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Facultad de Filosofía, Historia y Letras
Doctorado en Lenguas Modernas

Parliamentary Procedural Terminology:
A Comparison Between Usage in the
Argentine Republic and the United States

A Doctoral Thesis submitted in fulfillment of the requirements for the
degree of Doctor of Foreign Languages (English language)

by

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Ciudad Autónoma de Buenos Aires
República Argentina

2002

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INTRODUCTION

(Introducción)

The purpose of this Thesis is to compare the parliamentary procedural terminology used in the legislative chambers of the Argentine and American Congress, to establish the qualities that are comparable, and to note those that are not on par with one another.

This Thesis reveals bilingual parallels in formal parliamentary terminology and it also describes the everyday jargon sometimes used to describe specific parliamentary procedures.

During this research, I have had to fathom the intricate aspects of parliamentary procedure, not just its rules but also the many unwritten legislative practices and customs used within the Congresses of Argentina and the United States of America. I have also added the comparable term used in the other language when a parallel existed and provided the pertinent explanation of the idiom when no parallel existed.

The subject, much broader than what can be seen on the surface, has led me to think about how to handle its development, so that this Thesis could keep its structure and coherence but could also offer the possibility of accomplishing my purpose, which is to include as many words and phrases in both languages as possible, and to stay true to the context of its use within the respective Congress. For this reason, I have decided to structure this Thesis according to several stated themes: from the organization of the Congresses, the importance of their committees and the election of officers up to parliamentary proceedings, debate on the floor and the offering of motions and voting.

It would not be accurate to assert that the Argentine Constitution is a replica of the American Constitution, even though the U.S. Constitution inspired the frames of our 1853 Constitution to organize our parliamentary system. Even so, our Constitution was

given certain characteristics that sometimes move away from American parliamentary procedure. However, it is clear that some provisions of the Argentine Constitution, as well as many of the rules of procedure of our legislative chambers, show an unmistakable similarity to those of the United States. Nonetheless, this research work will establish that in spite of the fact that similarities are present in some instances, in others, by reason of terminology and procedure, the rules are far from being identical and are not truly parallel.

In his *El Congreso de los Estados Unidos de América – Derecho y Prácticas Legislativas*, Dr. Carlos María Bidegain speaks to the point. He considers that “the framers of our 1853 Constitution did not copy but adapted the American constitutional system to our own characteristics” and that the Congress “is a body in a constant transformation process which is subjected to the pounding from diametrically opposed interests, standing in the center of two everlasting dramas that have always impassioned men: the fight for power and the greed for freedom”.¹

Before unfolding the main point of this Thesis, I wish to express certain trends I have taken into account in the development of the equivalent terms. With the intention of maintaining the context of the words and phrases used in one country’s parliamentary procedure as close as possible to the terminology used in the other country, I have given uppermost importance to the intention carried in the original context and use of specific terms included in this Thesis.

It is known that the literal translation of “House of Representatives” is *Cámara de Representantes*. However, in order to bring its exact meaning to the organization of the Argentine legislative chambers, I have decided to translate this expression as *Cámara de Diputados*, since it conveys a more comprehensible meaning in our country,

¹ Bidegain, Carlos María: *El Congreso de los Estados Unidos de América – Derecho y Prácticas Legislativas*, Buenos Aires, Editorial Depalma, 1950, pp. 2-3.

in spite of the fact that the Preamble of our Constitution starts *Nos, los representantes* (we, the representatives). For the same reason, and because this research deals with the comparability of parliamentary procedural terms used in solely two countries, I have decided to translate *Cámara de Diputados* as “House of Representatives”, since this is the exact equivalent term used in the United States. Nevertheless, if outside of the context of a Thesis, or if the translation were intended for the inhabitants of any other English speaking country such as the United Kingdom, Ireland or Canada, I would most likely translate such an expression as “House of Deputies” or “Chamber of Deputies”. Following this principle, I have applied the same rule for “representative”, which I translate as *diputado*, and vice versa.

With respect to the term “committee”, I have preferred to translate it as *comisión* because it is the more accurate equivalent in the Argentine Congress. However, it is not uncommon to observe that it has sometimes been translated as *comité*, which according to my viewpoint, is far from meaning that it is a panel of members of the Legislative Branch. In Argentina, the word *comité* bears a heavy political connotation and its use belongs to non legislative associations.

With the purpose of developing the comparability of terms in a highly specific subject, such as parliamentary procedure in legislative bodies, I have decided to develop a brief explanation of the various steps of such procedures. In doing so, I have used as many specific words and expressions as possible.

Since this terminology is technical, most words and expressions which make up parliamentary jargon have a different meaning than that conveyed when used in everyday language. Through this research, notice may be taken that the translator sometimes does not translate accurately the exact meaning of the text. This usually leads to a number of obscure descriptions and misinterpretations of procedure. This fact has

taken place repeatedly throughout Argentine parliamentary history. While attempting the drafting of our rules of parliamentary procedure, more than a half century of experience in America with rules of procedure, and several centuries worth older English rules of procedure were taken as models, but worked through as poorly translated versions.

It has been established that the only way to be able to translate a technical text is by means of a full understanding of the subject to be translated. In this instance prior to the development of my research, I wish to share the thought of Ramón Salas, who translated from the French the works of Jeremmy Bentham² *Treaties of Civil and Penal Legislation*³ in 1821. He held that it is important “to study carefully and to stop to think about the dark and difficult passages of the book to be learned”.

Most probably, the reader may feel perplexed when encountering *ley parlamentaria* (parliamentary law). In fact, the correct expression should be *derecho parlamentario* or else *normas de procedimiento parlamentario*. This reader might also be perturbed to learn about the *negocios* (business) in the Congress, when in effect he should be reading about the many *actividades* of the houses. It is certain that the influence of American and English parliamentary terminology has had a paramount influence upon our terminology, ever since our early institutional history. Such is the case with the word “business” which has been repeatedly translated as *negocios* since 1810.

After the research I have conducted to establish the origin of certain words in Argentine parliamentary terminology and their equivalence to those found in American

² The English juriconsult Jeremmy Bentham’s manuscripts were translated into French and published by E. Dumont, member of the Representative Council of Geneva.

³ Bentham, Jeremmy; *Tratados de la Legislación Civil y Penal*, translation into Spanish by Ramón Salas from E. Dumont’s French version, 2ª edición, Madrid, Imprenta de D. Fermín Villapando, 1821, “Prólogo del Traductor” (Biblioteca del Congreso de la Nación, Signatura N° 23.416).

parliamentary procedure, I determine that the diversity of synonyms used at the beginning of the Argentine legislative era has gradually yielded a misinterpretation of certain terms and of their correct use in parliamentary procedure. As far as this issue is concerned, I concur with the words that Dr. Luis F.P. Leiva Fernández expressed during his speech “Formal Structure of the Law”⁴ when he established that “what in literature is highly appreciated is incorrect in legislative matters. The elegance of the law is its clarity, though it has repetition of words. A slightly forged synonym may lead to a different interpretation of the law”.

The terminology developed in this Thesis is little known outside the Argentine legislative chambers. In fact, this work may be considered as a forerunner in this field of expertise since parliamentary procedure has never been deeply researched in our country and bibliography on the matter is scanty.

This Thesis includes a significant amount of lexical flow in both Spanish and English, together with the corresponding description of procedure. In addition, parallelism and differences between terminology and proceedings of both Argentine and American congresses have always been highlighted. For this reason, I hope this Thesis may become a reference work for the better understanding of legislative parliamentary procedure.

⁴ “Seminario de Técnica Legislativa y su aplicación en la Práctica Parlamentaria”, sponsored by the Instituto de Capacitación Parlamentaria (ICAP) de la H. Cámara de Diputados de la Nación, June 1, 8, 15 and 23, 2000.

SECTION I

ORGANIZATION OF THE CHAMBERS

(Formación de las cámaras)

The word “congress” derives from the Latin *congressus*, which in its strictest sense means “meeting”. Both Argentine and American parliamentary law use this term to refer to the House of Representatives (*Cámara de Diputados*) and the Senate (*Senado*) as a whole, that is to say, as a unique legislative body. They also use this same word to refer to the building where sessions are held.

The Legislative Power is vested in the Congress, as established by both the Argentine and the American Constitutions⁵. The Argentine houses are formed by 257 representatives (*diputados*) and 72 senators (*senadores*). The American houses gather 435 representatives and 100 senators. In both countries legislators are elected by popular vote (*elegidos por voto directo*) and may be indefinitely reelected (*reelectos indefinidamente*).

Composition of the chambers

(Composición de las cámaras)

In the Argentine Congress there are three senators for each province and three more for the city of Buenos Aires. In the American Congress there are two senators for each of the fifty states. In both congresses, representatives are elected apportioned to the province's or state's population.

⁵ Constitución de la Nación Argentina, art. 44.

Constitution of the United States of America, Article I, Section 1

In Argentina, the term of office (*mandato*) of representatives is four years and the term of office of senators is six years. Membership of each house is partially elected every two years. The entirety of the U.S. House of Representatives stands for election every two years, whereas only one third of the U.S. Senate does so at the same time. In other words one third of the Senate's membership is chosen every second year.

Representatives serve two-year terms and senators serve six-year terms.

The term "Senate" derives from the Latin *sen* which means "sensible". Hence, *senatus* comes from *senex* which means "old man". The term *senatus* was used in Rome to refer to the Roman assemblies, as a gathering of wise elder statesmen.

With respect to the word *diputado* as it is used in Argentina, it comes from the Latin *deputatus*. The Spanish verb *diputar* means "to delegate" or "to choose a representative". Taking the year 1810 as the beginning of the Argentine institutional era, this word started coming into use precisely in that year, during the government of the *Primera Junta Gubernativa*. The word appears in the notice written by Juan José Castelli on May 27, 1810 which was addressed to the provinces ordering that "*diputados* must be elected and that they should come to the Capital to the purpose stated in the same act of installation"⁶. Even though, on the same date the *diputados* were also referred to as *vocales diputados*.⁷

It can be seen that during this early time in our history, terms already used in France were later used in our land. France had added the expression *chambre des députés* (chamber of deputies)⁸ in 1773. Likewise, in the adoption of the word *diputado* Spain was considered as an example. Its *Reglamento para el Gobierno Interior de las*

⁶ Silva, Carlos Alberto: *El Poder Legislativo de la Nación Argentina*, Tomo I (1820-1853, 1ª Parte), Honorable Cámara de Diputados de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1939, p. 9.

⁷ Ibid; p. 10.

⁸ Bonnard, Roger: *Les Règlements des Assemblées Législatives de la France depuis 1789*, Paris, Société Anonyme du Recueil Sirey, 1926 (Biblioteca del Congreso de la Nación, Signatura N° 15.438)

Cortes, passed on November 27, 1810 mentions the *sesiones de los diputados* (sessions of deputies) although the term *diputado* (deputy) sometimes alternates with *vocal*⁹, which means “member of a council, board or committee”. This vagueness in the use of the *vocabula artis* (specific terminology) is also observed throughout the course of our institutional history. Such is the case of the redundant expression *elecciones de vocales diputados* used in 1810.¹⁰

⁹ “Vocal”: Persona que tiene voz en un consejo, una congregación o una junta llamada por derecho, por elección o por nombramiento. (*Enciclopedia Universal Ilustrada Europeo Americana*, Barcelona, Hijos de J. Espasa Editores, 1922).

¹⁰ Silva, Carlos Alberto: *El Poder Legislativo de la Nación Argentina*, Tomo I (1820-1853, 1ª Parte), Honorable Cámara de Diputados de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1939, p. 10.

SECTION II

SPEAKER OF THE HOUSE OF REPRESENTATIVES AND PRESIDENT OF THE SENATE

(Presidentes de las cámaras)

In the Argentine Congress we use the title *presidente* for the top officer of each legislative chamber. In the Congress of the United States, the word “president” is used only to refer to the President of the Senate, who is the presiding officer established by the U.S. Constitution. Like the Argentine Constitution, the United States Constitution further names de Vice President to serve in the role of the President of the Senate. His counterpart of the House of Representatives is called the “Speaker”. In spite of the fact that in Argentina we speak of *los presidentes* of the chambers in a joint reference, in the United States there is no joint term to identify them in such a way. This is an example of how separate the two houses of Congress really are. In common parlance, these institutional officers are simply “the Speaker” (*Presidente de la Cámara de Diputados*) and “the President of the Senate” (*Presidente del Senado*). When the President of the United States delivers his annual State of the Union address (*pronuncia su discurso anual sobre el estado de la Unión*), with these two officers sitting behind him in the chamber of the House of Representatives, he addresses them as “Mister Speaker” (*Señor Presidente de la Cámara de Diputados*) and “Mister President” (*Señor Presidente del Senado*). Members in both American chambers, use this same form of address during debate.

In the Argentine Republic, the Speaker is nominated by the majority group and appointed by the full House. This appointment ceases at the end of each legislative year though the Speaker may actually be reelected indefinitely.

As regards the House of Representatives of the United States, there is a term limit on the Speaker's service. Since 1995, Speakers of the Republican Party (*Partido Republicano*) are restricted to no more than four consecutive "Congresses"¹¹ (*períodos bienales de sesiones*). In other words, taking into consideration that a Congress is a period made up of two consecutive years, the Speaker of the Republican Party may be in office up to eight consecutive years. It is important to note that since this term limit was established by party rules (*normas de procedimiento de un bloque político*), and not by the Rules of the House of Representatives (*normas de procedimiento de la Cámara de Diputados*), a Speaker of the Democratic Party (*Bloque Demócrata*) would have no term limit upon him. Democrats have not adopted term limits on their party leaders as the Republicans have. Since the 1995 restriction was adopted, only the Republican Party has been in the majority in the U.S. House.

The American House of Representatives has no vice presidents as is the case in the Argentine houses. For this reason, the Speaker may appoint a member who shall perform the duties of the Chair (*cumplirá las obligaciones de la presidencia*) during his absence, for a period no longer than three legislative days (*días legislativos*). The member appointed to this position is called "Speaker pro tempore" (*presidente provisional*). With the approval of the House (*si hay aprobación de la Cámara*), the appointment may be made up to ten days or for a time certain. The main purpose for such an extended appointment is so that the Speaker pro tempore may sign enrolled bills (*sanciones definitivas*) or joint resolutions (*resoluciones conjuntas con consecuencia de proyecto de ley*)¹² in the absence of the Speaker. Whenever the Speaker has omitted the appointment of a temporary presiding officer, the House takes charge of such an appointment.

¹¹ Term developed in Section IV "Congress".

¹² Term developed in Section XV "Legislative Proposals".

The Vice President (*vicepresidente*) of Argentina is the President of the Senate (*Presidente del Senado*), “but he shall not have a vote, unless they be equally divided” (*pero no tiene voto sino en caso de empate en la votación*). This provision coincides with the same in the American Constitution. Likewise, the Senate of Argentina appoints a President pro tempore (*presidente provisional*) to preside over it during the Vice president’s absence, or when he must instead exercise the office of President (*cuando ejerza las funciones de Presidente de la Nación*).

In the United States, the Senate’s President pro tempore is third in line behind the Vice president and the Speaker of the House of Representatives to succeed to the presidency (*se ubica en tercer lugar en la línea sucesoria de la presidencia, luego del presidente del Senado y del presidente de la Cámara de Diputados*).

Such as is true for the Speaker, the Senate’s president pro tempore—often referred to as “the pro tem”—is elected to the post by a majority vote of the entire Senate. In the United States, this office is generally conferred to the senior member of the majority party (*miembro más antiguo que integra el partido que es mayoría*) as an indicator of respect for his extended service.

Duties (*Responsabilidades*)

Both in the Argentine Congress and in the American Congress, the duties of the presiding officers (*presidentes de las cámaras legislativas*) are listed in their respective rules of procedure. For example:

- 1) To call the house to order (*abrir las sesiones*).
- 2) To preserve order and decorum (*preservar el orden y el decoro*), in case of disturbance or disorderly conduct in the galleries or in the lobby, to cause the same

to be cleared (*en caso de perturbación o conducta desordenada en las galerías o en la antesala, ordenar su desalojo*)

- 3) To preside over the chamber's sessions (*dirigir las discusiones de la cámara*). To announce the result of votes and to vote in case of a tie (*proclamar los resultados de las votaciones y votar en caso de empate en la votación*). The U.S. Speaker is excluded from this duty, since any tie vote in the U.S. House of Representatives automatically loses.
- 4) To ensure that the Rules of the House or Senate be observed (*hacer observar el Reglamento*).
- 5) To make a ruling on a question of order (*decidir todas las cuestiones reglamentarias*)
- 6) To sign all acts, resolutions, writs, warrants and subpoenas by order of the House or Senate (*firmar todas las leyes, resoluciones, mandamientos, autorizaciones y citaciones que ordena la Cámara*).
- 7) To examine and approve the Journal of the proceedings of the last day's sitting (*autenticar con su firma el Diario de Sesiones*).

The Speaker

(Presidente de la Cámara de Diputados de los Estados Unidos)

The Speaker of the American House of Representatives, whose office is similar to that of our *Presidente de la Cámara de Diputados*, is a figure of outstanding political power, since he is second in succession to the presidency behind the Vice president (*se ubica en segundo lugar en la línea de sucesión presidencial, luego del presidente del Senado*). In the strictest sense, it can be said that the Speaker is the “elect of the

elected”.¹³ While the Speaker is the presiding officer of the House, he is also the leader of its majority party.

Although the Constitution of the United States is silent on the duties of the Speaker, with the passing of time and because of the increasing prestige he has gained, he has developed into a figure of paramount importance, with a wide range of responsibilities, such as planning and accomplishing the legislative agenda of the House. The Speaker also “has administrative control over much of the operations of the House, and controls appointments to special committees and delegations. He also refers legislation to committee, may place deadlines on committee action, and chairs the committee which appoints majority party members to their committee assignments”.¹⁴

History of the Speakership (*Historia del cargo de “Speaker”*)

The term “Speaker”¹⁵ was first used in the year 1377 in the House of Commons (*Cámara de los Comunes*) of the British Parliament, with Sir Thomas Hungerford the first to assume such office. In the past, the House had been presided over by the so called “parlour” or “prolocutor” (*portavoz*). It is believed that Peter de Montfort was the first to be appointed in that capacity to preside over the *Mad Parliament* at Oxford in 1258.¹⁶

Until the late seventeenth century the Speaker acted as representative of the king to whom he had to report the interests and will of the House of Commons. When

¹³ Davidson Roger H. and Oleszek Walter J.: *Congress and its Members*, 3rd Edition, Washington, D.C. Congressional Quarterly Press, 1990, pp. 1160-1161.

¹⁴ Nickels, Ilona: “Who are the leaders of Congress and what do they do?”, Center on Congress, Indiana University http://congress.indiana.edu/learn_about/q&a.htm

¹⁵ “Speaker”: One who acts as a spokesman for others. (*Webster’s Third New International Dictionary*, 1976).

¹⁶ Parliament of the United Kingdom – House of Commons, *Duties of the Speaker*, H.C. Factsheets-M2; <http://www.parliament.uk>

summoned, he had to present himself before the sovereign—who was frequently despotic—to give record of his accomplishments and to give explanation about those decisions against the economic interests of the crown passed by the House, such as for example, the rejection of an initiative to assign higher tax collections to the royal treasure. In this way, as a figure directly responsible before the crown, the Speaker would face unhappy situations before the king. As a matter of fact, it is known that about nine Speakers had a violent death.

