljubomir M. Davidović
Minister of national economy	Dr. Svetolik Radovanović
Minister of justice	Dr. Mihailo S. Polićević

**GOVERNMENT FROM 27 NOVEMBER 1904 UNTIL 16 MAY 1905**

President of the ministerial council and minister of foreign affairs	Nikola P. Pašić
Minister of construction	Pera Velimirović
Minister of education and religious affairs	Andra Nikolić
Minister of defence	General Radomir Putnik
Minister of finance	Dr. Lazar Paču
Minister of the interior	Stojan M. Protić
Minister of justice	Mihajlo P. Jovanović
Minister of national economy	Dr. Svetolik Radovanović

**GOVERNMENT FROM 16 MAY 1905 UNTIL 30 JULY 1905**

President of the ministerial council and minister of the interior	Ljubomir Stojanović
Minister of education and religious affairs and deputy minister of foreign affairs	Jovan Žujović
Minister of defence	Colonel Vasilije Antonić
Minister of justice	Nikola P. Nikolić until 23 May 1905 when his resignation was accepted minister of national economy Ivan Pavićević was appointed as deputy
Minister of construction	Vladimir Todorović
Minister of national economy	Ivan Pavićević
Minister of finance	Dr. Milan Marković

**GOVERNMENT FROM 30 JULY 1905 UNTIL 1 MARCH 1906**

President of the ministerial council and minister of education and religious affairs	Ljubomir Stojanović
Minister of foreign affairs	Jovan Žujović until 2 December 1905 when his resignation was accepted and Minister of defence Vasilije Antonić was appointed as deputy
Minister of defence	Colonel Vasilije Antonić
Minister of construction	Vladimir Todorović
Minister of the interior	Ivan Pavićević
Minister of finance	Dr. Milan Marković
Minister of justice	Dragutin Pečić
Minister of national economy	Milorad Drašković

**GOVERNMENT FROM 1 MARCH 1906 UNTIL 17 APRIL 1906**

President of the ministerial council and minister of defence	Sava Grujić
Minister of education and religious affairs	Ljubomir Stojanović
Minister of foreign affairs	Vasilije Antonić
Minister of construction and deputy minister of finance	Vladimir Todorović
Minister of the interior	Ivan Pavićević
Minister of justice	Dragutin Pečić
Minister of national economy	Milorad Drašković

**GOVERNMENT FROM 17 APRIL 1906 UNTIL 30 MAY 1907**

President of the ministerial council, minister of foreign affairs and deputy minister of construction (until 3 May1906)	Nikola P. Pašić
Minister of education and religious affairs	Andra Nikolić
Minister of justice	Dr. Milenko R. Vesnić until 23 December1906 when his resignation was accepted and Marko Trifković was appointed
Minister of defence	General Radomir Putnik
Minister of finance	Dr. Lazar Paču
Minister of the interior	Stojan M. Protić
Minister of national economy	Kosta Stojanović
Minister of construction	Jovan Stanković from 3 May1906 until 23 December1906 when he resigned and Jovan P. Jovanović was appointed

**GOVERNMENT FROM 30 MAY 1907 UNTIL 30 MARCH 1908**

President of the ministerial council and minister of foreign affairs	Nikola P. Pašić
Minister of education and religious affairs	Andra Nikolić
Minister of defence	General Radomir Putnik
Minister of finance	Dr. Lazar Paču
Minister of national economy	Kosta Stojanović
Minister of construction	Jovan P. Jovanović
Minister of justice	Marko Trifković
Minister of the interior	Nastas Petrović

**GOVERNMENT FROM 30 MARCH 1908 UNTIL 7 JULY 1908**

President of the ministerial council and minister of foreign affairs	Nikola P. Pašić
Minister of education and religious affairs	Andra Nikolić
Minister of finance	Dr. Lazar Paču
Minister of national economy and deputy minister of construction	Kosta Stojanović
Minister of justice and deputy minister of the interior	Marko Trifković
Minister of defence	General Stepan Stepanović

