

UNION INTERPARLEMENTAIRE



INTER-PARLIAMENTARY UNION

ASSOCIATION DES SECRÉTAIRES GÉNÉRAUX DES PARLEMENTS
ASSOCIATION OF SECRETARIES GENERAL OF PARLIAMENTS

o

CONSTITUTIONAL

AND PARLIAMENTARY

INFORMATION

o

**The parliamentary system
of Spain**

**Roles of Government and
Parliament/backbenchers
in the introduction and
passage of legislation**

**The South African Parliament
in transition**

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 representative institutions and in the advancement of the work of international peace and co-operation, particularly by supporting the objectives of the United Nations.

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.

Membership of the Union (December 1995)

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Finland, Former Yugoslav Republic of Macedonia, France, Gabon, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Korea (Dem. P. R. of), Korea (Rep of), Kuwait, Laos, Latvia, Lebanon, Libya, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mexico, Moldova, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russia, Rwanda, San Marino, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tanzania, Thailand, Togo, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Associated members: Andean Parliament, Latin American Parliament, Parliamentary Assembly of the Council of Europe.

Structure

The organs of the Union are:

1. *The Inter-Parliamentary Conference* which meets twice a year.
2. *The Inter-Parliamentary Council*, composed of two members from each affiliated Group. *President*: Mr. A. F. Sorour (Egypt).
3. *The Executive Committee*, composed of twelve members elected by the Conference, as well as of the Council President acting as *ex officio* President.
4. *Secretariat of the Union*, which is the international secretariat of the Organization, the headquarters being located at: Place du Petit-Saconnex, CP 438, 1211 Geneva, Switzerland.

Secretary general: Mr. Pierre Cornillon.

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 Union's Secretariat in Geneva.

Constitutional and Parliamentary Information

Association of Secretaries General
of Parliaments

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I. The parliamentary system of Spain

Extracts from the Minutes of the Madrid session, March 1995

Mr ASTARLOA, Secretary General of the Spanish Congress of Deputies, expressed his welcome to the Members of the Association. He noted that the first Spanish constitution had been approved in Cádiz in 1812. The present Spanish constitution, promulgated in 1978, was the most recent stage in the rich institutional history through which Spain had gone since then.

The first article of the Constitution set down the chief characteristics of the regime: a social and democratic state, subject to the rule of law, and advocating as higher values of its legal order, liberty, justice, equality and political pluralism.

Relations between the Government and Parliament were determined by chapters 3 and 5 of the Constitution. Chapter 5 in particular laid down the procedure for questions, interpellations, motions of censure, and dissolution.

Mr ASTARLOA outlined six main features of Spanish parliamentary life:

(1) The structure of the Parliament

Parliament comprised the Congress of Deputies and the Senate. In principle, the two Chambers had similar powers. Where there was disagreement between the two Assemblies, there was provision for specific meetings. These included joint committees. In the event of continued disagreement the Congress had the last word.

(2) Composition of the Chamber

The electoral system was different for the two Chambers. The Congress of Deputies, under the Constitution, comprised between 300 and 400 Members. The electoral law provided for 350. They were elected by universal direct suffrage in a secret ballot, with a proportional system based on lists submitted by political parties. Senators were elected by a majority system with four being elected for each constituency, with certain Senators being elected by the autonomous regional authorities.

(3) *Organisation of the Spanish Parliament*

Organisation of the Parliament was characterised by plurality and complexity. Three directing organs existed: the President (Speaker) of the Chamber, who possessed important powers; the Bureau, comprising nine Members in the Congress and seven in the Senate, which oversaw administrative and financial management and organisation of parliamentary work; and the Spokesmen's Conference which played a major role, especially in determining the Orders of the Day. All parliamentary groups were represented in this Conference, which conducted its business on a system of weighted voting.

Four working organs of the Parliament played important roles: the plenary, committees, working groups within the committees (*ponencias*) and the Standing Committee (*Diputación Permanente*).

The Constitution allowed committees to approve laws independently of the Plenary. The *Diputación Permanente* enabled Parliament to continue functioning during dissolutions or emergencies.

(4) *Relations between Members of Parliament and the groups*

Although the 1978 Constitution did not provide specifically for parliamentary groups, they were nevertheless recognised in the rules of each House as essential actors in parliamentary life.

(5) *Autonomy of each House*

Each Chamber had the power to set its own rules. The Constitution, however, provided for a third type of rule, rules of the Cortes, to regulate matters of joint concern. While the rules for the Congress of Deputies and for the Senate were adopted in 1982, this third set of rules had not yet been passed.