At present, the English Speakership has the responsibility of presiding over the House of Commons but the Speaker neither represents nor belongs to any political faction. He is not a member of the House so that this fact gives him independence to act as a non-political moderator staying impartial during the consideration of all kind of matters by the House.

When assuming the office of Speaker (*al asumir el cargo*), the English Speaker must resign from his political party (*renunciar a su partido político*) and even after the completion of his term of office, he will no longer take part in political issues (*luego de su alejamiento del cargo, permanecerá apartado de toda cuestión política*). However, he acts as the House of Common's representative during ceremonies and in other formal circumstances.

The English Speaker's duties are widely different from those of the American Speaker. During the early development of the Speakership in the Congress of the United States, the framers of the Constitution gave the Speaker certain characteristics typical of those of the British Parliament. Later, the Speakership gradually acquired the strong political connotation that it still carries nowadays. At present the American Speakership—or duties of the chair—is assumed by one of the members of the House of

Representatives who has previously been nominated for the position by the caucus¹⁷ of the majority party and then elected by the full House.

¹⁷ Term developed in Section XLIV “Party Organizations in the U.S. Congress”.

SECTION III

SESSIONS IN THE ARGENTINE CONGRESS

(El período de sesiones ordinarias en el Congreso argentino)

In Argentina, congressional sessions last from March to November. This period is called the “legislative year” (*año legislativo*). On March 1, 2002 the 120th session began.

Legislative years are numbered according to the order started in 1862. From that date, the parliamentary activity has been interrupted several times due to different *coups d'état* (*golpes de estado*) and the consequent de facto governments (*gobiernos de facto*). Also calculated from that date, are regular sessions (*sesiones ordinarias*), sittings after a *sine die* adjournment (*sesiones de prórroga*) and special sessions (*sesiones extraordinarias*) which are also assigned their own number.

The Argentine Constitution states that both houses of Congress shall assemble in session (*se reunirán por sí mismas*) every year from March 1 to November 30. Besides, it states that “they may be also convened in special session by the president on extraordinary occasions or that the regular session may be extended after a *sine die* adjournment” (*pueden ser convocadas extraordinariamente o prorrogadas sus sesiones*).¹⁸

In the Argentine parliamentary system as well as in the American's, both houses must start and end their sessions simultaneously and neither of them “shall adjourn for more than three days without the consent of the other” (*ninguna de ellas podrá*

¹⁸ See Section XIII “Research of the terms ‘prorogue’ and ‘prorogation’ used in the British Parliament and the terms ‘prorrogar’ and ‘prórroga’ used in the Argentine Constitutional Law”.

suspenderlas más de tres días sin el consentimiento de la otra).¹⁹ This consent is obtained by means of a resolution of both houses which in Argentina is called *resolución conjunta* and in the United States is called a “concurrent resolution”.

¹⁹ Constitución de la Nación Argentina, art. 5°.
Constitution of the United States of America, Article I, Section 5.

SECTION IV

CONGRESS

(Período bienal de sesiones del Congreso de los Estados Unidos)

In the United States, the term “Congress” describes the institution, but it also refers to the two consecutive legislative years which coincide with the two-year term of Members of the House of Representatives (*período de dos años de mandato de los diputados*). This period begins at noon on January 3 of an odd-numbered year, following the previous November election of representatives (*elecciones legislativas*), unless by law a different day is decided (*a menos que por ley se disponga otra fecha*). The said period ends at noon on the same day of the following odd-numbered year.

Each Congress holds two annual sessions (*dos períodos de sesiones ordinarias, cada uno de los cuales tiene un año de duración*). Both Congresses and sessions are numbered sequentially. They started being numbered in the year 1789, the date of creation of the legislative system. The first Congress (*primer período bienal de sesiones*) belonged to the period 1789-1790 and this year (2002) the 107th Congress, 2nd Session (*Segundo Período del Período Bienal de Sesiones Ordinarias N° 107*) is taking place.

In the United States, there exists a certain tendency to characterize each Congress according to its legislative activity or inactivity. For instance, the 100th Congress “was seen as one that passed a number of bills but avoided key issues (air pollution, banking reform, the budget deficit)”²⁰ and the 102nd Congress (1991-1992) is

²⁰ Dickson, Paul & Clancy, Paul: *The Congress Dictionary – The ways and meanings of Capitol Hill*, New York, John Wiley & Sons, Inc., 1993, pp. 67-69.

known as “Congress from Hell” because of its turmoil over unusual difficulties and extraordinary legislative gridlock.²¹ In contrast, the 104th Congress passed ten major bills touted by the new Republican party majority as the “Contract with America”, in a record one hundred days of activity.

Although the Argentine Constitution states November 30 as the date the houses adjourn *sine die* (*fecha de finalización de las sesiones ordinarias del Congreso*), the American Constitution is silent in this respect. For this reason, until 1946 the houses, by means of a concurrent resolution (*resolución conjunta*), would agree on the date they would adjourn *sine die*, that is, “without a day” (*sin fecha*). Later, the Legislative Reorganization Act of 1970 established that unless otherwise decided by both houses, they “shall adjourn *sine die* not later than July 31 of each year”. Ironically, although this law remains on the books, the Congress has provided for a much later adjournment every year since its passage, most often adjourning in the month of October.

In August of the non-election years (*años en los que no hay elecciones*) the houses are in recess (*en receso*) for an extended vacation period, sometimes as long as thirty days. Actually, the houses may be in session uninterrupted during a whole year. Adjournment *sine die* of the first session means only the end of the first session of Congress (*finalización del primer año del período bienal de sesiones*). Adjournment *sine die* of the second session (*levantar sin fecha las sesiones del segundo período*) means final action of a Congress (*finalización del período bienal de sesiones*), namely, the end of the two-year period which, according to American parliamentary law, constitutes a Congress.

²¹ Ibid.

In cases when the president convenes one or both houses in special session, Congress would then have three or more sessions (*el período bienal tendrá, entonces, tres o más períodos anuales de sesiones*).

SECTION V

TYPES OF SESSIONS – ARGENTINE CONGRESS

(Tipos de sesiones – Congreso argentino)

The Spanish word *sesión* refers to the meeting of the houses. Therefore, a body is said to be *en sesión* (in session) when it meets for the consideration of a certain matter. A session may be made up of one or several continuous meetings and is brought to an end when all of the items on the legislative agenda have already been discussed (*finaliza cuando concluye el tratamiento de los puntos que integran el plan de labor*) or else, by means of a motion to adjourn (*moción de levantar la sesión*).

Table 1: Types of sessions

(Tipos de sesiones)

The Argentine parliamentary system avails two types of sessions: those stated by the Constitution and those mentioned by the respective rules of procedure of the houses of Congress.

<p>Sessions provided by the Constitution of Argentina <i>(Sesiones que dispone la Constitución Nacional)</i></p>	<ul style="list-style-type: none"> ◆ <i>Ordinarias</i> (session or regular session) ◆ <i>Extraordinarias</i> (special session) ◆ <i>De prórroga</i> (sittings after a sine die adjournment or extended session) ◆ <i>De informe del jefe de gabinete de Ministros</i> (sessions where the Head of the Cabinet submits a detailed report on the progress of government) ◆ <i>Asamblea legislativa</i> (joint session)
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<p style="text-align: center;">Sessions provided by the Chambers’ rules of procedure (<i>Sesiones que disponen los reglamentos de las cámaras</i>)</p>	<ul style="list-style-type: none"> ♦ <i>Preparatorias</i> (early organization sittings) ♦ <i>Públicas</i> (public sessions) ♦ <i>Secretas</i> (secret sessions) ♦ <i>De tablas</i> (scheduled sessions) ♦ <i>Especiales</i> (unscheduled sessions) ♦ <i>De acuerdo</i> (executive sessions) ♦ <i>De informes de ministros</i> (sessions where Cabinet officers render accurate information to the chamber on subjects related to the duties of their office) ♦ <i>De tribunal</i> (sessions to try impeachments)
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- 1) ***Sesiones preparatorias*** (early organization sittings): Although the Argentine Constitution does not mention them, they are included in the Rules of the houses. The purpose of these sittings is the organization of the houses at the commencement of the legislative year.

- 2) ***Sesiones ordinarias*** (session or regular session): The dates of opening day and adjournment (*las fechas de iniciación y clausura*) are provided by Section 63 of the Constitution. It states that “both houses shall assemble in session every year from March 1 until November 30.”

- 3) ***Sesiones de prórroga*** (sittings after a sine die adjournment): They are also provided by Sections 63 and 99 clause 9° of the Constitution. The president convenes the houses so that they may continue with the transaction of business beyond the time

limit constitutionally established to adjourn, provided that “a grave interest of order or progress so requires”.²²

- 4) *Sesiones extraordinarias* (special session): According to the Argentine Constitution, the president has the power to convene Congress to special session “whenever a grave interest of order or progress so requires.”

- 5) *Sesiones públicas* (public sessions): In principle, all sessions of the legislative houses are public. The republican form of government demands the publicity of the acts of government. “Publicity of debates held by a representative body - with reasonable limitations - allows the exercise of an effective popular oversight on lawmakers and indirectly, on the whole administration”.²³

- 6) *Sesiones secretas* (secret sessions): These are exceptionally held unscheduled sittings (*sesiones especiales*). They take place only in the way and under conditions provided by each house’s rules. The records (*actas*) of secret sessions are entered in reserved books and approval of the same shall be effected in the following session which shall also be secret.

- 7) *Sesiones de tablas* (scheduled sessions): These are the sessions held on the days and time previously established during the early organization sittings. With the purpose of precisely determining the origin of these sessions’ name, I thoroughly researched the matter and found that taking 1810 as the starting year of the Argentine

²² See Section XIII “Research of the terms ‘prorogue’ and ‘prorogation’ used in the British Parliament and the terms ‘prorrogar’ and ‘prórroga’ used in the Argentine Constitutional Law”.

²³ Bidegain, Carlos María: *El Congreso de los Estados Unidos de América – Derecho y prácticas legislativas*, Buenos Aires, Editorial Depalma, 1950, p.581.

institutional activity, the first reference made to the expression *de tablas* is found in the *Reglamento de la Junta Previsional Gubernativa de las Provincias del Río de la Plata*, signed by Cornelio Saavedra and Mariano Moreno on May 28, 1810, whose clause VII states that:

“Las armas harán a la Junta los mismos honores que a los excelentísimos señores virreyes; y en las *funciones de tabla*, se guardará con ella el mismo ceremonial”.²⁴

Translation: “The arms shall do the Junta the honors done to their Excellencies the viceroys; and the same ceremonial shall be observed during its scheduled meetings.”

- 8) ***Sesiones especiales*** (*unscheduled sessions*): They are held on other days and time than those determined during the early organization sittings. During these unscheduled sessions, only one or several specific topics may be considered.
- 9) ***Sesiones de acuerdo*** (*executive sessions*): These sessions take place in the Senate, its purpose being the appointment, confirmation, or removal of officers, (ambassadors, ministers plenipotentiary and *chargé d'affaires*), members of the High Court of Justice and of the lower courts of justice and military officers).
- 10) ***Sesiones de informes de ministros*** (*sessions where Cabinet officers render accurate information to the Houses on subjects related to the duties of their office*): These sessions are intended for the ministers of the Executive Power or the Head of the

²⁴ Silva, Carlos Alberto: *El Poder Legislativo de la Nación Argentina* – Tomo I (1810-1853, 1ª Parte), Honorable Cámara de Diputados de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1939, p. 8.

Cabinet to render the information required by any of the houses, according to what is stated by Section 71 of the Constitution.²⁵

11) *Sesiones de informes del jefe de gabinete de ministros* (sessions where the Head of the Cabinet submits a detailed report on the progress of government): In accordance with the text of the Constitution, the Head of the Cabinet must present himself (either alone or accompanied by ministers and secretaries of state, as he may consider convenient) before the houses of Congress – at least once a month – to inform on the progress of government (*sobre la marcha del gobierno*).

12) *Sesiones de tribunal* (sessions to try impeachments): These sessions are held by the Senate. They take place when the Senate sits to try impeachments (*cuando el Senado se constituye en tribunal en los casos de juicio político*).

13) *Asamblea legislativa* (joint session): Joint sessions are held when both houses meet to jointly consider certain questions that are usually connected with institutional or official matters, such as for example the case of an election count (*cuando se realiza el escrutinio de una elección*), administration of the oath of office to the president and vice president (*juramento del presidente y vicepresidente*), hearing of the presidential message to Congress (*lectura del mensaje presidencial*),²⁶ or the opening day of a new regular session (*inauguración de las sesiones ordinarias*).

Besides, both houses meet in what is called *asambleas extraordinarias*—equivalent

²⁵ *Constitución de la Nación Argentina, art. 71*: “Cada una de las Cámaras puede hacer venir a su sala a los ministros del Poder Ejecutivo para recibir las explicaciones e informes que estime convenientes”. (Each house may summon the ministers of the Executive Branch to provide explanations and reports as that house deems convenient).

²⁶ In the United States, the presidential message is known as “State of the Union Message to Congress” – Constitution of the United States of America, Title II, Section 3.

to the American “joint meetings”—to receive foreign dignitaries or to give solemnity to a certain event.

SECTION VI

SESIONES PREPARATORIAS – CONGRESO ARGENTINO

(Early organization sittings – Argentine Congress)

The object of the early organization sittings in the Argentine Congress is the organization of the chambers (*constitución de las cámaras*), the swearing in of Members-elect and Senators-elect (*incorporación de los legisladores electos*). Furthermore, another purpose of these sittings is to fix days and time of meeting (*fijar días y horas en que se realizarán las sesiones*).

The Rules of the Argentine House of Representatives (*Reglamento de la Cámara de Diputados*) set up two dates to convene early organization sittings (*para convocar a sesiones preparatorias*): prior to session (*antes del período de sesiones ordinarias*) and after adjournment *sine die* (*luego de su finalización*). Section 1 of this set of rules states that the Speaker shall convene the House in the following periods:

- 1) Within the last ten days of February, with the only object of fixing the days and time of meeting.
- 2) Within the first ten days of December of each year, to the end of the organization of the house (*proceder a la constitución de la cámara*) and to the annual election of officers (*elección anual de autoridades*). At the organization of a new house (*en los años de renovación parcial de la cámara*), the new members-elect are sworn in (*se procede a la incorporación de los diputados electos*) and disqualifications for not accomplishing the requirements stated by the Constitution are considered (*se consideran eventuales impugnaciones por no cumplir con los requisitos constitucionales*).

The Senate, on its part, also sets up two dates to convene early organization sittings:

- 1) On February 24 of each year—or the previous day in case it is a holiday—to appoint officers (*para designar autoridades*) and fix the days and time of sessions (*fijar días y horas de sesiones ordinarias*).
- 2) On November 29 in the years when a third of the Senate's membership is reelected (*en cada año de renovación del Senado*)—or the previous day in case it is a holiday—to administer the oath to senators-elect (*para incorporar a los senadores electos*).

Exceptionally, the administration of the oath to a member-elect or senator-elect may be carried out during the course of the regular session, sittings after a *sine die* adjournment or special session because there is a vacancy to be filled (*hay que cubrir una vacante*) or because the member-elect or senator-elect has not been present during the early organization sitting.

Table 2: Early organization sittings
(*Sesiones preparatorias*)

Chamber (<i>cámara</i>)	Dates of early organization sittings (<i>fechas de las sesiones preparatorias</i>)		Purpose (<i>objeto</i>)
House of Representatives (<i>Cámara de Diputados</i>)	Within the last 10 days of February (<i>dentro de los últimos 10 días del mes de febrero de cada año</i>)	Every year (<i>todos los años</i>)	To fix days and time of sessions (<i>fijar los días y horas de sesiones</i>)
		In the years of the organization of the House (when half the membership is reelected) (<i>de los años de renovación parcial de la cámara</i>)	Committee assignments (<i>integración de las comisiones</i>)
	Within the first 10 days of December (<i>dentro de los primeros 10 días de diciembre</i>)	Of every year (<i>de cada año</i>)	To organize the House and to elect officers (<i>constituir la cámara y elegir sus autoridades</i>)
		In the years of organization of the house (when half the membership is reelected) (<i>de los años de renovación parcial de la cámara</i>)	To administer the oath to members-elect and disqualify those who do not fulfill the constitutional requirements to take a seat (<i>incorporar a los diputados electos e impugnar los diplomas por no cumplir con los requisitos constitucionales</i>)
Senate (<i>Senado</i>)	On February 24 of every year (<i>24 de febrero de cada año</i>)		To elect officers and to fix days and time of sessions - Committee assignments (<i>designar autoridades de la cámara y fijar los días y horas de sesiones - integración de las comisiones</i>)
	On November 29, in the year of organization of the house (when a third of the Senate's membership is elected) (<i>29 de noviembre de cada año de renovación parcial de la cámara</i>)		To administer the oath to senators-elect and decide over the qualification of those elected as alternate senators (<i>incorporar a los senadores electos y expedir sobre los diplomas de los electos como suplentes</i>)

Election of officers
(Elección de las autoridades de la Cámara)

Once the Members-elect are sworn in (*incorporados por acto de juramento*), the Argentine House of Representatives elects its officers by a majority vote (*a pluralidad de votos*).

The election of officers is carried out by a majority vote, although it may be also carried out on request of one-fifth of a quorum (*a pedido de una quinta parte de los legisladores presentes*). In such a case the names of those voting on each side are recorded (*se consigna en acta el nombre de los sufragantes*).

With respect to the officers of the Senate, their election is also carried out by an absolute majority vote (*por voto de la mayoría absoluta*), after the senators-elect are sworn in. Like the House's officers, the Senate's officers serve one-year terms and may be reelected.

The House's officers are: a *Presidente* (Speaker) and three *Vicepresidentes* (House Vice presidents). The Senate's officers are: a *Presidente Provisional* (President pro tempore) and two Senate Vice presidents. After the election, the pertinent communications are sent to the other house, to the Executive and to the Supreme Court of Justice.

SECTION VII

ORGANIZATION OF CONGRESS – U.S. CONGRESS

(Organización de las cámaras – Congreso de los Estados Unidos)

Administration of the oath to Members-elect and to officers

(Incorporación de los electos y jura de nuevas autoridades)

As mentioned above, in the Congress of the United States there are no preparatory sittings prior to session. However, during November or December of the odd-numbered years, the House's political parties hold the so-called "early organization" of the House, that is to say, the preliminary meetings which consist of party caucuses' meetings (*reuniones de bloques*) in order to establish certain steps to expedite the organization of the house in the following Congress.

Unlike what is habitually done in the Argentine Congress, the swearing in of Members-elect and officers in the American Congress is carried out during the first session of each year (*primera reunión del año legislativo*). When this first session takes place, always in the odd-numbered year, it marks the commencement of that Congress. When its officers have not yet been elected, the Clerk of the House (*Secretario General de la Cámara de Diputados*) or the Secretary of the Senate (*Secretario General del Senado*), as the case may be, presides over the session. In this regard, it is important to mention that these two officers call out the roll of members present with the purpose in mind of establishing a quorum (*pasa lista de los miembros presentes a fin de formar quórum*). They also carry out a formal examination of the election certificates (*diplomas*) of the members-elect. After that, the election of officers of each house takes place.