**GOVERNMENT FROM 7 JULY 1908 UNTIL 11 FEBRUARY 1909**

President of the ministerial council and deputy minister of construction until 11 August 1908	Petar Velimirović
Minister of the interior	Svetozar Milosavljević
Minister of education and religious affairs	Andra Nikolić
Minister of foreign affairs and deputy minister of justice until 11 August 1908	Dr. Milovan Đ. Milovanović
Minister of finance and deputy minister of national economy until 11 August 1908	Dr. Mihailo M. Popović
Minister of defence	General Stepan Stepanović until 23 December 1908 when he resigned and General Mihailo Živković was appointed
Minister of national economy	Kosta Glavinić from 11 August 1908
Minister of construction	Miloš Savčić from 11 August 1908
Minister of justice	Kosta Timotijević from 11 August 1908

**GOVERNMENT FROM 11 FEBRUARY 1909 UNTIL 11 OCTOBER 1909**

President of the ministerial council and minister without portfolio	Stojan Novaković
Minister of construction	Nikola P. Pašić
Minister of education and religious affairs	Ljubomir Stojanović
Minister of the interior	Svetozar Milosavljević until 16 June 1909 when he resigned and Ljubomir Jovanović was appointed
Minister of justice	Stojan Ribarac
Minister of foreign affairs	Dr. Milovan Đ. Milovanović
Minister of finance	Stojan M. Protić
Minister of defence	General Mihailo Živković until 1 October 1909 when he was relieved of duty and Ljubomir Stojanović was appointed as deputy
Minister of national economy	Jaša M. Prodanović

**GOVERNMENT FROM 11 OCTOBER 1909 UNTIL 25 JUNE 1911**

President of the ministerial council and minister without portfolio	Nikola P. Pašić
Minister of foreign affairs	Dr. Milovan Đ. Milovanović
Minister of finance	Stojan M. Protić
Minister of education and religious affairs	Jovan Žujović until 12 September 1910 when he resigned and Jaša M. Prodanović was appointed as deputy
Minister of justice	Kosta Timotijević
Minister of national economy	Jaša M. Prodanović
Minister of the interior	Ljubomir Jovanović until 12 September 1910 when he resigned and Stojan M. Protić was appointed as deputy
Minister of defence	Colonel Milutin Marinović until 4 March 1910 when he resigned and Colonel Ilija M. Gojković was appointed, who was relieved of duty on 24 February 1911 and General Stepan Stepanović was appointed
Minister of construction	Velislav Vulović

**GOVERNMENT FROM 25 JUNE 1911 UNTIL 27 JANUARY 1912**

President of the ministerial council and minister of foreign affairs	Dr. Milovan Đ. Milovanović
Minister of finance	Stojan M. Protić
Minister of the interior	Marko Trifković
Minister of defence	General Stepan Stepanović
Minister of education and religious affairs	Ljubomir Jovanović
Minister of national economy	Milan Kapetanović
Minister of construction	Mihajlo V. Ilić
Minister of justice	Dr. Dragoljub Arandelović

**GOVERNMENT FROM 27 JANUARY 1912 UNTIL 18 JUNE 1912**

President of the ministerial council and minister of foreign affairs	Dr. Milovan Đ. Milovanović until 18 June 1912 when he died and Marko Trifković was appointed as deputy
Minister of finance	Stojan M. Protić until 8 May 1912 when he resigned and Dr. Milovan Đ. Milovanović was appointed as deputy
Minister of the interior	Marko Trifković
Minister of defence	General Stepan Stepanović until 22 May 1912 when he resigned and General Radomir Putnik was appointed
Minister of education and religious affairs	Ljubomir Jovanović
Minister of national economy	Milan Kapetanović
Minister of construction	Mihailo V. Ilić
Minister of justice	Dr. Dragoljub Arandelović until 7 June 1912 when he resigned and Marko Trifković was appointed as deputy, to be replaced by Marko S. Đuričić on 9 June 1912

**GOVERNMENT FROM 18 JUNE 1912 UNTIL 30 AUGUST 1912**

President of the ministerial council and minister of the interior	Marko Trifković
Minister of defence	General Radomir Putnik
Minister of education and religious affairs	Ljubomir Jovanović
Minister of national economy	Milan Kapetanović
Minister of construction	Mihailo V. Ilić
Deputy minister of finance	Mihailo V. Ilić until 7 July 1912 when he resigned and Jovan P. Jovanović was appointed
Minister of justice	Marko S. Đuričić
Minister of foreign affairs	Jovan M. Jovanović