The two Houses had their own staff, although it was jointly recruited, and enjoyed a separate budget, and different material support. The principle of autonomy applied to matters of administration as well as to parliamentary work.

(6) *The role of each House*

The two Houses formed the centre of political life, though they were largely matched in this by the political parties. The relations between the majority and the opposition played a more significant role than relations between the Government and Parliament. The Spanish model was inspired by a search for stability. This was illustrated by the procedure for motions of censure, under which a new head of Government had to be nominated at the same time as the resignation of the sitting Government was sought.

The head of Government could decide on the timing of the dissolution of Parliament.

The procedure for agreeing laws was lengthy. It could involve up to eight considerations of a single Bill. Accelerated procedures existed however, such as the adoption of laws directly by committee.

Mr ALBA NAVARRO, Secretary General of the Spanish Senate, explained that the bicameral system had its origins in history. The Congress of Deputies represented the people directly, while the Senate represented the various different territories.

The Congress of Deputies was politically more important than the Senate.

As for *parliamentary control*, a number of powers were common to both Houses: the procedure for question time (which took place on the Tuesday afternoon at the Senate and Wednesday afternoon in the Congress); interpellations, which made Members of the Government accountable to Parliament, either in plenary session or before committees; committees of inquiry, which could be established within a single Chamber or by both acting together.

However, the Government was only truly accountable to the Congress. Appointment of the head of Government depended only on Congress. Only the Congress could pass a motion of censure. Such a motion had to be tabled by 10% of the Members, passed by an absolute majority, and must provide for a new head of Government. Likewise only the Congress could discuss and vote a motion of confidence in the Government.

It should be noted that the Government could dissolve both the Congress and the Senate. The two Houses did not have equal power in the matter of *parliamentary initiative*. Only the Congress had a general power of initiative for bills. The Senate could only examine bills already passed by the Congress, except in several cases.

Three possibilities were open: the Senate might approve the text passed by Congress, which would then be promulgated by the King; the Senate could reject the bill which had been sent to it by an absolute majority and the Congress could either withdraw its bill or set in motion the specific procedures allowing it to overrule the opposition of the Upper House; or the Senate could amend the bill submitted by Congress and submit it to a system of shuttle between the two Houses. In practice, the Congress generally approved amendments made by the Senate.

It should be noted that in respect of decrees, that is to say decrees adopted by the Government in emergency situations, only the Congress of Deputies could be involved.

Parity between the Chambers existed notably in respect of appointment of persons to certain high posts. This was the case, for example, in respect of the General Council for the Judiciary (*Consejo General del Poder Judicial*) (six Members appointed by the Senate and six by the Congress), for the Constitutional Court, for the Ombudsman (*Defensor del Pueblo*), and for the Board of Directors of RTVE (the national broadcasting company).

The justification for the second Chamber was that it represented the various different regions. For a number of months a special committee of the Senate had been examining possible reforms. The issue was the establishment of an inter-regional system. It was also sought to simplify and rationalise the current organisation.

Mr DAVIES (United Kingdom) asked if the two Chambers had the same powers in respect of budgetary matters and about the role of Crown, notably in respect of a dissolution. Mr ASTARLOA indicated that while the two Houses had a similar competence they did not have the same political power. The two Houses had similar powers in respect of budgetary matters. The King played only a ceremonial role (opening of sessions and signing Acts). Mr ALBA NAVARRO agreed that it would be unimaginable in Spain for the King to hold up promulgation of an Act.

Mr FARACHIO (Uruguay) asked whether the *Diputación Permanente* could pass laws, whether the third set of rules had been published, about the exact procedure for passage of legislation, about the exact role of committees in the adoption of laws, what rules governed committees of inquiry, and about the rules governing the appointment of Ambassadors. Mr ALBA NAVARRO replied that the third set of rules had not yet been agreed, that the legislative process was very long and that the powers of appointment held by the two Houses did not extend to Ambassadors. Mr ASTARLOA indicated that the *Diputación Permanente* theoretically had very restricted powers. It provided for continuity of parliamentary life in two principal cases: a state of emergency or siege (which had never happened) and passage of decree-laws passed in exceptional circumstances. The rules of the Congress of Deputies provided that in such a case the *Diputación Permanente* had all the same rights as the Chamber. He added that the Congress of Deputies did not usually operate time limits for the passage of legislation. But procedures existed to allow more rapid adoption of legislation: emergency procedures; approval of a bill in a single reading in plenary; the power for committees to pass certain bills themselves.