Although both the House of Representatives and the Senate elect officers at the start of each new Congress, there is an important distinction between them. Since the first Congress in 1789, the Senate has been considered a continuing body (*cuerpo que no se renueva en su totalidad, sino por tercios cada dos años*), but the House has not. Because its entire membership has just stood for election, the House must re-establish itself entirely. It elects a new Speaker and its institutional officers again, such as the Sergeant-at-Arms and the Chaplain, and the parties elect their new majority and minority leaders and whips.²⁷ However, because only one-third of the Senate stood for election at any one time, while two-thirds remained in place, the Senate does not have to be reconstituted. Its officers, such as the President pro tempore, remain in place unless there is a desire to replace them. The parties do elect their majority and minority leaders at the start of each new Congress, as in the House, although it is exceedingly rare for a party leader not to be re-elected by his peers.

Apart from the election of officers at the beginning of each Congress, the houses also vote to affirm the appointment of committee members (*integración de las comisiones*) and fix the hour for daily meetings (*fijan la hora para sus sesiones diarias*).

There is also a distinct difference in how the House and Senate deal with their Rules of procedure at the start of a new Congress. The House of Representatives adopts the Rules of procedure that will be in force during the next two years. It must do so because the body must reconstitute itself. The usual practice is to readopt the Rules of procedure from the last Congress, although modifications are often made at this time.

The Senate, being a continuing body, continues applying its previous Rules. They can be amended at any time deemed necessary; this is not an action limited to the start of a new Congress.

²⁷ Term developed in Section XXXVIII “Whip”

SECTION VIII

CREDENTIALS OF MEMBERS-ELECT

(Diplomas de los electos)

The Argentine Constitution states that “*cada cámara es juez de las elecciones, derechos y títulos de sus miembros en cuanto a su validez*” (each chamber shall be the judge of the elections, powers and qualifications of its members as regards their validity). A similar provision is found in the U.S. Constitution, which states that “Each House shall be the judge of the elections, returns and qualifications” (*elecciones, escrutinios y títulos*). In other words, this means that in both countries the Legislative Branch has the sole power of swearing in a member or disqualifying him or her. In effect, those empowered to disqualify (*formular impugnaciones*) are the members actually holding office or members-elect and the national or district political committee (*comité nacional o de distrito del partido político*).

Disqualifications must be presented in writing, though a legislator may also present them orally.

There are two kinds of disqualifications: (1) Those which in the Argentina Congress are called *personales* (constitutional qualifications for representative or senator): They arise from the non-fulfillment of the qualifications expressly stated in the Constitution to have a title to a seat (*incumplimiento de los requisitos que exige la Constitución para ser legislador*) and (2) the so called *electorales*, that is, those arising from irregularities during the election.

The Constitution of Argentina sets up certain requisites to become a *diputado* (*representative*): to have attained the age of twenty five years and have been an actual citizen of Argentina for four years. In addition, the Constitution states that in order to

become a senator, an individual must have attained the age of thirty years and have been an Argentine citizen for six years (*seis años de ciudadanía argentina*) and have a two thousand *pesos fuertes* annual income or an equivalent amount. In both cases, an individual must either be a native of the province in which he or she shall be chosen or have been two years an actual resident thereof (*ser natural de la provincia que lo o la elija, o tener dos años de residencia inmediata en ella*).

The Constitution of the United States establishes that to become a representative it is required to have attained the age of twenty five years and have been a citizen of the United States for seven years. To become a senator, it is required that an individual have attained the age of thirty years and have been an actual citizen of the United States for nine years. In both cases it is further required that a candidate be a resident of the state from which that individual is to be elected. It is important to point out that unlike the Argentine Constitution, the American Constitution does not mention the length of this residence. As long as residence in the state has been established prior to the day of election, the individual qualifies.

The non-fulfillment of one of the aforementioned constitutional requirements or any irregularity arising from the electoral process invalidates the member-elect's qualification (*invalidan la condición de legislador electo*) and therefore, gives cause to raise the question of a member's disqualification (*da motivo a la consideración de la impugnación del diploma*).

SECTION IX

ADMINISTRATION OF THE OATH

(Acto de juramento)

The oath (*juramento*) is an essential requisite for a member-elect to take a seat (*para que el legislador electo pueda incorporarse a la cámara*). The Argentine Constitution states that upon taking office, the senators and representatives shall swear that they shall properly perform the duties of their office and act in accordance with the prescriptions of the Constitution (Section 67). The oath (*acto de juramento*) or affirmation (*declaración formal*), is also stated in the U.S. Constitution (Chapter VI).

An oath or affirmation is a form of attestation by which a member-elect signifies that he or she is bound in conscience to duly perform the duty upon which he or she is about to enter.

An affirmation is a legal substitute for an oath. Before being sworn in, the member elect may choose between “oath” and “affirmation”. “Affirmation” is generally used when the member-elect is religiously scrupulous of swearing or of taking an oath in the prescribed form.

The Rules of procedure of the Argentine House of Representatives provide four forms of oath. When half the membership of the House is reelected (*en caso de renovación parcial de la cámara*), the president pro tempore of the early organization sitting (*presidente provisional de la sesión preparatoria*) is the one in charge of administering the oath at organization (*encargado de tomar el juramento*); however on extraordinary occasions, this ceremony is presided over by the Speaker. Nevertheless, the members-elect usually are sworn in *en masse* (*juran en grupo*), according to the

form of oath they have chosen and according to the alphabetical order of the district they represent.

The Standing Rules of the Senate of the United States provide only one form of oath. Each senator is sworn-in in open session (*en sesión abierta*). The modern Senate practice is to call the Senators-elect forward to take the oath in groups of four. The tradition is that each is escorted to the front of the chamber by the other sitting Senator from that state (*por el otro senador en ejercicio del estado por el que ha sido electo*). After taking the oath, they each individually sign the “oath book” at the Senate rostrum, attesting to their vows yet again, in writing.

The administration of the oath to senators-elect is also an unavoidable requisite before entering upon their duties (*antes de incorporarse a la cámara*). This same form of the oath of office is also used by the House of Representatives.

The precise language of the oath of office is established in public law, and not in the U.S. Constitution, and has been altered several times over the years. Its current form can be found in Table 4.

Apart from being a constitutional requirement, the right to take the oath (*el derecho a juramento*) is a privilege for the member-elect who bears valid credentials (*que posea diploma en debida forma*). However, in the Argentine chambers the oath of office may be deferred (*el juramento puede ser pospuesto*) in case of disqualification of the member in question. In such a case, the member-elect shall be sworn-in as soon as the chamber favorably decides over the case.

In the American Congress the houses may also defer the oath (*acto de juramento*) when a question of disqualification arises (*cuando surja algún inconveniente con respecto a las calidades del título de un legislador*). The houses may investigate qualifications after the oath is taken (*pueden llevar a cabo las*

investigaciones sobre la validez de los títulos luego de tomado el juramento), and if such were the case, they may unseat the member in question by a majority vote after accomplishing the investigation (*luego de concluida la investigación, pueden separar de la función al miembro en cuestión*).

However, in the American Congress any member of a house may challenge the right of a member-elect to take the oath (*puede presentar impugnaciones al derecho del electo de prestar juramento*). In such a case, the member-elect temporarily stands aside, by unanimous consent (*por decisión unánime, el electo queda apartado momentáneamente*), or if so ordered, by a vote. In certain circumstances, the consideration of this challenge is deferred until the end of the organizational process (*se pospone la consideración de esta impugnación hasta la incorporación de la totalidad de los electos*).

Table 3: Forms of oath – Congress of Argentina
(Fórmulas de juramento – Congreso de la Nación Argentina)

Cámara de Diputados (House of Representatives)	
1.	<p>- “¿Juráis desempeñar fielmente el cargo de Diputado y obrar en todo de conformidad con lo que prescribe la Constitución Nacional?”</p> <p>- “Sí, juro”</p> <p><i>Translation:</i></p> <p>- “Do you swear to faithfully discharge your duties as representative and duly perform the duties of your office in accordance with the prescriptions of the National Constitution?”</p> <p>- “Yes, I do”</p>
2.	<p>- “¿Juráis por Dios, por la Patria y estos Santos Evangelios desempeñar fielmente el cargo de Diputado y obrar en todo de conformidad con lo que prescribe la Constitución Nacional?”</p> <p>- “Sí, juro.”</p> <p>- “Si así lo hicierais, Dios os ayude; y si no, Él y la Patria os lo demanden”</p> <p><i>Translation:</i></p> <p>- “Do you swear by God, the Country and these Holy Gospels to faithfully discharge your duties as representative and duly perform the duties of your office in accordance with the prescriptions of the National Constitution?”</p> <p>- “Yes, I do.”</p> <p>- “So help you God. Should you fail in doing so, be demanded by Him and the Country.”</p>
3.	<p>- “Juráis por Dios y la Patria desempeñar fielmente el cargo de Diputado y obrar en todo de conformidad con lo que prescribe la Constitución Nacional?”</p> <p>- “Sí, juro.”</p> <p>- “Si así lo hicierais, Dios os ayude; y si no, Él y la Patria os lo demanden”</p> <p><i>Translation:</i></p> <p>- “Do you swear by God and the Country to faithfully discharge your duties as representative and duly perform the duties of your office in accordance with the prescriptions of the National Constitution?”</p> <p>- “Yes, I do.”</p> <p>- “So help you God. Should you fail in doing so, be demanded by Him and the Country.”</p>
4.	<p>- “¿Juráis por la Patria desempeñar fielmente el cargo de Diputado y obrar en todo de conformidad con lo que prescribe la Constitución Nacional?”</p> <p>- “Sí, juro.”</p> <p>- “Si así no lo hicierais la Patria os lo demande”</p> <p><i>Translation:</i></p> <p>- “Do you swear by the Country to faithfully discharge your duties as representative and duly perform the duties of your office in accordance with the prescriptions of the National Constitution?”</p> <p>- “Yes, I do.”</p> <p>- “Should you fail in doing so, be demanded by the Country.”</p>

<p style="text-align: center;"><i>Senado</i> (Senate)</p>	
1.	<p>- “<i>Juráis a la Patria, por Dios y estos Santos Evangelios, desempeñar debidamente el cargo de senador que ella os ha confiado para el Congreso Legislativo Federal de la Nación Argentina, y obrar en todo de conformidad con lo que prescribe la Constitución Nacional?</i>”</p> <p>- “<i>Sí, juro.</i>”</p> <p>- “<i>Si así no lo hicieréis Dios y la Patria os lo demanden</i>”</p> <p><i>Translation:</i></p> <p>- “Do you swear the Country by God and these Holy Gospels to faithfully discharge the duties as senator that the country has entrusted you in order to fill a seat in the Federal Legislative Congress of the Argentine Nation and duly perform the duties of your office in accordance with the prescriptions of the National Constitution?”</p> <p>- “Yes, I do.”</p> <p>- “Should you fail in doing so, be demanded by God and the Country.”</p>
2.	<p>- “<i>¿Juráis a la Patria, por Dios, desempeñar debidamente el cargo de senador que ella os ha confiado para el Congreso Legislativo Federal de la Nación Argentina, y obrar en todo de conformidad con lo que prescribe la Constitución Nacional?</i>”</p> <p>- “<i>Sí, juro.</i>”</p> <p>- “<i>Si así no lo hicieréis, Dios y la Patria os lo demanden.</i>”</p> <p><i>Translation:</i></p> <p>- “Do you swear the Country by God to faithfully discharge the duties as senator that the country has entrusted you in order to fill a seat in the Federal Legislative Congress of the Argentine Nation and duly perform the duties of your office in accordance with the prescriptions of the National Constitution?”</p> <p>- “Yes, I do.”</p> <p>- “Should you fail in doing so, be demanded by God and the Country.”</p>
3.	<p>- “<i>¿Juráis a la Patria desempeñar debidamente el cargo de senador que ella os ha confiado para el Congreso Legislativo Federal de la Nación Argentina, y obrar en todo de conformidad con lo que prescribe la Constitución Nacional?</i>”</p> <p>- “<i>Sí, juro.</i>”</p> <p>- “<i>Si así no lo hicieréis, la Patria os lo demande</i>”</p> <p><i>Translation:</i></p> <p>- “Do you swear the Country to faithfully discharge the duties as senator that the country has entrusted you in order to fill a seat in the Federal Legislative Congress of the Argentine Nation and duly perform the duties of your office in accordance with the prescriptions of the National Constitution?”</p> <p>- “Yes, I do.”</p> <p>- “Should you fail in doing so, be demanded by the Country.”</p>

Table 4: Form of oath – Congress of the United States of America
(Fórmula de juramento – Congreso de los Estados Unidos de América)

Form of oath used in the United States of America <i>(Fórmula de juramento usado en los Estados Unidos de América)</i>
<p>“I, [A-B], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic, that I will bear true faith and allegiance to the same, that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.”²⁸</p> <p><i>Traducción:</i> Yo, A-B, solemnemente juro (o declaro formalmente) que apoyaré y defenderé la Constitución de los Estados Unidos contra todo enemigo, externo o interno, que le guardaré absoluta fidelidad y lealtad, asumiendo libremente esta obligación, sin reserva ni propósito evasivo alguno, y también, que desempeñaré con idoneidad y fidelidad el cargo que asumo. Ayúdame Señor.</p>

²⁸ Johnson, Charles W., *House Parliamentarian: Constitution, Jefferson's Manual and Rules of the House of Representatives*, Washington, U.S. Government Printing Office, 1999, p. 80.

SECTION X

VACANCY

(Vacancia)

A vacancy is caused by a member's death or resignation or else, by action of the house. The member elected to fill a vacancy in a house seat (*el legislador que se elige para cubrir una vacancia*) shall only serve no longer time than the remainder of the term of the member whose place he fills (*sólo cumplirá el resto del mandato que le correspondía al miembro que reemplaza*).

Vacancy from death (*vacancia por fallecimiento*): The death of a member causes a vacancy.

Vacancy from resignation (*vacancia por renuncia*): The reasons for resignation (*la renuncia de un legislador a su banca*) may be political or personal reasons, questions of health, or the member's acceptance of another office (*por la aceptación de otro un cargo*).

Vacancy by action of the house (*vacancia por exclusión*): This kind of vacancy is produced when there is a vote to refuse to seat a member-elect due to election irregularities or a vote to expel a sitting member due to the member's wrongful discharge of his or her office (*mal desempeño de su función*).

Vacancy from declination (*vacancia por declinación*): It takes place when the member who has been elected to a seat declines to accept it (*cuando el miembro electo no acepta su banca*).

SECTION XI

QUORUM (*Quórum*)

According to María Moliner's *Diccionario de uso del Español*, the Latin word *quorum* (whom) is the plural for *qui* (who) and it was generally used at the beginning of the legal formula which determined the number of members at an assembly necessary for the validity of a treaty.

In parliamentary law, this word refers to the minimum number of members necessary in a chamber or committee for the transaction of business (*para que una cámara pueda sesionar o para que se celebre una reunión de comisión*).

The Argentine Constitution states that a quorum must be present to conduct business (*establece que para entrar en sesión, una cámara deberá contar con el quórum legal*). This means, a majority of the house (*mayoría absoluta de sus miembros*). This means that more than half the membership of a chamber must be present (*la mitad más uno del número total de legisladores de una cámara*).

Although this is the general principle of the concept of “quorum”, a two-thirds majority is also required to adopt controversial decisions such as a constitutional amendment, exclusion of a member or an override (*reforma constitucional, exclusión de un integrante de la cámara o el rechazo de un veto presidencial*).

Manifestaciones en minoría – Congreso Argentino (Statements prior to the constitution of a quorum – Argentine Congress)

According to the Argentine parliamentary practice, when the time fixed to call the house to order has arrived and there is no initial quorum to conduct business (*si*

llegada la hora establecida para comenzar la sesión no se ha producido quórum inicial), the members present may make the so called *manifestaciones en minoría* (*statements prior to the constitution of a quorum*), which shall be later reproduced in the Journal (*Diario de Sesiones*). This stage is interrupted when a quorum to transact business has been obtained, or else, when it has been decided to call the roll, which will lead to the opening of the debate or to its failure (*apertura de la sesión o su fracaso*).

Statements prior to the establishment of a quorum generally close when a live quorum necessary to call the house to order materializes (*concluyen cuando se forma el quórum legal para abrir la sesión*). Without a quorum, a meeting has no official character and it cannot be considered as a sitting, since it lacks a quorum, which is a constitutional requisite.

These statements prior to the constitution of a quorum do not exist in the American parliamentary procedure, and when a quorum is not present, the only business in order (*el único tema que se puede tratar de acuerdo con el procedimiento*) is a motion to adjourn (*moción de levantamiento de la sesión*) or a motion to direct the Sergeant-at-Arms²⁹ to request or to compel the attendance of the absentees.

The American Senate further provides for the option of a motion to arrest absent Senators and bring them to the Senate floor, in the event the earlier motions to request or to compel failed to produce results.

Once the house has been called to order, the case may be that the house continues with the transaction of business in the absence of a quorum (*una vez abierta la sesión, puede ocurrir que la cámara se quede sin quórum pero que continúe sesionando válidamente*). This happens when it is decided to allow more and longer speeches (*cuando se decide aumentar el número de oradores y prolongar el tiempo de*

²⁹ Term developed in Section XLIX “Officers and Assistants – U.S. Congress”

uso de la palabra). However, when a question is put to a vote (*en el momento en que un asunto se pone a votación*), the presence of a quorum is immediately verifiable, for the vote count reveals whether or not a quorum is present. If the presence of a quorum is not ascertained, the immediate suspension of business shall follow (*si no se forma quórum, ello motivará el levantamiento automático de la sesión*). With the purpose of avoiding this state of affairs the chamber may decide to postpone the vote, on order to avoid the members from walking out of the floor. However, in such circumstances, the customary practice in the Argentine chambers is that the chair declares a recess until a time certain (*la presidencia invita a pasar a cuarto intermedio para otro día*).

“Live quorum” (*el verdadero quórum*) indicates the exact number of members present as of the beginning of a sitting. Nevertheless, the meaning of “quorum” as “the absolute majority of the house” has caused some conflicting opinions because in case of an odd-numbered membership, the absolute majority is not always “more than half the members of the chamber” for purposes of forming a minimum quorum for the transaction of business (*no siempre corresponde a la mitad más uno de sus miembros que constituye el quórum mínimo para sesionar*).

The political decision of not giving a quorum with the purpose of delaying the house business (*obstruir el tratamiento de un proyecto*) is frequent in the Argentine Congress and, in very contentious periods, as occurred in the American Capitol as well.

In the late nineteenth century, the Minority’s dilatory and obstructionist tactics (*tácticas dilatorias de la minoría*) prevented the U.S. House from passing bills important for the party in power in the government (*vitales para el oficialismo*). Then Thomas Brackett Reed, who served as Speaker (*ocupó la presidencia*) during the periods 1889-1891 and 1895-1899, exceeded the ample powers conferred to him by his office, and with the purpose of keeping a live quorum on the floor, disregarded motions

and appeals legally made by the members because he considered them as dilatory tactics. He also took severe steps to avoid the so called “disappearing quorum” (*quórum evasivo*) or “silent quorum” (*quórum mudo*), that is to say, the absence of a quorum caused by the members who, though being present, refused respond to the roll call.