**GOVERNMENT FROM 30 AUGUST 1912 UNTIL 22 NOVEMBER 1914**

President of the ministerial council and minister of foreign affairs	Nikola P. Pašić
Minister of defence	General Radomir Putnik until 19 September 1912 when he resigned, and Colonel Radivoje Bojović was appointed, who was replaced on 3 January 1913 by Miloš Božanović, who was replaced 4 January 1914 by Colonel Dušan P. Stefanović
Minister of finance	Dr. Lazar Paču
Minister of the interior	Stojan M. Protić
Minister of justice	Dr. Mihailo Poličević until 18 August 1913 when he resigned and was replaced by Marko S. Đuričić
Minister of national economy	Kosta Stojanović until 18 August 1913 and when he resigned and Jovan P. Jovanović, minister of construction, was appointed as deputy, to be replaced on 19 August 1913 by Dr. Velizar S. Janković
Minister of construction	Jovan P. Jovanović
Minister of education and religious affairs	Ljubomir Jovanović



## ADDENDUM 2

# PARLIAMENTARY SESSIONS IN THE KINGDOM OF SERBIA 1903–14<sup>1</sup>

### EMERGENCY SESSION OF 1903 (AFTER THE ELECTIONS)

16 September 1903 – 30 September 1903

Assembly speaker: ACA STANOJEVIĆ

Deputy speakers: NIKOLA NIKOLIĆ and LJUBOMIR DAVIDOVIĆ

### REGULAR ASSEMBLY FOR 1903

1 October 1903 – 25 mart 1904

Sessions delayed by a decree from 12 October until 20 November.

Assembly speaker: ACA STANOJEVIĆ

Deputy speakers: LJUBOMIR DAVIDOVIĆ and PAVLE RANKOVIĆ

### REGULAR ASSEMBLY FOR 1904

1 November 1904 – 3 March 1905

Assembly convened for 1 October, and subsequently, even before its first pre session, delayed by a decree of 16 September 1904 until 1 November.

Assembly speaker: ACA STANOJEVIĆ

Deputy speakers: NIKOLA NIKOLIĆ and JAŠA PRODANOVIĆ

### EMERGENCY SESSION OF 1905

8 May 1905 – 17 May 1905

Assembly dissolved.

Temporary assembly speaker: IGNIAT LUKIĆ

(Permanent assembly officials were not elected<sup>2</sup>)

1 PARLIAMENTARY PROCEEDINGS. Data that can be found in the publication Čedomil Mitrinović – Miloš N. Brašić, JUGOSLOVENSKE NARODNE SKUPŠTINE I SABORI, Beograd 1937 (published by the National assembly), are neither complete nor reliable.

2 See note 774 on p. 368.

**SECOND EMERGENCY SESSION OF 1905 (AFTER THE ELECTIONS)**

25 July 1905 – 5 August 1905

Assembly speaker: LJUBOMIR DAVIDOVIĆ

Deputy speakers: SIMA KATIĆ and MILOVAN LAZAREVIĆ

Regular assembly for 1905

1 October 1905 – 19 April 1906

Sessions delayed by a decree from 22 December until 15 January.

Sessions postponed from 3 March until 9 April, with assembly's agreement.

Assembly dissolved.

Assembly speaker: NIKOLA NIKOLIĆ

Deputy speakers: SIMA KATIĆ and MILOVAN LAZAREVIĆ

**EMERGENCY SESSION OF 1906 (AFTER THE ELECTIONS)**

25 June 1906 – 22 July 1906

Assembly speaker: ACA STANOJEVIĆ

Deputy speakers: MILAN ĐURIĆ and ĐOKA BRAČINAC

**REGULAR ASSEMBLY FOR 1906**

1 October 1906 – 7 July 1907

Sessions delayed by a decree from 26 March until 26 May.

Assembly speaker: MIHAILO A. POPOVIĆ

Deputy speakers: LJUBOMIR JOVANOVIĆ and MILOŠ ĆOSIĆ

**REGULAR ASSEMBLY FOR 1907**

1 October 1907 – 31 March 1908

Sessions delayed by a decree from 6 October until 21 November.