Mr GALAL (Sudan) asked about cooperation between the two Secretaries General. Mr ALBA NAVARRO indicated that there was close cooperation. Parliament had its own recruiting system for its officials. Management of staff

therefore involved a close cooperation between the two Houses. In respect of the passage of legislation, communication between them was continuous.

Mr TRAVERSA (Italy) asked about the circumstances in which decree-laws by the Government were examined by the Congress. Mr ASTARLOA replied that decree-laws were examined only by Congress in the same way that it alone had the power to confirm a Government or to overturn it. The procedure was governed by article 86 of the Constitution. In cases of extraordinary and urgent need, the Government could issue temporary legislative provisions which took the form of decree-laws and which could not affect the regulation of the basic State institutions, the rights, duties and liberties contained in Title I, the system of the Autonomous Communities, or the General Electoral Law. The decree-laws must be submitted forthwith to the Congress of Deputies, which must be summoned for this purpose if not already in session. They must be debated and voted upon in their entirety within thirty days after their promulgation. Congress must expressly declare itself in favour of ratification or repeal within the set period of time, for which purpose the Standing Orders must establish a special summary procedure.

Mr VELASQUEZ (Venezuela) asked about the budgetary procedure and appointment to posts in the Armed Forces. Mr ALBA NAVARRO replied that the budget was voted in the same way as other laws and that its consideration took place between 1st October and 31st December of each year. Mr ASTARLOA replied that by tradition the two Houses did not take part in the process of civil or military appointments. Their competence in matters of appointment was limited to certain high positions such as the *Consejo General del Poder Judicial*, the Constitutional Court (*Tribunal Constitucional*), the Ombudsman (*Defensor del Pueblo*), the members of the *Tribunal de Cuentas*, and the Board of Administration of RTVE (the national broadcasting company).

The PRESIDENT thanked the members present for their contributions to the debate.

ANNEX: Question and answer sessions during a tour of the Senate and Congress of Deputies, on the morning of Wednesday 30 March

In the Senate, Mr ALBA, Secretary General, described the relationship between the new Senate building, which had opened in 1991, and the old one. Responding to Mr SWEETMAN (United Kingdom), he noted that all Senators had their own office, though they could arrange to share it with their staff.

He explained that the 256 Members of the Senate were elected by a combination of direct election in the provinces and appointments from the

regional Parliaments. In response to Mr FARACHIO (Uruguay) he added that independents could, and did, stand and that there was a maximum of three names per party in the ballot in each region.

There were 6 party groups; those Senators representing other parties not numerous enough to qualify as a party group were brought together in a single mixed group. The Senators sat by party group and, in response to Mr OLAFSSON (Iceland), he added that Senators spoke from their seats for short interventions and from the rostrum for longer contributions (except for Members of the Bureau, who always spoke from the rostrum). The President could control the length of speeches.

There was an electronic voting system, with the result displayed on an electronic Scoreboard, though votes could also take place in other non-electronic ways. In response to a question from Mrs. HUBER (Switzerland), he added that while the lists recording individuals' votes were not theoretically published, they nevertheless became public because the electronic print-outs were available to the parties.

In the Congress of Deputies Mr ASTARLOA, Secretary General, explained that the new part of the Congress building had been completed in 1994, the old building having been built in 1850. There were currently 7 party groups, including one mixed group comprising all those not in the other groups. In response to a question from Mr NDIAYE (President) (Senegal) he indicated that the mixed group as a whole was allotted a certain speaking time, though if they could not agree amongst themselves how to allocate their time then the President of the Congress decided. Responding to Mr KLAPSIC (Croatia), he added that the 4 Vice-Presidencies and 4 Secretaryships were also allocated in proportion to party strength.

Plenary sessions took place in three weeks out of four during sitting months, with the remaining week available for constituency work and additional committee work. Sittings were on Tuesday and Wednesday afternoons and Thursday mornings, with Thursday afternoon sittings taking place if necessary. Broadly speaking, Tuesdays were used for initiatives of the party groups and Thursdays were available for government bills. The amount of committee work had increased substantially in recent years. In response to Mr SWEETMAN (United Kingdom) he added that bills could begin at the initiative of one of four groups: the government, the party groups, Autonomous Communities, or by popular initiative (this last required 500,000 signatures and had never yet occurred).

Most interventions took place from a Member's seat rather than the rostrum. There was an electronic voting system similar to that in the Senate. In

response to Mr FARACHIO (Uruguay) he explained that secret votes (sometimes required by the Rules, for example in respect of certain appointments) could take place either by using the electronic system without recording the individual votes or by using ballot papers.