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THE MEXICAN PARLIAMENTARY SYSTEM
THE QUORUM AND ATTENDANCE
OF MEMBERS IN THE CHAMBER
THE REGISTRATION OF LOBBYISTS

INTER-PARLIAMENTARY UNION

AIMS

The Inter-Parliamentary Union whose international Statute is outlined in a Headquarters Agreement drawn up with the Swiss federal authorities, is the only world-wide organization of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of democratic institutions and in the advancement of the work of international peace and co-operation.

In pursuance of this objective, the Union makes known its views on all international problems suitable for settlement by parliamentary action and puts forward suggestions for the development of parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

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OFFICIAL PUBLICATION

The Union's official organ is the *Inter-Parliamentary Bulletin*, which appears quarterly in both English and French. This publication is indispensable in keeping posted on the activities of the Organization. Subscription can be placed with the Inter-Parliamentary Bureau, Geneva.

INTER-PARLIAMENTARY UNION

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INFORMATION**

First Series - Thirty-sixth year

CONTENTS

ASSOCIATION OF SECRETARIES GENERAL
OF PARLIAMENTS

THE MEXICAN PARLIAMENTARY SYSTEM

Page

Presentation by Mr. Miguel Montes Garcia, Official Mayor of the Senate of Mexico	71
Questions — Minutes of the Spring Session of the Association (Mexico — 7-11 April 1986).	78

**THE QUORUM AND ATTENDANCE
OF MEMBERS IN THE CHAMBER**

Topical discussion introduced by Mr. Lussier (Canada). Minutes of the Spring session of the Association (Mexico — 7-11 April 1986).	81
---	----

THE REGISTRATION OF LOBBYISTS

Topical discussion introduced by Mrs. Lever (Canada). Minutes of the Spring session of the Association (Mexico — 7-11 April 1986).	87
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Presentation on Mexican parliamentary system

by Mr. Miguel Montes Garcia,
Official Mayor of the Senate of Mexico

The forging of our country as a nation with an identity of its own, as a political, linguistic and religious unit, was the result of a process lasting more than two hundred years and extending over a territory of four million square kilometers.

The colonial government was monarchical; the Spanish Crown exercised power through the central institutions of the viceroyalty established, early on, in 1535. In 1540, Charles V decreed that "The kingdoms of Peru and New Spain will be ruled and governed by viceroys representing our royal person. As heads of government, they will make and administer justice in equal terms to all of our subjects and vassals, and they will be concerned with everything related to the tranquility, order, elevation, and pacification of these provinces."

The viceroy served as governor-general; he also presided over the royal tribunal and was captain-general of the armed forces. Nevertheless, the Council of the Indies, even though it was subordinate to the monarch, controlled most of the political and administrative government of the American territories for almost two hundred years.

Other local authorities were the tribunals of Mexico City and Guadalajara, the magistrates, *corregidores*, governors and, in the eighteenth century, the intendants. The municipality, though no longer as vigorous or autonomous as it had been in Spain—for its decadence was obvious—was nonetheless the basis for the organization of the provinces under certain democratic principles.

The laws of the metropolis were not fully applicable to America. Gradually, special legislation was created and, in 1681, compiled under the name of Laws of the Indies. These Laws constitute one of the most interesting and important precedents of our legislation, above all in their protection of the rights of the native inhabitants.

As we have already pointed out, the system was markedly centralist, and remained so for three hundred years. Yet the administration itself was divided into separate jurisdictions, which formed the basis for later territorial boundaries. The "ancient division", as it was called by Humboldt, included fourteen jurisdictions: Mexico, Nueva Galicia, Nueva Vizcaya, Yucatán, Nuevo León, Nueva Santander, Texas, Coahuila, Sinaloa, Sonora, San José de Nayarit, Vieja or Baja California, Nueva or Alta California and Nuevo México. The "modern division", established in the nineteenth century, divided the territory into twelve intendancies, two military commands and three governorships.

Such was the situation when independence was achieved in 1821. By then, the system's absolutism and centralization had grown so pronounced that several provinces considered it was time to assert their autonomy and even to separate

themselves, as in the case of Guatemala, which obtained its independence, peacefully, in 1823.