Assembly dissolved.

Assembly speaker: LJUBOMIR JOVANOVIĆ

Deputy speakers: MILOŠ ĆOSIĆ and ĐOKA STOJKOVIĆ

**EMERGENCY SESSION OF 1908 (AFTER THE ELECTIONS)**

5 June 1908 – 7 August 1908

Assembly speaker: DR. STANOJLO VUKČEVIĆ

Deputy speakers: MILOŠ ĆOSIĆ and ĐOKA STOJKOVIĆ

**SECOND EMERGENCY SESSION OF 1908**

27 September 1908 – 30 September 1908

Assembly speaker: LJUBOMIR JOVANOVIĆ

Deputy speakers: LJUBOMIR DAVIDOVIĆ and ĐOKA STOJKOVIĆ

**REGULAR ASSEMBLY FOR 1908**

1 October 1908 – 20 April 1909

Assembly speaker: LJUBOMIR JOVANOVIĆ

Deputy speakers: LJUBOMIR DAVIDOVIĆ and ĐOKA STOJKOVIĆ

**REGULAR ASSEMBLY FOR 1909**

1 October 1909 – 12 June 1910

Sessions delayed by a decree from 14 April until 2 May.

Assembly speaker: ANDRA NIKOLIĆ

Deputy speakers: JOVAN ŽUJOVIĆ, who was replaced on 19 October 1909 by LJUBOMIR DAVIDOVIĆ and BORIVOJE POPOVIĆ, who was replaced on 19 October 1909 by JAKOV ČORBIĆ

**REGULAR ASSEMBLY FOR 1910**

1 October 1910 – 19 May 1911

Assembly speaker: ANDRA NIKOLIĆ

Deputy speakers: LJUBOMIR DAVIDOVIĆ and JAKOV ČORBIĆ

(On the session of 5 November 1910, Lj. Davidović resigned his parliamentary seat, because he was elected assembly speaker of the Belgrade municipality, and on 6 November 1910 Jovan Žujović was elected first deputy speaker.)

**REGULAR ASSEMBLY FOR 1911**

1 October 1911 – 1 February 1912

Assembly dissolved.

Assembly speaker: ANDRA NIKOLIĆ

Deputy speakers: KOSTA STOJANOVIĆ and JAKOV ČORBIĆ

**EMERGENCY SESSION OF 1912 (AFTER THE ELECTIONS)**

19 April 1912 – 30 June 1912

Assembly speaker: ANDRA NIKOLIĆ

Deputy speakers: KOSTA STOJANOVIĆ and JAKOV ČORBIĆ

**SECOND EMERGENCY SESSION OF 1912**

20 September 1912 – 30 September 1912

Assembly speaker: ANDRA NIKOLIĆ

Deputy speakers: ĐOKA STOJKOVIĆ and JAKOV ČORBIĆ

**REGULAR ASSEMBLY FOR 1912**

1 October 1912 – 30 September 1913

Assembly speaker: ANDRA NIKOLIĆ

Deputy speakers: MILOVAN LAZAREVIĆ and LJUBOMIR MOLEROVIĆ

(Both of them resigned on 9 April 1913. They were replaced on the session of 22 April 1913 by Đoka Stojković and Đoka Bračinac. Đ. Stojković resigned on 27 April 1913, and on 29 April Stanojlo Vukčević was elected first deputy speaker.)

**REGULAR ASSEMBLY FOR 1913**

1 October 1913 – 10 June 1914

Assembly dissolved.

Assembly speaker: ANDRA NIKOLIĆ

Deputy speakers: STANOJLO VUKČEVIĆ and ĐOKA BRAČINAC

**ADDENDUM 3****ELECTIONS HELD IN THE  
KINGDOM OF SERBIA UNDER  
CONSTITUTIONAL RULE AFTER 1903**

8 September 1903

10 July 1905

11 June 1906

18 May 1908

1 April 1912



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*Videlo, Dnevnik, Dnevni list, Zakonitost, Zastava, Narodni list, Odjek,  
Pijemont, Politika, Pravda, Samouprava, Srbija, Srpska zastava, Srpske  
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