For the count of a quorum (*cálculo del quórum*), Brackett Reed took into consideration all the members present, disregarding their will not to cast a vote. Then, he ordered to close all doors of the floor, to avoid the exit of those who were ready to deny a quorum (*negarse a dar quórum*). In response, many members hid themselves behind their seats in order to be considered as absent, thus denying the quorum and obstructing business.

Speaker Brackett Reed received not just a few appellatives. He was said to be despotic, tyrannical and dictatorial. However, the extreme measures put into practice by him became beneficial for the future, since a rule was adopted to establish a quorum with the actual number of members present, paying no attention to whether or not they responded to the roll call (*sin tener en cuenta si respondían al pase de lista o no*).

The establishment of a quorum is still as difficult an undertaking as it has ever been throughout the Argentine and American legislative history. In this regard, I find it appropriate to remember that the first session of the American Congress failed due to the absence of a quorum, in spite of repeated calls in the House. The said session had been scheduled to be held in New York on March 4, 1789, but on that day only thirteen out of the fifty-nine members-elect appeared. As a result, the House adjourned every day until, finally, on April 1 a quorum was obtained with thirty members present. With long distances traveled largely by horseback, failed quorums were a regular and frustrating feature of the early sessions of the U.S. Congress.

Moving to our modern era, the significant electronic progress of the last few years has also reached the legislative chambers. Electronic devices have become very important to the count of a quorum. Nevertheless, it sometimes continues to be difficult to obtain. Some members may not be present when the question is put (*en el momento de votar*), or at the time fixed for the opening of the debate (*hora reglamentaria para abrir la sesión*). It may happen that some members do not appear to constitute an initial quorum (*no se presentan para formar quórum inicial*) or that others temporarily or definitely leave the floor at some point during the debate. This situation is due to the fact that the number of members on the floor is not always steady throughout the sitting. To determine whether a quorum is present or not (*para comprobar la existencia de quórum*), any member may request the roll call and the immediate suspension of business (*puede solicitar un pase de lista y el inmediato levantamiento de la sesión*).

SECTION XII

SESIONES DE PRÓRROGA³⁰ Y SESIONES EXTRAORDINARIAS – CONGRESO ARGENTINO

*(Sittings after a sine die adjournment
and special session – Argentine Congress)*

Sesiones de prórroga *(Sittings after a sine die adjournment)*

Sittings after a *sine die* adjournment are characteristic of the Argentine parliamentary law but there is not any similar sitting in the U.S. Congress.

Once the Argentine chambers have adjourned at the time fixed by the Constitution (November 30), their sessions may be extended. Upon request of the chambers, the Executive Branch convenes them to sit after a *sine die* adjournment whenever it is necessary to continue in session beyond the end of the period constitutionally established (from March 1 to November 30), and as long as “a grave interest of order or progress” exists.

Moreover, as regards the constitutional provision that empowers the President to extend the sessions of Congress, there are several opinions that hold that the Legislative Branch may convene by itself (*puede autoconvocarse*) since this kind of session is nothing else but an extension of a regular session. However, Argentine constitutional history does not offer any example of this fact.

³⁰ Expression developed in Section XIII “Research of the terms ‘prorogue’ and ‘prorogation’ used in the British Parliament and the terms ‘prorrogar’ and ‘prórroga’ used in the Argentine Constitutional Law”.

Special session
(*Período de sesiones extraordinarias*)

Both the Argentine and the American Constitutions empower the President to convene Congress into special session. While the U.S. Constitution states that this shall take place “on extraordinary occasions”,³¹ the Constitution of Argentina states that the President shall convene the houses into “extraordinary session”, that is, “into special session” whenever “matters of grave interest of order or progress so requires”.³² Thus, “special session” refers to “a session of Congress convened by the President, under his constitutional authority, after Congress has adjourned *sine die* at the end of a regular session”.³³

In Argentina, the President calls the Congress into special session by means of a Congress-convening decree countersigned by the Head of the Cabinet (*decreto de convocatoria refrendado por el jefe de gabinete de ministros*). When a certain matter is sent to Congress for its consideration during special session, the chambers have ample powers to discuss it; besides, they usually send the Executive Branch a number of bills to be included in the Congress-convening decree.

In the United States, the President issues a proclamation convening Congress on the date stated. However, this is rare in recent years. One of the last times a President called Congress into special session was in July, 1948 when President Truman did so out of irritation that Congress had not completed his legislative agenda before adjourning. It was widely acknowledged then and now as a sheerly political act. After eleven days of special session, when Congress had still not enacted the desired bills,

³¹ Constitution of the United States of America, Article II, Section 3.

³² Constitución de la Nación Argentina, artículo 99, inc. 9.

³³ Kravitz, Walter: *American Congressional Dictionary*, 2nd Edition, Washington, D.C., Congressional Quarterly Press, 1997.

President Truman took to the campaign trail calling it the “Do-Nothing Congress”, a still famous phrase for politicians.

SECTION XIII

**RESEARCH OF THE TERMS “PROROGUE” AND
“PROROGATION” USED IN THE BRITISH PARLIAMENT
AND THE TERMS *PRORROGAR* AND *PRÓRROGA* USED
IN ARGENTINE CONSTITUTIONAL LAW**

(Investigación de las voces “prorogue” y “prorogation” usadas en el Parlamento Británico y las voces “prorrogar” y “prórroga” usadas en el Derecho Constitucional Argentino)

According to the Constitution of Argentina (Section 99 clause 9), the Executive Branch “*prorroga las sesiones ordinarias del Congreso, o lo convoca a sesiones extraordinarias, cuando un grave interés de orden o de progreso lo requiera.*” By this provision it is understood that the Executive Branch is constitutionally empowered to extend regular session of Congress, that is to say, to convene the chambers to sit after a *sine die* adjournment, whenever it is necessary to continue in session beyond the end of the period constitutionally established (from March 1 to November 30) and to also convene them into special session, and as long as “a grave interest of order or progress” exists.

Note must be taken that the word used in the Argentine Constitution is *prorrogar* which, according to Argentine constitutional practice, denotes “to extend”.

In compliance with the constitutional text, the rules of procedure of the Argentine Congress include the “sittings after a *sine die* adjournment” which are held pursuant to the president convening after a *sine die* adjournment.

Juan Bautista Alberdi’s 1853 constitutional text, already mentioned the verb *prorrogar* in its Sections 52 and 83 clause 12, in relation to the extension of regular session and this has been the meaning attributed to the said term since then.

These sittings have always been a highly controversial matter. In his decree of January 25, 1908, Figueroa Alcorta³⁴ already expressed that “the extension of regular session of Congress is against the text and spirit of the Constitution, which prescribes that it can only be in session during five months”.³⁵

It has been difficult for me to translate into English the true meaning of the word *prorrogar*, as it is used in the Argentine Constitution, since, on the one hand, it does not exist in the U.S. constitutional system and on the other hand, the motive to extend a session in Argentina, that is, *prorrogar las sesiones*, is “a grave interest of order or progress”, that is to say, the same reason as that to convene a special session.

Taking these facts into account, and the doctrinal disagreement which has ever existed regarding *sesiones de prórroga* (*enlarged session*), I decided to carry out careful research on the Spanish word *prorrogar* and its origins.

With this purpose, I read our first constitutional drafts, where I found that the verb *prorrogar* carried a different meaning from that inferred in later years.

The research carried out of the English verb “to prorogue” and its noun “prorogation” led me to the British Parliament, which was undoubtedly taken as one of the sources to draft the Argentine Constitution and the rules of our parliamentary procedure. At present, the word in question appears in Orders No. 62, 73 and 83 of the Standing Orders of the House of Lords and refers to one of the ways a session of Parliament is brought to an end by an exercise of the royal prerogative.

According to British Parliamentary Law, the termination of a session of Parliament may be effected by adjournment (*receso*), prorogation (*clausura*) or dissolution (*disolución*) ordered by the crown. Prorogation is similar to dissolution as

³⁴ Figueroa Alcorta, José (1860-1931): President of Argentina from 1906 to 1910.

³⁵ Frías, Pedro: *¿Clausura del Congreso?*, Buenos Aires, La Ley, T. 1990-B, Sec. Doctrina, p. 1227: “La prolongación de las sesiones del Congreso es contraria a la letra y al espíritu de la Constitución, la cual prescribe que sólo debe sesionar durante cinco meses.”

regards its effects. Both measures produce the end of a session and all bills lapse, having to be reintroduced in the new session. In other words, all parliamentary business is suspended. All the initiatives without the Royal Assent automatically lapse and, in the same way, all committees finish the transaction of business, unless provision is made on the contrary.

It is important to point out that the “Constitución Política de la Monarquía Española” (*Political Constitution of the Spanish Monarchy*) promulgated on March 19, 1812, does not mention the said prerogative and the French Constitution of 1791 does not provide it either.

As aforesaid, the American Constitution does not mention the word “prorogue” or “prorogation” in any of its provisions because these terms belong to the prerogative of a monarch and not to the Executive Branch of a republic. When referring to the date of ending a session of Congress, the American Constitution uses the word “adjourn” (*levantar las sesiones*). Its Article II Section 3 establishes that in case of disagreement between the houses with respect to the time of adjournment, the president “may adjourn them to such time as he shall think proper.”

Having made this caveat, there is nothing else left but acknowledging that the Spanish term *prorrogar* appearing in the Argentine Constitution denotes a truly different meaning from that given to it as from 1853. In fact, Section 99 clause 9, which states that the Executive Branch *prorroga las sesiones ordinarias del Congreso* (*convenes the chambers to sit after a sine die adjournment*), should be understood as *clausura las sesiones ordinarias del Congreso* (*prorogues regular session*), such as it is the prerogative of the English crown.

In support of the result of the research on the bilingual correspondence of the verb “prorogue” and its noun “prorogation”, I hereafter transcribe the meaning of the said terms according to the referenced reliable sources.

Text from authorized source (<i>Texto de fuente autorizada</i>)	Translation into Spanish (<i>Traducción</i>)
To prorogue ³⁶ : (3a) To adjourn (as in parliament) to a specific day by prerogative act of the British crown.	<i>Clausurar el período ordinario de sesiones hasta una fecha determinada mediante acto de prerrogativa de la Corona británica.</i>
Prorogation ³⁷ : The end of a session.	<i>Finalización de un período de sesiones.</i>
Prorogation ³⁸ : A postponement, specially in Great Britain, the termination without dissolution of a session of parliament by discontinuing the meeting until the next session. A prorogation of parliament affects both houses, and thus differs from an “adjournment”, which does not terminate the session and is effected by each house separately by resolution.	<i>Aplazamiento, especialmente en Gran Bretaña, la finalización sin “dissolution” (disolución) de un período de sesiones del parlamento mediante la suspensión de sus reuniones hasta el siguiente período de sesiones. La “prorogation” (clausura) de las sesiones del parlamento afecta a ambas cámaras, y de este modo se distingue del “adjournment”, (receso), que no finaliza el período de sesiones y lo decide cada cámara por separado, mediante una resolución.</i>

³⁶ Webster’s Third New International Dictionary of the English Language - Unabridged, Massachusetts, USA, G. & C.; Merriam Company, Publishers, 1976.

³⁷ Evans, Paul: *Handbook of House of Commons Procedure*, 2nd edition, London, Vacher Dod Publishing Limited, 1999, p. 221.

³⁸ *Encyclopaedia Britannica* - Volume 18, William Benton, Publisher; Encyclopaedia Britannica, Inc. 1956.

<p>Prorogation³⁹: In English law, a prorogation is the continuance of the parliament from one session to another, as an adjournment is a continuation of the session from day to day.</p>	<p><i>En Derecho Inglés, “prorogation” es la continuación de la actividad del parlamento de un período de sesiones a otro, del mismo modo que un “adjournment” (receso) es la continuación de una sesión de un día a otro.</i></p>
<p>Prorogation⁴⁰: The bringing of a session of parliament to an end by an exercise of the royal prerogative. Bills lapse on a prorogation and must be reintroduced in the new session.</p>	<p><i>Finalización de un período de sesiones del Parlamento por ejercicio de una prerrogativa real. Cuando hay “prorogation” (clausura), los proyectos de ley caducan y deben volver a presentarse en la cámara durante el siguiente período de sesiones.</i></p>
<p>Prorogation⁴¹: The act by which the Queen brings a session of Parliament to an end. Parliament is then said to be “prorogued” until the day named for its next meeting.</p>	<p><i>Acto por el cual la Reina concluye un período de sesiones del Parlamento. Se dice, entonces, que el período de sesiones del Parlamento está “prorogued” (clausurado) hasta el día designado para su próxima reunión.</i></p>

With respect to the research of the Spanish verb *prorrogar* used in our National Congress during the past one hundred and fifty years, I referred to our constitutional drafts in search of the first time this word was used. To that end, I resorted to the long chronology written by Carlos Alberto Silva to whom the Argentine House of Representatives entrusted the writing of the Argentine parliamentary history, which he entitled *El Poder Legislativo de la Nación Argentina*. This monumental work includes, among many other documents, the transcription of the first constitutional drafts, such as the *Proyecto de Constitución para las Provincias del Río de la Plata* (Constitutional

³⁹ Black, Henry Campbell, M.A.: *Black’s Law Dictionary*, revised fourth edition, St. Paul, Minn., West Publishing Co. 1968.

⁴⁰ Burke, John: *Osborn’s Concise Law Dictionary*, Sixth Edition, London, Sweet & Maxwell, 1976.

⁴¹ Hawtrey, S.C. and Barclay, M.A.: *Abraham and Hawtrey’s Parliamentary Dictionary*, Third Edition, London, Butterworths & Co. (Publishers) Ltd., 1970.

draft for the Provinces of the Río de la Plata) written in 1812. Its Title XII Section 3 states:

“No prorrogará sus sesiones ninguna de las cámaras por más de tres días sin el consentimiento de la otra.”

Translation:

“Neither house shall prorogue its sessions for more than three days without the consent of the other”.

This provision greatly resembles Article I Section 5 clause 4 of the U.S. Constitution which says “Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days.” From the reading of these two paragraphs, it is unmistakably assumed that the framers of the *Proyecto de Constitución para las Provincias del Río de la Plata* of 1812 included in it part of the text of the U.S. Congress, which had been ratified in 1788. To this respect it is significant to note that the term used by our framers was not “adjourn” as used in the U.S. Constitution but “prorogue”, as used in the British Parliament, which meant, and still means, **“to bring a session to a close by a royal prerogative.”** In other words, they chose the British “prorogue” instead of the American “adjourn”, thus eliminating the context of a republic.

In spite of the fact that the *Proyecto de Constitución para las Provincias del Río de la Plata* mentions *prórroga de las sesiones legislativas* meaning “suspension of a session of Congress”, the term *prórroga* stopped being used in the many constitutional drafts that continued evolving in the following years, such as the *Estatuto Provisorio de la Provincia de Santa Fe* of 1819, the *Reglamento Provisorio para el Régimen y Administración de la Provincia de Córdoba* of 1821, *Estatuto Provisorio Constitucional de la Provincia de Corrientes* of 1821, *Estatuto Provisional Constitucional de la*

Provincia de Entre Ríos of 1822, *Reglamento Constitucional para la Nueva Provincia de Catamarca* and *Constitución de la República Argentina* of 1826.

These early constitutional drafts mention the special session but keep silent as regards the sittings after a *sine die* adjournment. However, what can be observed in these documents is the persistent European influence upon our forerunners engaged in framing our Constitution, who were men from Buenos Aires and from various other provinces as well. They insisted on including British-spelled terms and even proposals to address the deputies as “Your Highness”. This fact can be observed in the *Constitución de la Provincias Unidas en Sud América* of April 22, 1819.

Throughout the reading of the Argentine constitutional backgrounds, it appears that the uncertainty in the use of the Spanish language in our country is repeatedly shown all over the many constitutional proposals, as well as in the writing of the *Reglamento de Debates* (Rules of Debate) passed on February 9, 1853. While its Section 1 states that *los diputados...* (the deputies) it afterwards reads *la Casa de la Representación*, thus making clear allusion to the House of Representatives of the United States. In these same rules it may be also observed the words *oficiales y sirvientes* (from the English “officers and servants”), when in fact, it should have appeared *autoridades y empleados (de la Cámara)*. Likewise, the Rules of Procedure of 1822 mention the presence of two *porteros* in the house, thus making obvious reference to the British and American “Doorkeeper”. It is evident that it was not taken into account that in the British Parliament as well as in the American Congress, the Doorkeeper was an officer appointed by the chamber, who was in charge of multiple responsibilities regarding safety and security, caretaking and maintenance of the property and buildings of the British Parliament and the American Congress.

After forty-one years, the term *prorrogar*—which had been included in no Argentine constitutional draft after 1812—unexpectedly reappeared in a new constitutional text. This time, the term had a different connotation from that of 1812. Now it was written in our 1853 National Constitution but its meaning was not related to the suspension of a session of Congress any longer but to the extension of a regular session.

Conclusions (*Conclusiones*)

- 1) The early meaning given to the Spanish word *prorrogar*, as synonym of “bringing a session to an end” was later rejected. The new interpretation of the term, which has been accepted up to the present, is “continue or extend the session after a *sine die* adjournment”. Later, the so called “sittings after a *sine die* adjournment” appeared.
- 2) Probably, the preference for the term *prorrogar* in the 1812 Argentine constitutional draft was an intentional choice which appealed to monarchic interests, ideas and ambitions of the early nineteenth century. The real meaning it conveyed was that of closing a session. Thus the Executive Branch was given the prerogative of bringing a session of Congress to an end, such as in the prerogative of an English monarch.
- 3) With respect to the powers of the Executive Branch, Article II Section 3 of the U.S. Constitution states that:

“... he may..., on extraordinary Occasions convene both Houses, or either of them, and in Case of Disagreement between them, with

Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; ...”

Translation:

(El Presidente) “... en ocasiones extraordinarias, puede convocar a ambas cámaras o a cualquiera de ellas, y en caso de desacuerdo entre ellas con respecto a la fecha para levantar sus sesiones, podrá disponer el levantamiento de las sesiones hasta el momento en que lo considere apropiado; ...”

In the said text it is important to note that the word “adjourn” was selected to make reference to the end of a session. Although the American Constitution’s origins are the uses and customs of the early British colonies on American soil and although the framers of the U. S. Constitution continued using some of the terms the British Parliament had used for centuries (for example, “house”, “chair”, “speaker”, “whip”, sergeant-at-arms”⁴², “doorkeeper”), they avoided including words connected with the British monarchic system. For this reason, they used “adjourn” and left “prorogue” out.

On this topic, Joseph Story⁴³ said:

“It is observable, that the duration of each session of Congress, (...) depends solely upon their own will and pleasure, with the single exception, (...) of cases, in which the two houses disagree in respect to the time of adjournment. In no other case is the president allowed to interfere with the time and extent of their deliberations. And thus their independence is effectually guarded against any encroachment on the part of the executive. Very different is the situation of parliament under

⁴² In the United Kingdom, “Serjeant at Arms”

⁴³ Story, Joseph: *Commentaries on the Constitution of the United States*, 3rd Edition, Volume I, Boston, Little, Brown and Company, 1858, p. 582, §843 (Biblioteca Reservada del Congreso de la Nación, Colección Reservada, Signatura N° CR 618).

British constitution, for the king may, at any time, put an end to a session by prorogation of parliament, or terminate the existence of parliament by dissolution, and a call of new parliament.”