There were other attempts at separation, or attempts to set conditions for remaining within the ex-vice-royalty. The organization that had seemed so tightly knit and that had resisted disintegration for three centuries—to the point where it had practically no army—soon lost its cohesion. The hesitation, indecision and discord that marked the first years of emancipation awakened in the large and remote provinces an autonomist sentiment that was expressed in acts of open disobedience and disrespect for central authority. The separatist tendency affected Coahuila, Texas, Nuevo México, Tamaulipas and even Jalisco, Zacatecas and Oaxaca. Yucatán conditioned its incorporation on the adoption of a federal system.

If we add to all of this, as a decisive factor, the enormous influence of North America, which had federated its colonies under a Constitution and an already immensely prestigious system, and if we also consider the direct intervention in our affairs by foreign agents interested in paving the way for expansion, we shall better understand the enthusiastic welcome given to liberal federalism in circles that would soon become a progressive and anticonservative political force of prime importance.

The Constitution of Cádiz had already embodied certain advanced democratic ideas. In his "Sentimientos de la nación" (Sentiments of the Nation), Morelos set forth the general guidelines for a Mexican constitution in which the principle of popular sovereignty was adopted and the division of power into legislative, executive and judicial branches was proposed.

The Constitution of Apatzingán (1814) embraced the representative system and incorporated the following provinces: Mexico, Puebla, Tlaxcala, Veracruz, Yucatán, Oaxaca, Tecpan, Michoacán, Querétaro, Guadalajara, Guanajuato, Zacatecas, Durango, Sonora, Coahuila and Nuevo León. It further established that the provinces "may not become separate from one another in their government."

Not until the Constitution of 1824, however, was it stipulated that "the Mexican nation adopts for its government the form of a representative, popular and federal republic," assigning to the old provinces the status of states. The division of power into legislative, executive and judicial branches was established, both on the federal and state levels. The legislative power of the federation was vested in two chambers, one of deputies and one of senators.

The authority and functions granted to the states by the 1824 Constitution were extremely ample, indicating a desire to give the states genuine sovereignty, with trade and foreign affairs almost the only matters in which their authority was limited.

It has been said that this Constitution was an illogical imitation of the United States Constitution and that whereas the latter united that which was disunited, ours disunited what was united. In our view, this judgement is not altogether correct. Independence gave rise to open resistance and even rebellion against central authority that were not easy to quell and that, justified or not, threatened our territory with disintegration. However weak the federal bond, it had the virtue of shaping one signation in juridical terms; at that historical moment, its laxness was to some extent a guarantee of permanence and homogeneity.

In its beginnings, federalism was not a strong enough bond; but in spite of various defeats and suspensions, it remained dormant and finally prevailed.

The centralist laws did not help remedy the problems of one of the most insecure and tumultuous periods in our history. On the contrary: as the states lost certain privileges, there were new signs of separatism as in the case of Yucatán, which once again tried to achieve autonomy. In 1846, the legitimacy of the 1824 Constitution was reaffirmed; and, though it was not in fact respected, it did pave the way, ideologically speaking, for the Constitution of 1857.

The federalist movement gained momentum and was not even halted by the war with the United States which ended with the Treaty of Guadalupe (February 2, 1848) and resulted in Mexico's loss of Texas, Nuevo Mexico and Alta California.

The Constitution of 1857, which followed upon the Ayutla revolution and was written by a Congress of radical liberals and moderates, established the republican, representative, democratic and federal system, defining the nation as 24 states and one federal territory.

This Constitution represented a clear advance for liberal ideas influenced by the French encyclopedists and the United States model.

Its first section includes, for the first time, a systematic listing of the rights of man and individual guarantees. It establishes the right to personal liberty, freedom of education, ideas and expression, the right to be heard under the prevailing laws, and other guarantees.

Legislative power was vested in a single assembly called Congress of the Union, made up of deputies elected by indirect vote for two years, and each representing forty thousand inhabitants. There were thus no representatives for the federal states as such, but only for the population. The Federal Congress reserved to itself all powers related to international affairs, including maritime law, peace, and war. It also reserved the power to establish the general bases for mercantile law, transportation, postal service, currency, the National Guard and uncultivated land. As regards taxes, Congress would approve the general expenditures budget and impose the necessary taxes, but without claiming to have exclusive authority; rather, it would work in close cooperation with the states.

Executive power was vested in the President of the Republic, and judicial power in a Supreme Court of Justice and district and circuit courts. The latter were responsible for resolving whatever conflicts might arise in the enforcement of federal law, those in which the federation itself was a party, and those which might arise between different states.

Although the 1824 Constitution charged the Supreme Court of Justice with examining violations of the Constitution itself and the general laws, there was no adequate mechanism to ensure respect for the basic rights of citizens. It is only in Yucatán's Constitution of 1841 that we find the origin of a special legal instrument, the *amparo*. Adopted on the federal level in 1847, the *amparo* was meant to protect any inhabitant of the Republic from laws or actions contrary to the Constitution. Articles 101 and 102 of the 1857 Constitution adopt this procedure and state that federal courts will deal with whatever conflicts arise from laws or actions that may violate constitutional guarantees, from laws or actions of the federal authority that may violate or limit state sovereignty, or from laws and actions of the states that may infringe on federal authority.

The struggle between conservatives and liberals, far from subsiding, became more intense. The 1857 Constitution was not well received; the Tacubaya Plan, drafted with the assistance of several liberals, proclaimed the impossibility of enforcing it. Nonetheless, Juárez attempted to maintain the legal order. The bloody war of the Reform was followed by another long period of disarray, foreign invasion, and Maximilian's empire, leading to the final victory of the liberals.

From the triumph of the Republic until 1872, Juárez occupied the presidency—though not without having to vanquish the opposition of other liberals. Upon his death, he was succeeded by Sebastián Lerdo de Tejada, who was able to restore the Senate in 1873 by means of a Constitutional reform.

The Constitution of 1917

The Mexican Revolution, which began in 1910 as a revolt against the regime of Porfirio Diaz, did not merely overthrow the dictator. Though it had no clearly defined ideology, it opened the way to a juridical and political system answering to a new concept of social justice.

The 1917 Constitution did not reject the individualistic principles of liberalism, but it introduced markedly social precepts, embodied principally in Articles 27 and 123 which refer, respectively, to land use and distribution and to labor rights.

Our Constitution upholds the federal regime and the separation of powers. The nation is made up of 31 states, most of which conform territorially with the previous division into provinces. The federal authorities have their seat in a non-sovereign federal district.

The legislative branch of the United Mexican States is composed of two chambers: one of deputies and one of senators. Legislative authority is implemented in a complementary and coordinated manner, whatever the origin of the bills, except for certain matters which the chambers can legislate or decide independently of one another.

Among the exclusive and more important functions of the Chamber of Deputies is that of examining, discussing and approving each year's federal expenditures budget. Among the exclusive functions of the Senate is analysis of the President's foreign policy. It must also approve international treaties, and authorize the appointment of ministers, diplomatic representatives, heads of the army, navy and air force, and judges of the Supreme Court of Justice.

Outside of these exclusive functions, all laws and decrees must be discussed and approved by both Chambers before being promulgated.

On the federal level, laws can be proposed by the President of the Republic, Deputies, Senators, and state legislatures.

Federal deputies represent the entire nation; they are elected, in their totality, every three years. The Chamber is made up of 300 deputies elected on the basis of a relative majority vote, and 100 deputies on the basis of proportional representation. There are 300 electoral districts represented by a single deputy; in no case can a state be represented by less than two deputies.

Allowing for the natural variations, this system is applied in the states for the composition of local legislatures.

The Chamber of Senators is made up of two members per state and two for the Federal District; they are directly elected every six years.