Translation:

“Se observa que la duración de cada período de sesiones del Congreso, (...) depende de su sola voluntad, con la única excepción de aquellos casos (...) en los que las cámaras no llegan a un acuerdo en cuanto al momento de entrar en receso. En ningún otro caso se permite la intervención del presidente con respecto al tiempo de duración de sus deliberaciones. De este modo, se garantiza la independencia del Congreso contra todo intento de usurpación por parte del ejecutivo. De acuerdo con la constitución británica, la situación del Parlamento es diferente, ya que en cualquier momento el rey puede dar fin al período general de sesiones de cinco años mediante su clausura o bien por disolución y posterior convocatoria de un nuevo período de sesiones.”

Royal governors of most American colonies had exercised the same prerogatives as viceroys, so after dissolving the assemblies’ sessions, they refused to reassemble the representative bodies for a long period of time (*luego de disolver las sesiones de las asambleas, por largo tiempo se negaban a convocar a los cuerpos representativos a un nuevo período de sesiones*). Concern over that practice led to the imposition of a constitutional barrier against such abuse by the prerogative of the executive alone. The constitutions of the American states also include this provision in order to assure the independence of the legislature from the state’s governor.

- 4) I consider it important to point out that the enumeration of the king’s powers included in the *Constitución de Cádiz* of 1812 is similar to Section 83 of the 1853 Argentine Constitution with the only exception being that the Spanish text established that:

“No puede el Rey impedir, bajo ningún pretexto, la celebración de las Cortes en las épocas y casos señalados por la Constitución, ni

suspenderlas ni disolverlas, ni en manera alguna embarazar sus sesiones y deliberaciones.”

Translation:

“Under no pretext shall the king either avoid the assembling of the legislative bodies in the time and cases provided by the Constitution, or prorogue or dissolve them, and in any way obstruct the progress of their sessions and deliberations”.

It is obvious that the said provision emphasizes the great differentiation between the Spanish and the English crown’s prerogatives, and that it makes clear reference to the English royal prerogative of bringing a session of Parliament to an end by prorogation or dissolution.

- 5) In my view, the Spanish term *prorrogar* was deliberately used in the 1812 Argentine constitutional draft, as a translation of the English word *prorogue* used in the British Parliament. However, for some reason, the word was not used in the constitutional drafts of the following four decades – perhaps due to recognition by later parliamentarians that it had been misconstrued in the first place. When it reappeared, it had lost the early meaning and, instead, had acquired the present meaning, that is to say, “to extend the sittings of Congress beyond regular session”.
- 6) Each time I make reference to *sesiones de prórroga* in this Thesis, I call them “sittings after a *sine die* adjournment” although it would also be suitable to call them “extension sessions” in order to avoid confusion with “special sessions”, since they are also held during a *sine die* adjournment. It is evident that there is inconsistency in the application of the words *prorrogar* and *prórroga* as used in our Constitution. In fact, there exists a real confusion of terms and provisions, which, in the end, led

me to start my search of the real meaning and origin of *prorrogar* as it appears in the Argentine Constitution.

- 7) Finally, what I would like to make clear is that the word *prorrogar* in our constitutional context does not mean “extend” but “adjourn”, hence the *sesiones de prórroga* should not exist. Then, Section 99 clause 9 of our Constitution would be understood as:

“(El Presidente de la Nación) ‘Clausura’ el período de sesiones ordinarias del Congreso o lo convoca a sesiones extraordinarias cuando un grave interés de orden o de progreso lo requiera.”

Translation:

“(The President of the Nation) ‘prorogues’ regular session of Congress and convenes it into special session when a grave interest of order or progress so requires.”

However, as Argentina is not a monarchy, the word “prorogue” should not be used at all. Therefore, I assert that the accurate translation of a constitutional text for a republic is:

(The President) adjourns regular session of Congress and convenes it into special session when a grave interest of order or progress so requires. These are precisely the words used in the U. S. Constitution.

Having made this discovery, it is now the turn for our constitutionalists and the houses of Congress to analyze this situation and determine whether the word *prorrogar* should remain untouchable in the Argentine Constitution, giving to it either the present meaning or the old meaning, or else replace it with another term, which may render a more precise and accurate meaning.

SECTION XIV

PRESIDENTIAL MESSAGE TO CONGRESS ON ITS ASSEMBLING

(Mensaje presidencial en la inauguración del período de sesiones ordinarias)

In compliance with the constitutional provision, the president recommends to the Congress consideration of “such measures as he shall judge necessary and expedient”⁴⁴ (*“las medidas que juzgue necesarias y convenientes”*⁴⁵).

The messages annually delivered by the president during the opening day of regular session are mostly speeches in which he refers to the annual schedule of government, and announces his considerations and proposals on the economy of the country. He also makes a statement of the political and economic achievements of his administration and makes reference to the internal situation of the country and to its position with respect to the rest of the world.

Unlike the Argentine Constitution which states that the president shall deliver his annual message in person, the American Constitution says nothing about either the president’s presence before the chambers of Congress to deliver his message or an established time to do so. It just states that the president “shall from time to time give to the Congress information of the State of the Union...”⁴⁶ As a consequence of this, and in spite of the fact that in early times the American presidents would deliver their messages in person (*pronunciaban sus mensajes personalmente*), in 1801 Thomas Jefferson discontinued this practice, only transmitting his message in writing. In this way, he established a precedent that continued until President Wilson who, during the

⁴⁴ Constitution of the United States of America: Article II, Section 3.

⁴⁵ Constitución de la Nación Argentina: Artículo 99, inc. 8.

⁴⁶ Constitution of the United States of America: Article II, Section 3.

opening of congressional sessions in 1913 (*ceremonia de apertura del período de sesiones ordinarias del Congreso*) renewed the old usage of delivering his message in person before a joint session of Congress (*la antigua usanza de dirigirse a las cámaras reunidas en asamblea legislativa*). With the purpose of listening to the presidential message, the houses of Congress assemble in joint session in the chamber of the House of Representatives. Should the president send his message in writing, both houses will receive the corresponding communication on the same day and assemble in joint session for its reading.

While in Argentina the president delivers the “state of the Nation address” (*da cuenta del estado de la Nación*), in the United States the president delivers “the state of the Union address” (*da cuenta del estado de la Unión*). This name is attributed to Franklin Roosevelt, who in 1934 identified the text of his message as his “annual message to Congress on the state of the Union”. According to this description of the presidential message, some mayors started delivering their “state of the city reports” (*informes sobre el estado de la ciudad*) and following this tendency, certain governors began to call their speeches “state of the state speeches” (*informes sobre el estado del estado*).

SECTION XV

LEGISLATIVE PROPOSALS

(Propuestas legislativas)

The legislative proposals may be originated in different ways. Generally, they may originate in either chamber, thus one of the chambers is called the “first chamber” (*cámara de origen*) and the other one is called “second chamber” (*cámara revisora*) with respect to a specific bill.

Some legislative initiatives (*iniciativas legislativas*) may be the result of a legislative plan proposed in the electoral campaign (*campana electoral*) during which the candidate (*candidato*) has committed himself to introduce a certain proposal in Congress, in case he is elected. Other legislative initiatives may be the outcome of the interchange of ideas among committee members (*miembros de comisión*) in view of the need of amending some existing legislation or filling a gap in new areas lacking legislation (*ante la necesidad de modificar alguna ley existente o de llenar un vacío en nuevas áreas aún carentes de legislación*), or else, as a needed response when the committee has considered a certain matter which has not yet been formally introduced (*alguna iniciativa no ingresada formalmente a la cámara*). In such a case, the legislation is drafted in committee and then introduced by the committee chairman (*el proyecto se redacta en la comisión y lo presenta su presidente*). Other legislative proposals may be introduced “by request”, meaning at the behest of another party not constitutionally able to introduce legislation directly. When Members of Congress introduce legislation “by request”, it is understood that they do so out of professional courtesy and not necessarily as an endorsement of the proposal.

A legislative initiative must be introduced in writing and also must be duly signed by a Member of Congress. In the Argentine houses, the findings and purposes of bills (*fundamentación de los proyectos de ley*) must also be in writing and shall be introduced together with the bill. As regards the other initiatives – such as declarations (*proyectos de declaración*) – the findings and purposes may be presented orally by their sponsors (*autores del proyecto*).

The legislator signing a proposal is called “sponsor” (*autor del proyecto*) and this sponsorship (*autoría*) may be shared by other members interested in the same initiative. In this case it is said to be “joint sponsorship” (*coautoría*), then the initiative is introduced by two or more members jointly (*dos o más miembros presentan el proyecto en forma conjunta*). In other words, the initiative carries several members’ names co-sponsoring the bill (*la iniciativa está firmada por varios legisladores que acompañan*). It is important to state that there is no requirement for a specific number of co-sponsors (*coautores*).

In the American parliamentary system there are two kinds of co-sponsors:

- 1) **Original co-sponsors** (*coautores originales*): They are those members who jointly sponsor a measure when introduced (*en el momento de presentarla*)
- 2) **Additional co-sponsors** (*coautores adicionales*): They are those who join the sponsorship of a measure after introduction (*luego de su presentación*).

There is no limit on the number of co-sponsors on a bill at the time of its introduction. As said before, a legislator may also introduce a measure “by request” of a third party, such as a government agency or a sector representing interests in a certain question. In most cases, the sponsors of these initiatives may not even have a real interest in their passing (*no tiene verdadero interés en que se sancionen*). In fact, they

only may be introducing them in order to fulfill some political pledge (*compromiso de tipo político*) out of professional courtesy. In the Congress of the United States this condition is usually pointed out by adding the words “by request” (*a pedido*) following the sponsor’s signature on the face of the bill. In the Congress of Argentina, this requisite is not necessary.

While in the Argentine houses, the legislative proposals are introduced through the Legislative Secretary of the corresponding chamber (*Secretaría Parlamentaria*), the members of the American houses introduce them by delivering them to a clerk in the chamber when their house is in session. House Members are said to “drop a bill in the hopper” (*presentar un proyecto de ley en la Cámara*), that is to say, they may introduce their bills and resolutions by depositing them into the “hopper”, which is a mahogany box on the clerk’s desk in the House chamber. Senators simply hand a proposed bill to a clerk at the rostrum.

From the moment a bill is introduced in a chamber, its legislative process starts (*comienza su trámite parlamentario*). The first step is the assignment of a number and its referral to the committee which will be in charge of its consideration and report (*giro a la comisión que estará encargada de su estudio y despacho*).

According to their origin, initiatives are identified by a letter followed by a correlative number, corresponding to the order of their introduction (*de acuerdo con el orden de presentación*). This numbering starts with each new session, which in Argentina corresponds to one legislative year (*año legislativo*) and in the United States corresponds to the two legislative years which make a Congress (*dos años legislativos que constituyen un período bienal de sesiones ordinarias*). Therefore, those bills or resolutions originated in the Argentine *Cámara de Diputados* are identified by the letter “D” (in the United States, with the letters “HR”, for “House of Representatives”) and

those originated in the *Senado* are identified with the letter “S” (in the United States, also with an “S”, for “Senate”).

The legislative initiatives in the U.S. Congress are known as “bills” (*proyectos de ley*) and “resolutions” (*resoluciones*). Apart from *proyectos de ley* (bills) and *proyectos de resolución* (resolutions), in the Argentine Congress, several other initiatives are also introduced: *proyectos de declaración* (declarations), *proyectos de decreto* (legislative orders) and *proyectos de comunicación* (communications).

Bills (*Proyectos de ley*)

Undoubtedly, “bills are the raw material of congressional business”,⁴⁷ since they are the only vehicle for the passing of legislation. Members introduce their initiatives as bills whenever they wish to express propositions which then must follow the legislative process constitutionally established for the passing of laws. According to their content and the required process they have to undergo, bills are grouped in three main categories:

- 1) Those which lack support (*falta de respaldo*) and therefore, don’t go further than their committee referral (*giro a comisión*).
- 2) Those bills whose matter is routine business, but are all the same necessary. Their legislative process is quick and they are not liable to find either opposition or dilation.
- 3) Those bills which include propositions of great public interest, which sometimes are originated in government agencies or highly influential private organizations.

⁴⁷ Zwirn, Jerrold: *Congressional Publications – A Research Guide to Legislation, Budget, and Treaties*, Colorado, Libraries Unlimited, Inc. Littleton, 1983, p. 105

Bills may be introduced in either of the two houses of Congress and although the U.S. Congress establishes that they must be introduced only by members, the Argentine Constitution states that the Executive Branch and citizens may also do so.⁴⁸ According to the 1994 constitutional amendment, “citizens (of Argentina) have the right to introduce bills (*tienen derecho de iniciativa*) in the House of Representatives”, except in the cases of those bills dealing with a constitutional amendment (*reforma constitucional*), international treaties (*tratados internacionales*), taxes (*tributos*), budget (*presupuesto*) or criminal rules (*normas penales*).

While most bills are usually introduced by members of Congress, with increasing frequency the Executive is sending its messages (*mensajes*) to be considered by the chambers. These bills are part of the president’s plan of legislative action and sometimes form part of a package of proposals (*paquete de propuestas*) which are generally economic. Said packages are known as omnibus bills (*leyes ómnibus*) and include a number of measures to be adopted. Although these measures do not always bear a real relation to each other, all of them tend towards the fulfillment of the same plan.

The U.S. Congress differentiates between two kinds of bills, according to their content: “public bills” (*proyectos de ley de carácter público*) and “private bills” (*proyectos de ley de carácter privado*). Even though the distinction between them is whether their content affects the nation as a whole or a single person or entity, the difference between one type and the other is not always clear.

Public bills (*proyectos de ley de carácter público*): Their content, either on domestic or international matters (*temas internos o internacionales*), affects the interests of the

⁴⁸ Constitución de la Nación Argentina, art. 77 y 39.

country at large. Once passed (*una vez sancionados*), these bills become “public laws” (*leyes de carácter público*).

The draft of a public bill takes account of several items, which all law-maker (*legislador*) must include:

- 1) **Title** (*título*): Also called “caption” or “long title” (*título completo*), it is the formal name under which the law shall be known.
- 2) **Enacting clause** (*cláusula de sanción*): It is the standard language used to begin all bills. In the American Congress, the one used is “Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled...”
The equivalent standard language used in the Argentine Congress is “El Senado y la Cámara de Diputados de la Nación Argentina reunidos en Congreso, ... decretan o sancionan con fuerza de ley.”
- 3) **Short title** (*título abreviado*): Short titles are also conferred, and it is the short title by which most bills are referred.
- 4) **Table of contents** (*contenido*).
- 5) **Declaration of purpose** (*propósito*).
- 6) **Definition of terms** (*definición de los términos utilizados en el proyecto*).
- 7) **Main body of the text in numbered titles and/or sections** (*cuero principal del texto con títulos y/o artículos numerados*).
- 8) **Exceptions and provisos** (*excepciones y disposiciones*).
- 9) **Amendments and repeals** (*modificaciones y derogaciones*)
- 10) **Separability clause** (*cláusula de preservación*): Whenever a legal disposition of a law is declared null and void, this clause permits that the nullification do not affect the rest of the law.
- 11) **Effective and expiration dates** (*fechas de vigencia y de expiración*).

Private bills (*proyectos de ley de carácter privado*): Generally, they are proposals directly affecting individuals and private institutions or agencies. The sponsor of this kind of bill may suggest that the bill be referred to a certain committee (*puede indicar el giro del proyecto*). Passage of these bills ought not to produce any further consequence on either the general public or the country's interests.

“Companion bills” or **“identical bills”** (*proyectos de ley idénticos que se presentan en ambas cámaras*) are characteristic of the U.S. Congress. They contain content that affects the public interest and are simultaneously introduced in both houses (*se presentan en ambas cámaras en forma simultánea*). The purpose behind simultaneous introduction is to show the urgency of the issue to be considered and speed up its legislative process (*agilizar el trámite legislativo*) via hoped-for simultaneous consideration by both bodies. In the Argentine Congress, some bills are also introduced in both houses; however, they are not necessarily identical and have no special name either.

“Clean bill” (*proyecto nuevo de autoría de la comisión, que surge de otro excesivamente modificado*) is another kind of bill used in the American House of Representatives. It originates in a committee where a bill has been heavily amended (*tiene origen en una comisión donde el proyecto original ha sufrido profundas modificaciones durante su tratamiento*). The committee has added so many amendments, additions and deletions agreed upon by the committee (*modificaciones, adiciones y extracciones*), that the draft has become quite messy. In general, the committee chairman is in charge of its reintroduction in the house as a clean bill (*el presidente de comisión es el responsable de la nueva presentación del proyecto a la*

cámara). Then, a new bill number is assigned to it upon introduction (*se le asigna un nuevo número*).

In the American Senate, the equivalent of a “clean bill” is an “original bill” (*proyecto de ley de autoría de la comisión que surge de otro excesivamente modificado*). It is not referred back to committee after introduction (*no requiere giro a comisión luego de su nueva presentación a la cámara*), but is considered originated by the committee upon its reporting it to the Senate floor.

Other legislative proposals in the Argentine Congress (*Otras propuestas legislativas en el Congreso Argentino*)

Proyectos de Resolución (resolutions): The *proyecto de resolución* is used to adopt measures relating to internal affairs of a chamber, to amend its rules of procedure (*modificar su reglamento*), to adopt resolutions of inquiry (*formular pedidos de informes al Poder Ejecutivo*) and any other imperative direction of a house. Should a resolution be adopted by both houses, it is called *resolución conjunta* (*concurrent resolution*).

Depending on whether a resolution is simple or concurrent, it becomes binding within one or both houses. Therefore, the scope of its effects is different from those of a law because they remain within the jurisdictional powers of a house or houses.

Neither the U.S. Congress nor the British Parliament mentions the *proyectos de resolución*. They simply make reference to *resolutions*. Under this term, they include the adopted resolutions and their respective drafts introduced in the houses. This fact encouraged me to conduct research into the origin of such an expression in Argentina. I found that it appeared in 1796, during the Directory of the French Republic as *projet de*

résolution. Likewise, the expression *proyecto de ley* appeared during the same period as *projet de loi*, having been already used in Spain during the sixteenth century.

Proyectos de Declaración (declarations): Both the Senate and the House of Representatives of Argentina use them to express their opinion as regards any public or private matter, and also to express their willingness to perform a certain action.

The *proyectos de declaración* are also used each time a chamber wishes to reaffirm its constitutional powers (*atribuciones constitucionales*). The chambers often use them to urge the Executive Branch to proceed in a certain direction and include statements for or against a certain action.

Proyectos de Decreto (legislative orders): These are propositions used in the Argentine Senate, the purpose of which is to express some special administrative decision.

Proyectos de comunicación (communications): They are characteristic of the Senate and are used whenever it is desired that the Senate propose an answer, request, recommendation or wish.

Proyectos de Oficiales Varios (messages from government agencies and departments): They are originated in some government agency or department.

Proyectos de Particulares (*petitions from individuals*): They are introduced in either of the chambers by any citizen.

Resolutions in the U.S. Congress
(Resoluciones en el Congreso Norteamericano)

The legislative chambers of the U.S. Congress consider three types of resolutions:

- 1) Resolutions (Res.), also known as “simple resolutions”.
- 2) Joint resolutions (J.Res.), which to the better understanding of the expression, I will translate as *resoluciones conjuntas con consecuencia de proyecto de ley*.
- 3) Concurrent resolutions (Con.Res.), which are similar to the *resoluciones conjuntas* used in the Argentine Congress.