It is the Constitution itself, and not the secondary laws, which defines the functions of the Federal authorities: Whatever is not expressly reserved to the latter is understood to be reserved to the states, although in some cases functions overlap. Since the functions of the Executive Branch, including its administrative ones, are basically aimed at ensuring observance of the law, we must examine the main legislative functions of the Congress in order to better understand our federal system. These functions are:

- a) The admission or formation of new states wishing to enter the federation; the resolution of problems related to territorial boundaries.
- b) The enactment of all laws concerning the Federal District.
- c) The declaration of war; the enactment of peacetime or wartime maritime law; the recruitment and maintenance of the armed forces; the regulation of the national guard; the enactment of laws concerning nationality and population; the enactment of laws on foreign investment; the enactment of laws concerning loans.
- d) The enactment of laws concerning the currency, communications, and postal services; the enactment of laws on national planning for social and economic development, supply, and production.
- e) The imposition of the taxes needed to finance the federal budget.
- f) The enactment of laws for the entire Republic on hydrocarbons, mining, trade, electric and nuclear energy, banking, the film industry, education, health, federal crimes and misdemeanors, and archeological, artistic and historical monuments.
- g) The establishment of taxes on foreign trade, the use and exploitation of natural resources, licensed public services, electric energy, tobacco, gasoline and petroleum products, matches, and forestry.
- h) The enactment of laws on human settlements,
- i) The enactment of laws on labor and agriculture.

Most of the functions listed above, in an attempt to classify only the most important, pertain exclusively to the Federation. Some of them may coincide with those of the states as concerns education and taxes on trade, property and human settlements. (In fact, however, many of these overlapping functions are subject to coordination agreements and are thus not exercised.)

It will be observed that the federation has authority over a broad range of issues. The legislative power of the states is concomitantly very reduced and is especially concerned with all matters concerning civil law institutions, common-law crimes, and electoral and municipal legislation.

In order to moderate somewhat the flow of taxes toward the center, the constitution itself specified that the Federation should share these with the States, and the States in turn, with the Municipalities.

We have stated that the fundamental duty of the President, who is elected by direct vote for a term of six years, is to ensure that the law is respected in the administrative sphere. The constitution and regulatory laws assign to him the following specific powers and responsibilities.

He appoints and removes freely his closest associates, who are the various Ministers having no power in their own right, so that the Cabinet does not constitute an independent body.

He is Commander-in-Chief of the Army, Navy, and Air Force, conducts international relations and negotiations, authorizes every kind of Port of Entry and Customs, commands the National Guard and declares war, directs and makes all decisions relative to the use and exploitation of land and of national assets.

He is the highest authority in agrarian matters, land distribution, *ejidos*, water, and all kinds of subsoil resources.

In accordance with the system of state rectorship aimed at integrated national development, he exercises powers of direction and planning.

Acting in accord with the Secretaries of State and with the approval of Congress, he may suspend guarantees in case of disturbance of the public order.

In this brief statement, it is not possible to fully examine the powers and duties of the President, but the weight of his responsibilities becomes readily apparent.

The Mexican system has been categorized as Presidentialist within a Federalist framework, although there are those who maintain that the former has left the latter behind. The preeminence of the President cannot be denied, being based upon numerous and complex statutes of Federal origin, most of which are initiated by the executive branch itself, which therefore of necessity, has acquired wideranging political and administrative powers. This, which is a risk, has at the same time served as a vehicle for consolidation, unity, and coordination between the various authorities.

The Judicial Branch is made up of the nation's Supreme Court of Justice, the Circuit Courts presided over by one or several judges, and the District Courts.

Generally speaking, the Federal courts deal with all matters relative to the application of Federal laws. Among the legal instruments they take cognizance of is the *amparo*, which is an important and special Mexican institution that serves as a singular and most efficient method for ruling on the constitutionality of an action. Any person may avail himself of this judicial order if he has suffered damage through a violation of constitutional guarantees, either directly or by improper application of the law. This means that many disputes can reach the Federal courts, whether they be administrative, civil, mercantile, criminal, labor, agrarian, or other kinds of cases.

States and Municipalities

The member states of the Federation adopt under the constitution, an equally republican, representative, and popular form of internal administration, in which the Autonomous Municipality forms the basis of political and administrative operation.

In the States, power is similarly divided into the Executive, residing in the person of the Governor; the Legislative, consisting of a State Chamber of Deputies; and the Judicial, made up of a Higher Court of Justice, and of lower courts in the number required.

The Officials who are subject to direct election are: the Executive, whose term of office lasts over five years; the Deputies to the State Legislature, with three year

terms; and the members of Municipal Councils, also with three year terms. The members of the Higher courts are appointed for six-year terms by the Governor, with the approval of the State Congress.

Notwithstanding the fact that it is the basis of political organization, the Municipality has gone through a period of outright decline; but recent reforms have strengthened it, and have restored the resources and powers that had been improperly taken from it. The Municipalities are the instruments of power and of government closest and most immediate to the local populations, so that, in practice, they represent and constitute a fundamental linkage to the public machinery.

The duty of each Municipal Council, made up of a Municipal President and a number of Councilmen and Representatives depending on the size of the Municipality, is the direct administration of each township, and the provision of the following public services:

- Water and sewage systems
- Public lighting
- Sanitation
- Markets and food supplies
- Cemeteries
- Slaughterhouses
- Streets, parks and public gardens
- Public safety
- Traffic and others.

In legislative matters, town councils may only issue regulations concerning the Police and "good government", and others falling within their jurisdiction; otherwise, they would overstep the bounds of the general rules laid down by the State Legislative Branch.

The town councils have no judicial power, since all courts are State, and not Municipal.

The financial resources of the Municipality are derived mainly from real estate taxes, from their share in the distribution of Federal taxes, and from Municipal charges for public services.

Such, in outline, is the Federal political structure of Mexico.

Questions on the Mexican Parliamentary System Minutes (Extracts) Mexico session (April 1986)

The Vice-President thanked Mr. Montes Garcia for the presentation on the Mexican parliamentary system and said how pleased he was that he and Mr. Fidel Herrera Beltran were now members of the Association. He was grateful to them for agreeing to answer questions on the Mexican parliamentary system. He had been interested to learn that some Members of the Chamber of Deputies were elected by simple majority, and other by proportional representation. He asked whether proportional representation encouraged the emergence of shades of opinion and of opposition in the Chamber.

Mr. Montes Garcia said that until 1977 all Members of the Chamber of Deputies were elected by simple majority. Proportional representation had been introduced for 100 of the 400 seats in the Chamber in that year. In political terms the majority PRI continued to dominate but minor parties were now represented in Parliament. 300 of the Members of the Chamber of Deputies were elected by simple majority in single Members constituencies. The remaining 100 were elected in up to 5 pluri-nominal constituencies. Participation in the proportional representation election was limited to parties that achieved more than 1.5% of the overall vote in the national elections, had put at least 100 candidates in the elections for the 300 single-Member simple-majority seats and had won less than 60% of the seats in that election.

Mr. Herrera Beltran, said that the system of election guaranteed that the Chamber of Deputies reflected all strands of opinion in Mexican society. The governing PRI party had 289 of the 400 seats and all of them had been won in the single-Member simple-majority election since their success in that election excluded them from the proportional representation election. 8 other parties shared the remaining 111 seats, most of them won under proportional representation. The smaller parties played their full part in the running of all parliamentary activities.

Mr. Lussier (Canada) asked whether it was possible for a Minister to be a Member of Parliament, whether the President had power to dissolve Parliament and how judges were elected.

Mr. Montes Garcia said that the Mexican Constitution was influenced by French and United States' practice in which there was a separation of powers. Thus a Minister could not also be a Senator or a Deputy or indeed hold any other paid post. Similarly, a Senator or a Deputy had to get the permission of his Chamber before assuming a government post such as that of governor of a State and must also resign from Parliament. The President did not have the power to dissolve Parliament; the Senate was elected for 6 years and the Chamber of

Deputies for 3 years. Judges, Ministers and other high officials were appointed by the President, subject to ratification by the Senate.

Mr. Trnka (France) asked how the constitutionality of laws was controlled in the Mexican system.