Resolutions or simple resolutions (*resoluciones o resoluciones de cámara*): They are the resolutions adopted by one house alone. For short, they are identified as “H.Res.” or “S.Res.”, depending on which of the houses has adopted them. These initiatives are considered only in the house producing them and they do not need approval by the president (*no requieren promulgación*). Therefore, they are related to internal affairs of that single chamber, such as, for example, amendment of its rules of procedure (*reforma de su reglamento*) or committee assignments (*integración de las comisiones*).

To be effective (*para tener vigencia*), this kind of resolution only requires the favorable vote of the members of the house adopting it and it does not generate any legislative effect outside that house.

One kind of resolution widely used is the “resolution of inquiry” to the heads of executive departments, comparable to the *resolución de pedido de informes* of the Argentine Congress.

Concurrent resolutions (*resoluciones conjuntas*): For short, they are identified as “H.Con.Res.” or “S.Con.Res”, according to the house where they originate. They are used to consider and resolve questions inherent to both houses, but they are not enforceable outside of the Congress (*no tienen vigor fuera del Congreso*). In other words, as opposed to bills (*proyectos de ley*) and joint resolutions (*resoluciones que tienen fuerza de ley*), they do not need presidential approval (*promulgación del ejecutivo*) and therefore do not become law and are considered merely as resolutions adopted by both chambers of Congress.

Joint resolutions (*resoluciones conjuntas que tienen fuerza de ley*): Their abbreviations are “H.J.Res.” if they originate in the House of Representatives and “S.J.Res.” if they originate in the Senate. These resolutions not only require approval by both houses, but also need the approval of the president (*firma del presidente*). In this way, they are enforced the same as are bills and they are also subject to veto by the President (*sujetas al veto del presidente*).

However, there is a subtle difference between a bill and a joint resolution. The distinction between them is based on the tradition that joint resolutions are generally used for the consideration of a limited number of questions, such as, for example, the correction of some mistake in some previously passed legislation (*ley sancionada con anterioridad*) or the proposal of amendments to the Constitution (*propuesta de enmiendas a la Constitución*).

Joint resolutions are also used for “continuing resolutions” (CR), also called “continuing appropriations”, which according to their meaning, I translate as *resoluciones conjuntas que permiten que las áreas del gobierno puedan disponer de la utilización de fondos al comenzar un nuevo año fiscal, sin necesidad de esperar la*

sanción de la Ley de Asignaciones Anuales (Annual Appropriation Bill). Because measures continuing appropriations come in the form of a joint resolution they are commonly referred to as “continuing resolutions”.

Once passed by Congress and approved by the President, joint resolutions become public laws or private laws, as the case may be.

Resolutions and concurrent resolutions are said to be agreed to or adopted (*se aprueban*). Bills and joint resolutions are said to be passed (*se sancionan*). While after passage a bill becomes an act (*ley*), a joint resolution does not change its name but continues to be a resolution.

Table 5: Abbreviations of resolutions used in the U.S. Congress
(Abreviaturas de las resoluciones usadas en el Congreso norteamericano)

Abbreviations <i>(Abreviaturas)</i>	Type of resolution <i>(Tipo de resolución)</i>
H.Res.	House Resolution <i>(Resolución de la Cámara de Diputados)</i>
S.Res.	Senate Resolution <i>(Resolución del Senado)</i>
H.Con.Res.	House Concurrent Resolution <i>(Resolución conjunta, con origen en la Cámara de Diputados)</i>
S.Con.Res.	Senate Concurrent Resolution <i>(Resolución conjunta, con origen en el Senado)</i>
H.J.Res.	House Joint Resolution <i>(Resolución conjunta que tiene fuerza de ley, con origen en la Cámara de Diputados)</i>
S.J.Res.	Senate Joint Resolution <i>(Resolución conjunta que tiene fuerza de ley, con origen en el Senado)</i>
CR	Continuing Resolutions <i>(Resolución que permite que las áreas del gobierno puedan disponer de la utilización de fondos al comenzar un nuevo año fiscal, sin necesidad de esperar la sanción de la Ley de Asignaciones Anuales)</i>

Table 6: Legislative proposals - Argentine Congress
(Propuestas legislativas - Congreso Argentino)

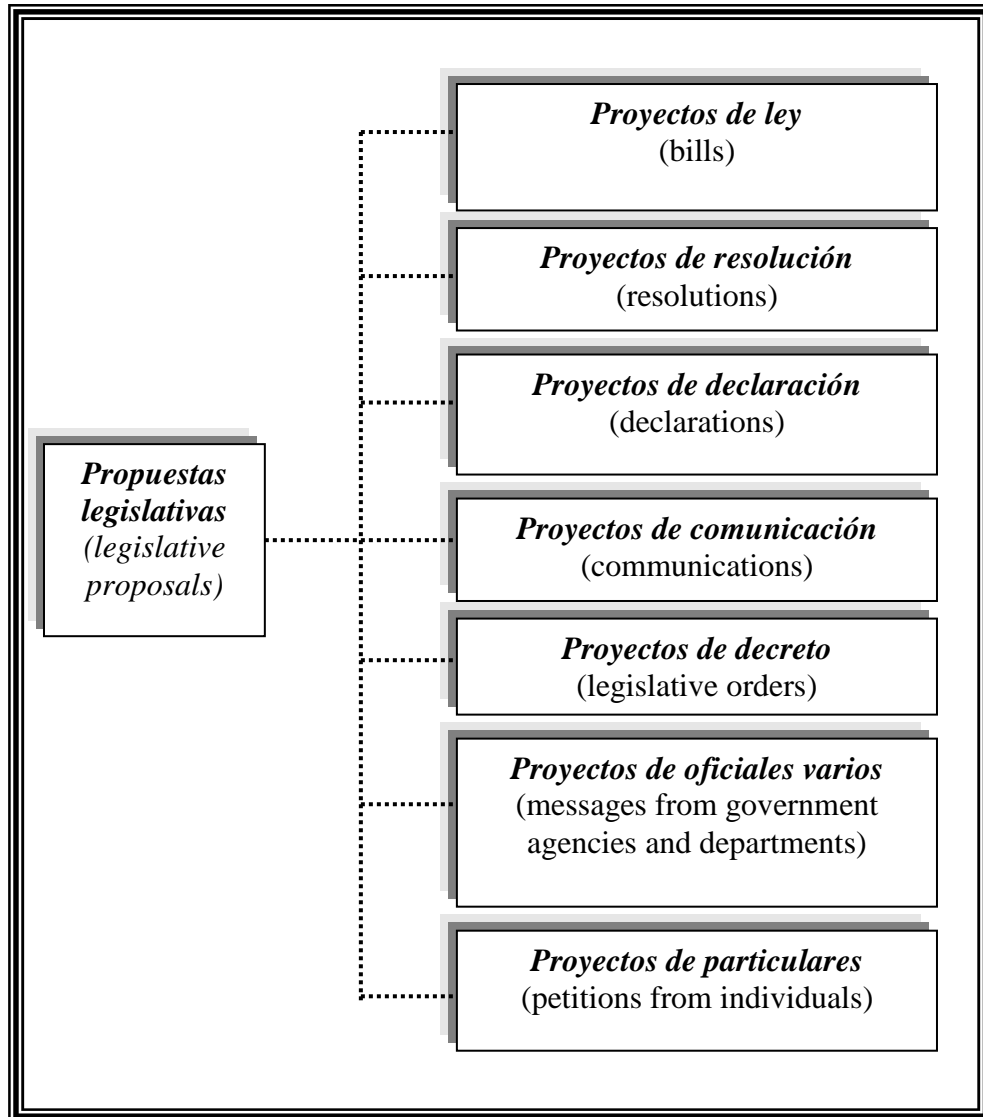


Table 7: Legislative proposals – U.S. Congress
(Propuestas legislativas - Congreso de los Estados Unidos)

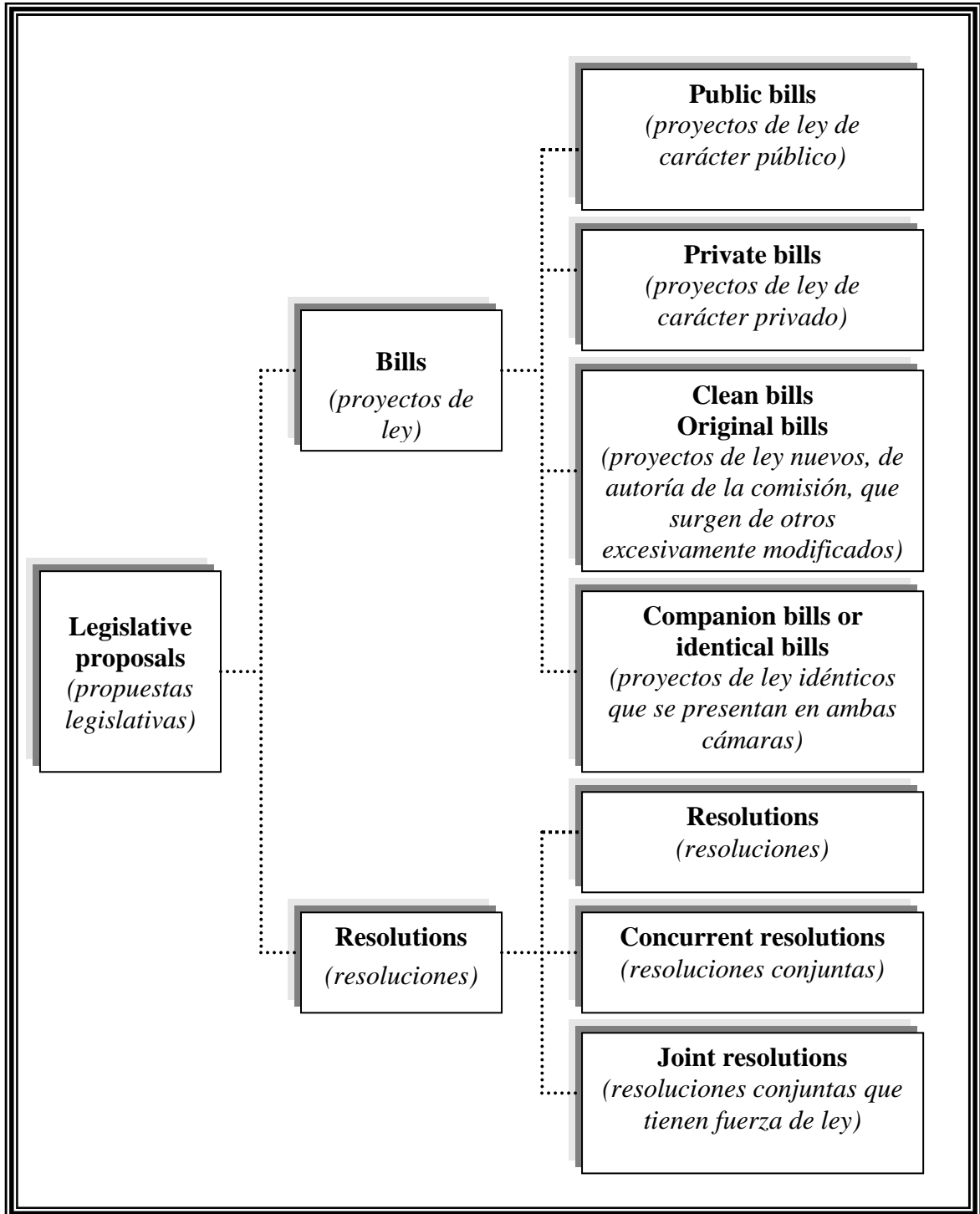


Table 8: Approval terminology - U.S. Congress
(Terminología utilizada en la aprobación de iniciativas legislativas - Congreso norteamericano)

Type of legislative initiative <i>(tipo de iniciativa)</i>	Approval terminology <i>(terminología usada en la aprobación de una iniciativa)</i>	Translation <i>(traducción)</i>
Bills and joint resolutions	→ are passed	<i>Los proyectos de ley y las resoluciones con fuerza de ley se sancionan.</i>
Simple resolutions, amendments, motions	→ are agreed to or adopted	<i>Las resoluciones de cámara, las modificaciones y las mociones se aprueban.</i>
Concurrent resolutions and amendments of the other house	→ are agreed to, adopted or concurred in	<i>Las resoluciones conjuntas y las modificaciones introducidas por la otra cámara se aprueban.</i>
Conference reports	→ are adopted	<i>Los dictámenes de la comisión bicameral de conferencia se aprueban.</i>
Points of order and rulings of the chair	→ are sustained	<i>Las cuestiones reglamentarias y las decisiones de la presidencia se apoyan.</i>
Yeas and nays, engrossment and third reading	→ are ordered	<i>El resultado de la votación a viva voz, la media sanción y la tercera lectura se ordenan.</i>
When a motion for the previous question is agreed to	→ the previous question is said to be ordered	<i>Cuando se aprueba una moción de cierre de debate y votación inmediata, se dice que se ordena el cierre de debate y la votación inmediata.</i>

SECTION XVI

REFERRAL OR REFERENCE TO COMMITTEE

(Giro a comisión)

The introduction of a bill or resolution in a house follows an identical parliamentary process (*trámite parlamentario*) in both congresses. First, the initiative is given a title and a congressional number (*el proyecto se rotula y se le asigna un número*). Then it is referred to one or more committees, as the case may be (*se lo gira a una o más comisiones, según sea el caso*).

The term “referral” or “reference” (*giro*) means the sending of a measure to the appropriate committees for its consideration and further report (*despacho*). To this end, rules of procedure of each chamber spell out the jurisdiction of each committee (*competencia de cada comisión*) as regards the subject matter.

The presiding officer of each chamber is responsible for the reference of all legislation to committee. However, in actual practice, in the U.S. Congress, it is the parliamentarians of each chamber who make the referral decisions.

A committee may have an exclusive jurisdiction (*competencia única*) over a legislative initiative or else, share this jurisdiction with other committees. In this case the referral is known as a “multiple referral” (*giro múltiple*).

Exclusive referral (*giro único*): The matter is referred to one committee.

Multiple referral (*giro múltiple*): It signifies that the matter is sent to two or more committees. In this case, a primary committee (*comisión cabeza*) is designated to which the initial referral is destined. In addition, the initiative is referred to another committee or other committees, concurrently or consecutively. In other words, the matter under consideration is of principal jurisdiction of one committee but in addition, other

committees have jurisdiction over other aspects of the measure and share in its consideration (*comparten el tratamiento del asunto en segunda, tercera, etc. competencia*).

To summarize these important distinctions:

- 1) A committee may have exclusive jurisdiction over a certain matter (*competencia única para el tratamiento de un proyecto*). This kind of referral is known as an exclusive referral or a single referral (*giro único*).
- 2) A committee may have joint jurisdiction with additional committees. This occurs when the subject matter of a certain question is within the jurisdiction of several committees in whole or in part (*se ubica total o parcialmente, dentro del ámbito de competencia de varias comisiones*), which subsequently consider it and possibly report it. This referral is identified as a sequential referral (*giro mixto*).

Referral to additional committees (*el giro de un asunto a varias comisiones*) allows them to consider a question individually. To this end, they hold meetings and usually hearings (*celebran reuniones conjuntas y generalmente, audiencias*). However, committees are highly sensitive about their committee turf (*ámbito de responsabilidad*) or ownership over issues, so when two or more committees have an overlapping jurisdiction over certain aspects of a legislative initiative, they resolutely defend their jurisdiction over their part of the matter.

In the American Congress, a question may be split into its component parts for a more thorough committee study. In this split referral (*giro repartido*), different parts of a certain question are referred to two or more committees.

As mentioned above, the jurisdiction of each committee is outlined in the rules of procedure of each house. Nevertheless, an earlier referral (*precedente de un giro*

anterior) may also determine the referral of later initiatives dealing with the same subject matter. The parliamentarians' interpretation of such past precedents leads to many intense behind-the-scenes battles in the U.S. Congress.

Sometimes, certain initiatives introduced in the Argentine chambers have an "agreed referral" (*giro acordado*), which also establishes a precedent for future legislation connected with the same topic. In Argentina, this referral is known as *giro político*, that is to say, a referral determined by political agreements. It is generally concurred to during the meeting of the "Comisión de Labor Parlamentaria" (Committee on the House's Legislative Agenda).

Multiple referral is nowadays widely generalized, being a feature of any modern Congress. This kind of referral has greatly affected the different steps of the parliamentary process because it favors a broader discussion of the initiative through the interchange of opinions by lawmakers belonging to different committees. The complexity of modern issues has given rise to many more instances of overlapping jurisdictions. However,

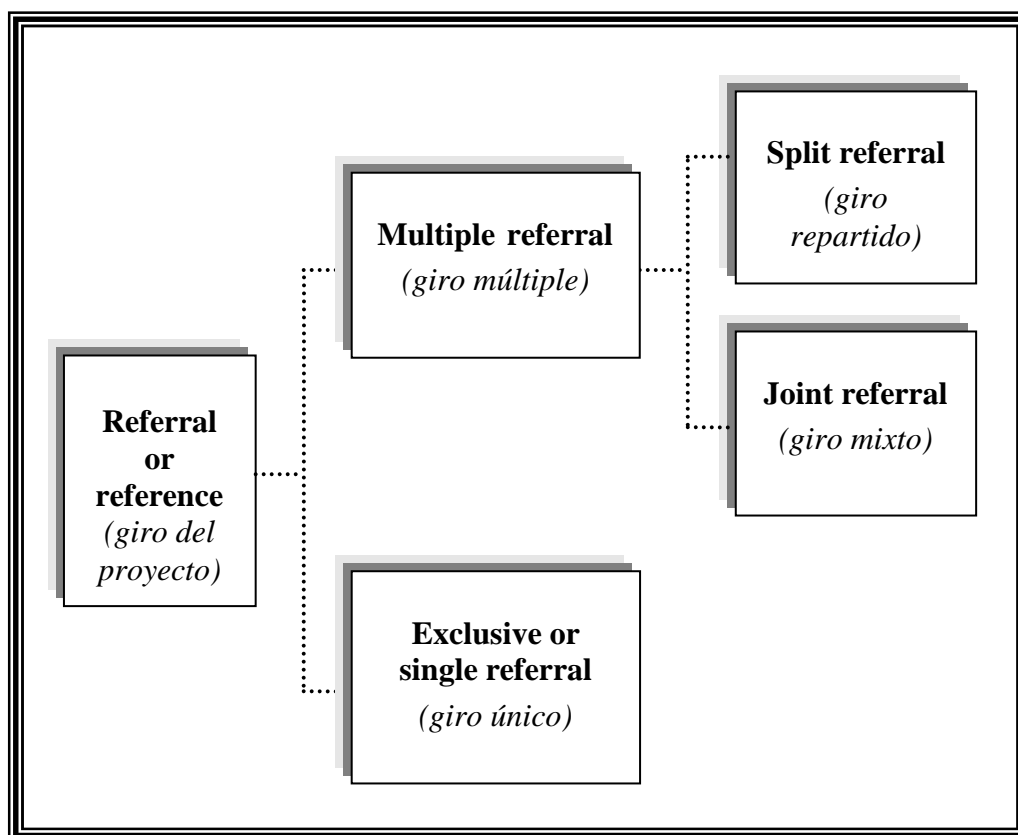
"While multiple referral may reduce friction among committees, the practice may also encumber the legislative process, for increased participation does not guarantee agreement or action".⁴⁹

Translation:

Mientras el giro múltiple es capaz de reducir las fricciones entre las comisiones, su práctica también puede obstruir el proceso legislativo, ya que la participación de varias comisiones no garantiza el acuerdo entre ellas y tampoco garantiza que un proyecto llegue al recinto.

⁴⁹ Zwirn, Jerrold: *Congressional Publications – A Research Guide to Legislation, Budgets and Treaties*, Littleton, Colorado, Libraries Unlimited, Inc. 1983, p. 34.

Table 9: Referral or reference – U.S. Congress
(Giro del proyecto a comisión - Congreso de los Estados Unidos)



Re-referral or change of reference
(Cambio de giro)

An erroneous reference may be corrected by the chamber. Thus, with the purpose of expediting committee action, change of reference petitions (*solicitudes de cambio de giro*) are always considered.

As stated previously, conflict may arise among committees concerning their jurisdiction over a certain matter. Even though jurisdictions are outlined by the houses' rules of procedure and also rely on previous parliamentary precedents, the case may be that a committee, to which a controversial bill has not been referred, may claim it has jurisdiction over it. Since the highly complex today's legislation does not allow setting

clear and defined jurisdictional boundaries (*límites de competencia*), it may happen that a matter has been erroneously referred or that a committee with jurisdiction over some aspect of the initiative has not been included in the referral.

It is known that a well-aimed draft plus a correct referral may work to guarantee the success of a bill or at least increase its odds for progress. Therefore, it is inferred that a lawmaker's skill and political-parliamentary experience develop into a bill drafted in such a way that it may insure that it be referred to the committee which will favor its consideration.

However, reference of bills is subject to strict standards, according to the jurisdiction of each committee. In this way, legerdemain is often avoided. Besides, committees work to make their jurisdictions be strictly respected and ambiguity in the text of a bill that may lead to an erroneous reference, may well give way to a request for re-referral.

Request for re-referral (*Pedido de cambio de giro*)

The sponsor of a bill or resolution and the committees may request a re-referral according to the following provisos:

- 1) The primary sponsor (*autor del proyecto*) or the committees not included in the original reference (*no incluidas en el giro*), when they consider themselves with jurisdiction over the matter (*con competencia en el asunto*), may request the re-referral.
- 2) Those committees included in the original referral (*giro original*) may request the re-referral, in accordance with the following characteristics:

- a) Addition of a committee (*ampliación del giro a otra comisión*) considered to have jurisdiction in the subject.
- b) Deletion of a committee (*exclusión de alguna comisión*) not having jurisdiction over the subject.
- c) Inversion in the order of reference (*inversión del orden de las comisiones a las que se ha girado el asunto*).

In the houses of the U.S. Congress, request for re-referral requires unanimous consent or motion (*consentimiento unánime o moción*). This motion is considered at the beginning of a session, being offered by a member by direction of a committee to which the bill has been erroneously referred or else, by direction of a committee claiming jurisdiction (*que considera que tiene competencia sobre el tema en cuestión*).

SECTION XVII

BILL PASSED IN ONE HOUSE AND SENT TO THE OTHER (*Proyecto de ley en revisión*)

The House of Representatives has marked differences with the Senate as regards the number of its members, procedure, number of committees and their jurisdiction. These dissimilarities guarantee that both political interests accompanying the matters under consideration be debated with a different degree of acceptance by both chambers.

When a bill has been passed in one house (*cuando un proyecto de ley ha sido aprobado en una cámara*), that is to say, it has become a House-passed bill or a Senate-passed bill, it is sent to the other house for consideration (*tiene media sanción de Diputados o del Senado, se lo remite a la otra cámara para su consideración*). This second chamber (*cámara revisora*) will be the Senate if it is a House bill (*proyecto de ley originado en Diputados*) or the House of Representatives if it is a Senate bill (*si el proyecto ha entrado por Senado*).

Each time a bill is passed by the chamber of origin (*sancionado por la cámara de origen*), a clean copy of it is sent to the second house. In the American Congress this clean copy of a bill or resolution is called an “engrossed bill” (*copia oficial y definitiva de la sanción de una de las cámaras*). It is the official and perfect copy of a bill or resolution together with all amendments adopted to the measure during floor action.

When a bill passed in one chamber is sent to the second chamber (*cuando el proyecto con media sanción se envía a la cámara revisora*), a new legislative circuit starts in the second chamber: the bill is referred to the corresponding committee for its consideration and report (*se lo gira a la comisión correspondiente para su*

consideración y despacho), it is included in the legislative agenda (*se lo incluye en el plan de labor*) and finally, after being debated on the floor, it may be amended, and then passed or defeated (*se le pueden introducir modificaciones, luego de lo cual se lo sanciona o rechaza*).

The second chamber (*cámara revisora*) may pass the bill sent by the chamber of origin “without amendments” (*sin modificaciones*) or else “with amendments” (*con modificaciones*). In the first case, the bill is sent to the President for approval (*es remitido al Poder Ejecutivo para su promulgación*). In the second case, the bill returns for further action to the chamber of origin (*vuelve a la cámara de origen*). The body of origin may concur or disagree to any amendments (*la cámara iniciadora puede aceptar o rechazar las modificaciones introducidas por la cámara revisora*). However, by a two-thirds vote of House members or senators present (as the case may be), the Argentine Constitution allows the chamber of origin to impose its decision and send its passed bill to the president, in spite of existing formal disagreement of the other chamber.

In the United States, no bill may be sent to the President without having been passed by both chambers. In order to reach agreement on an identical text in both bodies, they turn to a conference committee (*comisión bicameral de conferencia*).⁵⁰ This special procedure allows the houses of Congress to resolve their differences with respect to a specific piece of legislation. However, if they fail in doing so, the bill will die (*significará el fin de la acción legislativa del proyecto en cuestión*).

Once a bill is passed by the second chamber, it is said to have reached “final passage” (*sanción definitiva*) and is sent to the President as an “act” (*ley*). At this stage,

⁵⁰ Term developed in Section XX “Conference Committee – U.S. Congress”.

the President may sign it, allow it to become law without his signature or veto⁵¹ it (*puede promulgarlo, permitir que se convierta automáticamente en ley sin su firma o vetarlo*) and this veto is subject to override by Congress.

As said before, after the act has been signed by the President, it becomes a “law” (*ley*). In the United States, the correct term to be used in this instance is “law”, although the word “act” is also frequently used.

⁵¹ Term developed in Section XLI “Veto”.

SECTION XVIII

CADUCIDAD DE LOS PROYECTOS – CONGRESO ARGENTINO

(Lapsing of legislation – Argentine Congress)

Legislation that fails to win passage in the U.S. Congress dies at the time of Congress's final adjournment (*la posibilidad de tratamiento de los proyectos que no alcanzan sanción en el Congreso norteamericano, termina junto con la finalización del período bienal de sesiones ordinarias*). However, very complex or controversial bills are rarely enacted in a single Congress. Thus, when time lapses, they may be reintroduced in subsequent Congresses as new bills. International treaties are the only exception to this rule. They remain in pending status from one Congress to the next.

According to the Argentine parliamentary system, those initiatives which have not been considered during two running sessions go to the archives. That is to say, every two years (meaning every two sessions or two legislative years). They may also be introduced as new legislation during the following session, although they must complete all corresponding parliamentary steps.

Already in 1867, with the purpose of diminishing the heap of business pending in committees (*cúmulo de asuntos pendientes en las comisiones*), the Argentine lawmakers found it necessary to establish a time period in which introduced legislation would lapse. For years, analysis and discussions about this situation were held. Finally, between 1991 and 1992, a rule determined the time for the lapsing of legislation.

- 1) Resolutions promoting impeachment not considered during three legislative years shall die (*proyectos de resolución que promueven juicio político, no tratadas durante tres períodos parlamentarios se tendrán por caducados*).

- 2) Declarations and resolutions, *expedientes de oficiales varios* (messages from government agencies and departments), *peticiones particulares* (petitions from individuals) not considered within the legislative year of its introduction, shall also die, unless they have the pertinent printed committee report. In such a case, the term for their consideration is extended for one more legislative year (*el plazo para su tratamiento se extiende un año más*).
- 3) The Senate determines that resolutions, declarations, communications or decrees (*proyectos de resolución, de declaración, de comunicación o de decreto*) which have failed to win passage shall die at the end of the second legislative year of its introduction.
- 4) Bills (*proyectos de ley*) - excluding international treaties, codes and some kind of economic messages from the Executive Branch - lapse according to the following provisos:
 - a) When the bill has been discussed by one of the chambers, but it has not achieved final passage during the legislative year of its introduction. Should the bill be passed by one of the chambers, it can be discussed in the following year.
 - b) When the bill has been passed with amendments by the second chamber, but the parliamentary process has not been completed within the parliamentary year of its passage or in the following year.
 - c) When the Executive Branch objects to the bill and the Congress does not confirm it within the legislative year of the said objection.

With respect to this topic, it is important to point out the difference existing between the Argentine parliamentary procedure and that of the United States. According to the American parliamentary system, the term “lapsing” (*caducidad*) is useless

because a Congress is in office during two consecutive years and with the final action of a Congress all pending legislation dies.

When the end of a legislative year draws near, frantic agitation may be observed in the chambers. Lawmakers push to obtain passage of their legislative initiatives and, using the expression favored in the U.S. Congress, keep their initiatives from “dying” (*para evitar que caduquen*).

The feverish pace of work during those days prior to the end of a session is known very well by lawmakers, officers and employees. To this respect, the legendary Davy Crockett who served four terms as member of the House of Representatives of the United States from the state of Tennessee in the 1830’s, said:

“We generally lounge or squabble the greater part of the session, and crowd into a few days of the last term three or four times the business done during as many preceding months”.⁵²

Translation:

Generalmente estamos desocupados o discutimos trivialidades durante la mayor parte del período de sesiones y unos pocos días del último período triplicamos o cuadruplicamos las actividades llevadas a cabo en los meses anteriores.

In this way, as stated above, in the American chambers all pending legislation dies at the official end of a Congress. I also consider it important that the representatives’ term of office is two years, which coincide with the duration of a Congress.

For its part, the term of office of Argentine representatives is four years. Every two years the membership of the *Cámara de Diputados* is reelected by halves. Maybe

⁵² *How Congress Works*, 2nd Edition, Washington, D.C., Congressional Quarterly Inc., p. 42.

this is the reason why it took so long to establish terms for lapsing of legislation. It is not the whole House that is renewed every two years, but only part of it.

SECTION XIX

CONGRESSIONAL COMMITTEES

(Comisiones parlamentarias)

Committees are considered to be an instrument of the Legislative Branch through which all proposals are processed and changes in legislation are undertaken in the first instance. Committees are the entities in charge of the intensive study of a measure. They analyze its scope, background and viability of putting it into actual practice. Committees also gather together propositions from the diverse sectors with interest in the matter.

One of the duties of the Speaker and President of the Senate is the appointment of committee members (*integración de las comisiones*). In Argentine houses it is carried out at the commencement of those years when membership of each house is partially elected (*al inicio de los años de renovación parcial de las cámaras*). The Argentine houses are empowered to make such appointments *per se*. However, since the substance of the said appointment is purely political, the exercise of such power would give rise to intricate negotiations among all the members of the house which would in turn be difficult to handle. So the houses empower their presiding officers to make the committee appointments according to the caucuses'⁵³ nominations (*propuestas de los bloques*).

In the U.S. Congress, party organizations meet to consider committee assignments and the pertinent party ratios (*proporcionalidad por partido*). Then they present the resulting committee rosters (*listas con los integrantes de las comisiones*) to the corresponding chamber for approval. Committee assignments are one of the

⁵³ Term developed in Section XLIV "Party organizations in the U.S. Congress".

chambers' first concerns (*la nominación para la integración de las comisiones es una de las incumbencias primarias de las cámaras*) and are settled early in the commencement of each Congress.

In both countries, in case of a vacancy caused by a member's death, resignation or transfer to another committee, the corresponding appointment may be made at the time of the vacancy.

Congressional committees are formed by a certain number of members from which a chairman/woman is chosen. In the Argentine chambers, a chairman/woman serves during two years and may be reelected. This two-year term coincides with the commencement of those years when membership of each house is partially elected.

In the U.S. Congress, chairmen/women always belong to the majority party. An important feature of the American Senate is the fact that this appointment is based upon the seniority system, which means seniority on the committee. "Seniority" is understood to mean the system based on the longest continuous service on a committee, or in a chamber, as the case may be (*sistema de precedencias basado en la antigüedad de los legisladores en una comisión o en una cámara, según sea el caso*).

With respect to the subcommittees (*subcomisiones*), they are not generally found in the Argentine Congress.

In the American chambers, subcommittees have a paramount importance, since they are the usual first step in the consideration of any legislative proposal. Once the initiative reaches the committee stage (*cuando la iniciativa llega a la etapa de comisión*), it is normally first considered by the subcommittee of the committee to which it has been referred.

Subcommittees of the U.S. Congress not only carry out the analysis and detailed consideration of the measure, but they often also hold subcommittee hearings with

government officials, experts on the matter at issue, delegates of those sectors interested in the measure and individuals.

Most legislative proposals are first considered in subcommittees because the members on that sub-panel are considered the specialists on the topics assigned to them. Their expertise informs, but does not bind, the members of the committee at large. As a matter of fact, there are very few measures which reach floor action without having been considered by subcommittees first.

Kinds of committees (*Clases de comisiones*)

In both Argentine and American Congresses, there are different kinds of committees:

- 1) Standing committees (*comisiones permanentes*)
- 2) Select committees (*comisiones especiales*), which may be investigating committees (*comisiones investigadoras*).
- 3) Joint committees (*comisiones bicamerales*).

Standing committees (*comisiones permanentes*): They are stated in the chambers' rules of procedure. Standing committees of each chamber are created by a resolution of that chamber when it considers a permanent panel necessary to handle a certain category of policy problems.

Select and investigating committees (*comisiones especiales y especiales investigadoras*): They are created with the object of considering a certain definite problem or scandal. After achieving the stated purpose of their creation, they are

dissolved. In other words, the existence of a select committee ceases once it has reported its findings, unless the house decides on its continuation and assigns to it the investigation of a further question or the design of new legislation to solve the problem under investigation. These committees may also invite testimony from witnesses and demand the furnishing of such documents necessary for their investigation.

Joint committees (*comisiones bicamerales*): They are formed with an equal number of members from each house. Examples in the U.S. Congress, include the Joint Committee on Printing and the Joint Committee on the Library. Examples in the Argentine Congress, include the *Comisión Bicameral Administradora de la Imprenta* and the *Comisión Bicameral Administradora de la Biblioteca*.

Standing and select committees of the Argentine chambers may meet uninterruptedly during the whole calendar year, even during adjournment, as may committees in the U.S. Congress.

Committee meetings may be either open to the public or closed (*las reuniones de comisión pueden ser públicas o privadas*). In the U.S. Congress, meetings are automatically open to the public and press, unless a vote is taken in open session to close the meeting. This is done rarely, and usually only for reasons of national security or classified information. When invited witnesses, such as government officials, or private interested parties appear, these meetings are called “hearings” (*audiencias públicas*). Hearings may also be held in closed session (*audiencias privadas o secretas*), under the same terms for meetings.

Once the committee has concluded the consideration of a measure, it reports it to the chamber floor (*lo despacha*), that is, it reports the measure out of committee (*emite despacho de comisión*).⁵⁴

⁵⁴ Term developed in Section XXI “Committee Report”

SECTION XX

CONFERENCE COMMITTEE – U.S. CONGRESS

(Comisión Bicameral de Conferencia – Congreso de los Estados Unidos)

Conference committees are typical of the American parliamentary system. They have existed since the creation of the American Congress (1789) and have developed through time. During the nineteenth century, conference committees acquired their current structure and scope of authority. They are *ad hoc* joint committees, constituted for the sole purpose of resolving differences arising from differing versions of pending legislation produced by each chamber (*constituidas al sólo efecto de que ambas cámaras puedan resolver las diferencias surgidas de sus versiones contradictorias de proyectos pendientes de sanción*).

Whenever a house does not agree to the amendments made by the other house to a bill, it may request that a conference be convened (*puede solicitar la constitución de una comisión bicameral de conferencia*). Likewise, when the second chamber presumes that the chamber of origin will not adopt its amendments, it may also request that a conference be convened, at the time it sends over its final version to the other body.

The members of conference committees are known as “conferees” (*miembros de la comisión bicameral de conferencia*), or more formally, “managers” (*voceros de la cámara ante la comisión bicameral de conferencia*).

There is no requisite as regards the number of conferees to be selected. Voting at the conference table is cast by house (*cada cámara tiene un sólo voto conjunto*). This means that each house has one vote to cast. How that vote is determined is usually by an

informal “straw poll”⁵⁵ or simple majority vote within each house’s delegation of conferees (*mediante el voto informal para verificar la tendencia de la comisión o mediante el voto de la mayoría de los miembros de la delegación de cada cámara*).

In the House of Representatives, the Speaker is empowered to select conferees, although this officer generally takes into consideration recommendations of the chairman and ranking minority member of the committee with jurisdiction over the matter to be discussed in the conference (*recomendaciones del presidente y del miembro de la minoría con mayor autoridad en la comisión con competencia sobre el asunto a tratar en conferencia*). In the Senate, the presiding officer (*presidente*) generally follows the same criterion for the selection of conferees.

The chairman of the committee that has handled the legislation (*que ha tenido a su cargo la consideración del proyecto en cuestión*) and the ranking minority member of the committee (*miembro de la minoría con mayor autoridad en esa comisión*) typically nominate themselves as members of the conference committee. Most often, they also select some members of the subcommittee that handled the legislation. If more than one committee had initial jurisdiction of the legislation, each committee will have the right to send conferees to the conference.

Over the years, conference committees have sometimes developed into crowded meetings, such as that held in 1990 to consider clean air legislation, which was formed by one hundred and forty conferees representing nine committees from both chambers. The large number of conferees brought about the need of limiting their responsibility. In this way, they were classified into “limited”, “additional”, and “general conferees”.

⁵⁵ Also, “straw vote”.

Limited conferees (*miembros de actuación limitada en la comisión bicameral de conferencia*): They are only in charge of the consideration of certain specific aspects of the bill. They may negotiate only on these specific aspects of a bill stated in their appointment. However, they are free to cast their vote on the final product, which at times may give them some leverage over the negotiations overall.

Additional conferees (*miembros adicionales de la comisión bicameral de conferencia*): These are conferees who are added to the conference committee after its initial establishment. It may be that they are members who appealed their initial omission from the committee, or it may be determined that their specific issue expertise is needed to help the negotiations along.

General conferees (*miembros generales de la comisión bicameral de conferencia*): They may negotiate and vote on all specific aspects of the bill under consideration.