Mr. Monies Garcia said the balance between the powers of the State and the rights of individuals were maintained by the "Amparo". This involved an application to a judge challenging the constitutionality of acts or proposed laws. If the judge decided that it was unconstitutional, the act was null in respect of the individual applicant. This procedure was only open to individuals. The Federal Government or State authorities could challenge each other's actions in a revision trial which would be decided by the court.

Mr. Khair (Jordan) asked about the political composition of the government and of the Mexican IPU delegation.

Mr. Monies Garcia said that all Ministers belonged to the PRI. The Mexican IPU delegation comprised 4 Senators and 4 Deputies and smaller parties were represented on it.

Mr. Kabulu (Zaire) asked by what means parliamentary control of the Government was maintained.

Mr. Monies Garcia said that the Chamber of Deputies had the power to approve the budget and examine the accounts. The controller of finance, acting under the authority of the Chamber of Deputies, examined all Government expenditure and Ministers could be called to account for it. Senior officials or Government bodies could be subject to a political trial for acts contrary to the policy of the Mexican State. There was no formal procedure for censuring the Government as a whole and, given the political composition of Parliament, such action would be unlikely anyway.

Mrs. Lever (Canada) asked about the representation of women in the Mexican Parliament.

Mr. Monies Garcia said that the participation of women in political life was low but that each party tried to encourage it; for instance the PRI tried to have 1 or 2 women candidates in each State. In the Chamber of Deputies there were 66 women (out of 400) and in the Senate 8 women (out of 64). 3 of the 24 Ministers were women and there were some female judges and magistrates.

The *Vice-President* commented that by the standards of many other countries this participation was not unduly low.

Mr. Cumming Thorn (Australia) asked about the method of election of Senators and whether consideration had been given to proportional representation in the Senate.

Mr. Monies Garcia said that the Senators were elected by simple majority, 2 from each state. They were deemed to be the representatives of the state rather than specifically of the people. There had been a survey recently to see whether there should be proportional representation in the Senate or if another method of election should be used; the result of the consultation was against any such change.

Since both chambers dealt with the same issues, the introduction of proportional representation in the Senate would merely lead to the repetition of opposition arguments which had already been heard in the Chamber of Deputies. The opposition parties did of course contest the elections for the Senate but at present all Senators were members of the PRI. At the time of election alternates were elected for each Senator so that if he were to die or assume other duties, he could be replaced without a by-election.

Mr. Hadjioannou (Cyprus) asked whether the President had a veto over laws passed by Parliament.

Mr. Monies Garcia said that a law which had been passed through both Chambers of Parliament had to be promulgated by the Executive. In practice the Executive would comment on bills during their passage through Parliament and could call for them to be re-considered. There was no formal right of veto.

Mr. Hentze (German Democratic Republic) asked whether parliamentary staff played any role in maintaining liaison between a Senator or a Deputy and his constituents.

Mr. Monies Garcia said that parliamentary staff did not undertake such work, which was the responsibility of the political parties.

Mr. Davies (United Kingdom) asked about the means of appointment of parliamentary officials.

Mr. Monies Garcia said that in both Chambers, there was a commission with responsibility for running the administrative affairs of the Chamber. Only the majority PRI party was represented on this commission, which dealt with the appointment and promotion of staff. Senior appointments had to be approved by the Chamber as a whole.

Mr. Khair asked whether a Senator who wished to become the Governor of the State had to resign from the Senate before becoming a candidate for that post.

Mr. Monies Garcia said that the formal position was that a Senator did not have to seek permission of the Senate or resign from it until he had been elected Governor. But in practice a candidate for a governorship often asked permission in advance because of pressure on his time.

The Vice-President asked for how many days each year the Mexican Parliament was in session.

Mr. Monies Garcia said that the ordinary session began on 1st September and had to finish by 31st December. At times when Parliament was not sitting, a permanent commission of 15 Deputies and 14 Senators sitting together, with the smaller parties represented, conducted Parliament's business. Parliament could be reconvened for special sessions to deal with specific matters. From 1989 there would be two regular sessions, from 1st November to 31st December and from 15th April to 15th July.

The Vice-President thanked Mr. Montes Garcia and Mr. Herrera Beltran for the patience and detail with which they had answered the many questions put to them.