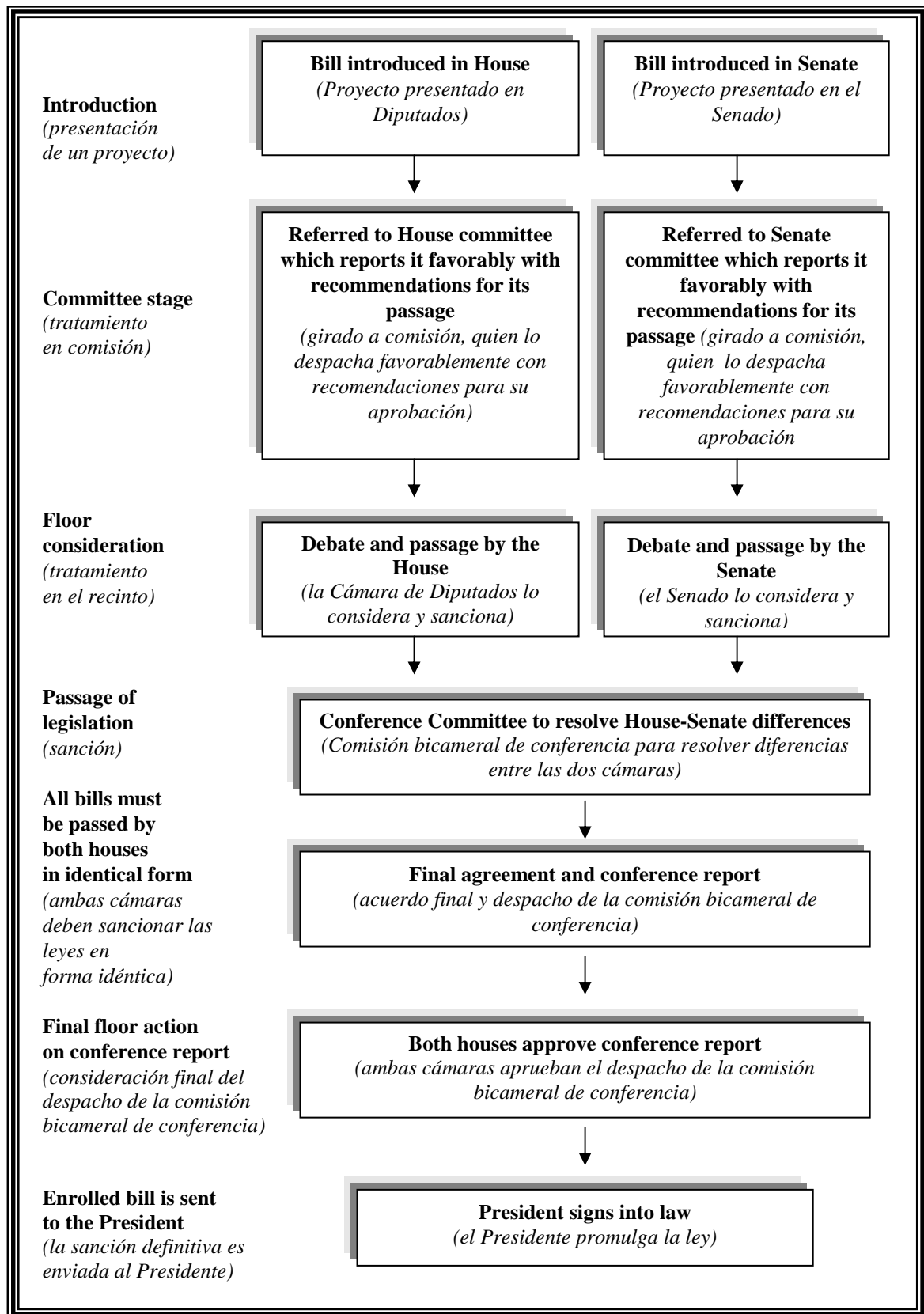
The responsibility of conferees is the resolution of all differences in bill language between the House and the Senate versions of a bill. Conferees must reach an agreement within what is known as the “scope of differences”. This means that their final product must stay within the framework of the versions passed by the two chambers. In other words, it may adopt the exact language of one bill or the other, or write new language that is somewhere in between the two. Conferees are not empowered to delete identical provisions found in both bills, or add new language which goes beyond the conceptual framework of one or the other bill. Within these restrictions, they are free to change the language adopted by the chambers earlier. However, in doing so, they must remain aware that their conference product will have to pass each chamber again, by a majority vote.

Up to 1975, conference committees held secret meetings, but since then, amendments to the rules of procedure require them to hold open meetings, except if they decide to close their meetings by a majority vote of the conferees, with the vote to close held in open session.

In principle, chambers go into conference committees on a single bill (*las cámaras se reúnen en conferencia para el tratamiento de un único proyecto*). When they reach an agreement, they write the so-called “conference report” (*despacho de la comisión bicameral de conferencia*) where they include the actual legislative amendments made to the bill (*modificaciones realizadas en el proyecto*), as well as an account of each chamber’s actions, known formally as the “Statement of Managers” (*informe de los miembros de la Comisión Bicameral de Conferencia*). However, in the case of appropriations bills only, should the conferees not reach any agreement on all of the provisions (amendments), then these unresolved amendments are reported “in disagreement” (*las modificaciones se despachan en disidencia*), accompanying the conference report. They are then discussed and decided upon separately, in the full chamber, after the conference report has been first adopted by the full chamber.

In principle, conference committees do not allow minority reports (*despachos de minoría*). However, conferees are free to submit statements of disagreement into the Congressional Record, and these are printed immediately after the text of the conference report itself. When the conference version of the bill goes back to the chambers for consideration and final approval, both bodies must fully agree to or reject the version of the bill reported by the conference committee. Amendments to the conference report are not permitted, as this stage of the legislative process is deemed to be the final one.

Table 10: Chart of the Legislative process – U.S. Congress
(Diagrama del circuito legislativo de un proyecto de ley – Congreso norteamericano)



SECTION XXI

COMMITTEE REPORT

(Despacho o dictamen de comisión)

A committee report is the formal means by which committees communicate with their parent body. By means of a committee report, committees render information and recommendations on legislative initiatives for their parent chamber's further consideration and passage. Committee report and bill form an indivisible whole.

Committee report and bill text travel to the floor together. However, the committee report is advisory in nature, and is not voted on, while the bill text receives official consideration and must be voted up or down.

Committee reports are considered a public document and represent the legislative history of a measure. Besides, they define the purpose and scope of a bill and argue the grounds for its ultimate approval by the full chamber.

The committee report must include all the amendments made by the committee (*modificaciones introducidas por la comisión*), the legislative background of the bill (*fundamentos*), the need for legislation, a comparison to existing law (*antecedentes*) and decisions or views (*decisiones u opiniones*) reached by individual members on the committee, which may not be in sync with the overall recommendations (these are known as “additional” or “dissenting” views and must be included in the report upon request.

Both in the Argentine and the American Congress, House reports must be presented in writing, but this is not required in the Senate. In fact, in the Senate, committee reports are considered optional when a bill is reported to the floor, whereas

in the House they are mandatory. A bill cannot be considered on the House floor where no committee report is present.

According to the chamber producing the report, it is identified as a “House Report” (*despacho de la Cámara de Diputados*) or “Senate Report” (*despacho del Senado*) with an assigned number.

In the American Congress, reports must include all votes held in committee. In the Argentine Congress, committee members do not vote. Instead, the requisite is the signing of the report by all those members who are in favor. This signing must be effected in the committee room (*sala de reunión*), thus avoiding that absent committee members may sign it, which would be unfair to the rights of the minority.

Reports are much more detailed in the American Congress than in ours. It is required that they must include an annex with the explanation of all the amendments made and a massive appendix containing all kind of pertinent documents. It is also required that cost estimates for implementing the bill be included.

In addition, it is important to mention that reports of the American chambers incorporate the so-called “legislative intent” (*intención legislativa*), that is to say, instructions on how government agencies should interpret, implement and enforce the law. To this end, committee members include definitions of all technical terminology which they consider important for the full understanding of the law. In effect, law courts consider that committee reports may clarify the legislative intent (*aclarar la intención del cuerpo*) whenever they need to dispel any uncertainty when interpreting the congressional motivation behind the language written into law.

In our National Congress, each committee report is released through the so-called *Orden del Día*, which is a publication correlatively numbered (every legislative year starting with No. 1), according to the order of presentation of reports. It also shows

the year and session it belongs, that is, it mentions if the committee report has been produced during either regular session, special session or sittings after a *sine die* adjournment.

I find it significant that *Orden del Día* has a double meaning in Argentine parliamentary procedure. It not only belongs to the name of the above mentioned publication, but it is also synonym of *plan de labor* or *plan de trabajo* – that is to say, what in the U.S. Congress is known as the “legislative agenda”. With the purpose of avoiding recurring misunderstandings between one meaning and the other, in 1963 the Argentine Lower House determined that the feminine gender should be used to refer to the publication and the masculine gender to refer to the legislative agenda. However, not being satisfied with the grounds for this decision, I have thoroughly researched the matter to the end of verifying the true origin, use and meaning of the term *orden del día*, which I illustrate in Section XXII “The Expression *Orden del día* used in Argentine Parliamentary Procedure and *Order of the day* used in British Parliamentary Procedure”.

Returning to the explanation of committee reports, I should say that in the U.S. houses, printed committee reports must also be correlatively numbered as from the commencement of each Congress (*desde el inicio de cada período bienal de sesiones ordinarias*) and they must also show the number of Congress to which they belong. For example, the first House report presented in the 107th Congress was named “H.Rpt.107-1”, which in Spanish may be translated as *Despacho de Diputados N° 1 correspondiente al Período Bienal de Sesiones N° 107*. In this way, the first Senate report presented in the 107th Congress was named “S.Rep.107-1”, which in Spanish means *Despacho del Senado N° 1 correspondiente al Período Bienal de Sesiones N° 107*.

The rules of the Argentine legislative bodies do not require committees to produce their reports within a fixed term. However, there exist various mechanisms to compel them to urgently report a measure to the house. One of these mechanisms is the *requerimiento de pronto despacho*, which may be translated into English as “request for urgent report”. Another mechanism is the so-called *moción de preferencia*, that is, “a motion to bring up a measure before the time assigned to it”, to consider a certain matter on a fixed day, although this matter has not been reported out of committee (*aunque el asunto no tenga despacho de comisión*).

In the House of Representatives of the United States, the general rule also states that a bill may be called up as long as it has been favorably reported by the committee to which it had been referred (*para que un proyecto llegue al recinto, debe contar con el despacho de la comisión a la que fue girado*). Should this committee not report the bill within a thirty-day period from its referral – or seven legislative days in the case of the Rules Committee (*Comisión de Reglamento y elaboración del Plan de Labor*) – the chamber may offer a “motion to discharge”, that is, a motion extracting the bill from said committee and bringing it to the floor (*moción para que se exima a una comisión de la producción del despacho de un proyecto*). The adoption of this motion empowers the body to consider the matter without being reported out by a committee first. Likewise, and such as it happens in Argentina, the American House of Representatives may resolve itself into a Committee of the Whole (*puede constituirse en comisión*) to discuss a certain question before doing so as a deliberative body. However, as distinguished from the Argentine parliamentary procedure, the Senate of the United States does not provide for this type of proceeding.

Bills may be reported out by committees favorably or unfavorably, with or without recommendations. This suggests that in case of a favorable decision, a

committee may report the measure recommending approval of the amendments it has adopted (*recomendando la aprobación de las modificaciones que ha introducido*), or else, it may report it with neither recommendations nor amendments.

If there were too many amendments and they affected the integral content of the bill, committee members in charge of its consideration, may ask their committee chairman to gather all amendments into a new bill. This is the “clean bill” which I already referred to in Section XV “Legislative proposals” (*Propuestas legislativas*) and translated into Spanish as *proyecto nuevo de autoría de la comisión, que surge de otro excesivamente modificado*. Thus, a clean bill expedites floor consideration of legislation (*agiliza el tratamiento del asunto en el recinto*).

In the U.S. Congress there are two categories of committee reports: “legislative reports” and “non-legislative reports”.

Legislative reports (*despachos de naturaleza legislativa*): This category includes two types of reports: those accompanying public bills (*proyectos de ley de naturaleza pública*) and those accompanying private bills (*proyectos de ley de naturaleza privada*). In other words, these reports belong to that kind of measures related to allocation of national resources (*distribución de los recursos públicos*) or those involving only individual or private issues (*temas inherentes a particulares*).

Non-legislative reports (*despachos de naturaleza no legislativa*): They include those subjects concerning housekeeping (*temas de administración interna*), such as regulations connected with the printing of public documents, or use of the Capitol for ceremonial purposes, or those issues dealing with non-legislative matters, such as executive nominations or foreign treaties.

Committee reports must include a comparison of the final version of the bill resulting from the amendments made by the committee with the version of the bill initially introduced and referred to committee. In the House of Representatives this method is known as the “Ramseyer Rule” (*Regla Ramseyer*) which has been in force since 1929. Its counterpart in the Senate is the “Cordon Rule” (*Regla Cordon*). These rules institute the requirement that a committee report must show its amendments to the original text of a bill or joint resolution by means of a different typography.

In Argentina, committees often appoint a spokesman for the bill in order to manage the report on the floor (*miembro informante para sostener el despacho en el recinto*). For practical reasons, this appointment usually falls on the members who have drafted the committee report (*miembros que han tenido a cargo la redacción del despacho de comisión*). When several committees take part in the consideration of a measure, there may be one or more spokesmen for the bill.

In the United States, each political party assigns a floor manager, who must be a member of the reporting committee and is in charge of the control of the debate time (*encargado del proyecto en el recinto, que debe ser miembro de la comisión que ha despachado la iniciativa y que está a cargo del control del tiempo de exposición de cada uno de los legisladores que han pedido la palabra*). Long-standing floor customs state that the chairman of the committee reporting a bill acts as floor manager for that bill. In turn, he may delegate the responsibility instead to the chairman of the subcommittee over the bill. When a bill has been reported out by several committees, it may have one floor manager for each committee responsible for the part of the bill under its jurisdiction. In principle, the floor manager for the majority party (*bancada mayoritaria*) is the one who steers the debate on the measure until the final vote,

scheduling tactics and strategies to get it passed. However, when both sides favor passage of a bill (*cuando ambas bancadas están de acuerdo con respecto a la aprobación de un asunto*), both floor managers (one for the majority and one for the minority) may agree upon its passage or amendments proposed. In that case, members in true opposition may claim a right to a portion of the debate time otherwise assigned to the minority party.

In the American Congress, the procedure in committee that follows after analyzing a legislative initiative is the so-called “mark-up”, which I have preferred to literally translate as *marcado*, since on the one hand it refers to a careful study of a measure under consideration, on the other hand, the use of this term has its origin in the custom of legislators making editorial “marks” on the bill with the purpose of making certain changes in the language used. The extent of these changes will determine the need that the measure be entirely or partially re-drafted.

Marking up a bill (*el marcado de un proyecto de ley*) is a legislative stage that may cover a variable number of meetings during which a deep analysis of the initiative is carried out. For that purpose, proposed measures are considered, new sections are removed or revised, and a vote is cast on each amendment (*se vota una por una, cada modificación que se introduce*).

Once the mark-up is completed, the committee ends the mark-up with, or meets again to hold the required vote on reporting the bill out of committee (*para someter el despacho a votación*). To that end, the presence of a quorum is ascertained and the committee members proceed to the consideration of each item included in the corresponding notice for committee meeting (*se comprueba la existencia de quórum y se procede al tratamiento de cada asunto incluido en la correspondiente citación a reunión de comisión*).

If the opinions of the committee members in the Argentine Congress with respect to a report were not unified, each faction may report the bill separately. Thus, according to the number of committee members holding one report or the other, they will produce a majority report (*despacho de la mayoría*) and a minority report (*despacho de la minoría*).

In the U.S. Congress, according to the number of committee members holding one view or the other, the majority will produce the final report. “Minority views” (*opinión de la minoría*) express the views of the minority side and are annexed to the committee report. Besides, those members disagreeing to some provisions of the issue may also present additional or supplementary views (*observaciones adicionales o suplementarias*) which are elaborated on the views prepared by the majority.

It may happen that in the Argentine House of Representatives several committee meetings fail because of absence of a quorum (*puede ocurrir que fracasen varias reuniones de comisión por no formarse quórum*). In such a case, the committee members may produce a certain kind of report known as *dictamen en minoría*, that is to say, a “report by committee members sitting without constituting a quorum”. The nature of this kind of report is purely symbolic and has no institutional effect whatsoever. This resource is non-existent in the American chambers. There, the production of any kind of report always requires that a quorum be present (*siempre requiere la presencia de quórum*).

Dictámenes observados – Congreso Argentino
(Objected reports – Argentine Congress)

Committee reports of the Argentine House of Representatives *pueden quedar en observación*, that is, may be “open to objection” during seven working days as from the

distribution of the *Orden del Día*.⁵⁶ During this period, members may file *observaciones* that is, “objections” to the report in question, which are published as *Suplemento de la Orden del Día N°*, which may be translated into English as “Supplement to printed committee report No.” The objections are later included in the Journal as *Dictámenes observados*, that is to say, “objected reports”.

The Rules of the House are ambiguous as regards both the contents of these objections and the way they must be filed. For this reason, some congressmen do not explain in writing on what grounds they put forward their objections and limit to doing so orally on the floor. During the session of April 6, 1988,⁵⁷ the Speaker stated he felt defeated by the members’ insistence on refusing to understand the relevance of this provision. As a consequence of that, he directed the *Comisión de Peticiones, Poderes y Reglamento* (*Committee on Petitions, Powers and Rules*) to definitely determine what the relevance of the said provision was. Guillermo Schinelli considers that it is expected that some day the said committee may release what has been required by the chair. He also expects this determination to be concordant with the chair’s point of view, since dissimilar proceedings have since long ago contributed to alter the fundamental nature of the House Rules, which—according to all reasonable judgment—require well founded objections in writing, avoiding all kind of filibustering (*“filibusterismo” parlamentario*)⁵⁸ and political chicaneries (*chicanas*), as a member stated during the session held on April 28 and 29, 1993,⁵⁹ in view of the filing of ninety-one objections to a committee report, each of them having just a few lines of text. In fact, objections must

⁵⁶ Term developed in Section XXII “The Expression *Orden del día* used in Argentine Parliamentary Procedure and the expression *Orders of the day* used in British Parliamentary Procedure”.

⁵⁷ Diario de Sesiones H. Cámara de Diputados de la Nación, sesión del 6 de abril, 1988, p. 5944.

⁵⁸ “Filibusterismo parlamentario” is the expression used by Guillermo Schinelli in his *Reglamento de la Cámara de Diputados de la Nación Comentado*, Dirección de Información Parlamentaria, H. Cámara de Diputados de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1996, p. 274.

⁵⁹ Diario de Sesiones H. Cámara de Diputados de la Nación, sesión del 28 y 29 de abril de 1993, p. 6969.

be supported in writing (*fundadas por escrito*) and must be filed within seven working days. The speech of the member who files objections to a committee report (*diputado observante*) must lead to the presentation of concrete objections and not to justify the full rejection of an observed committee report.

SECTION XXII

THE EXPRESSION “ORDEN DEL DÍA” USED IN ARGENTINE PARLIAMENTARY PROCEDURE AND THE EXPRESSION “ORDERS OF THE DAY” USED IN BRITISH PARLIAMENARY PROCEDURE

*(La expresión “Orden del día” del procedimiento parlamentario argentino y la
expresión “Orders of the day” del procedimiento parlamentario británico)*

According to my research for this point in my Thesis, I can establish that the Spanish expression *orden del día*, so broadly used in some countries’ parliamentary procedure (for example, *orden del día* in Spain, *ordine del giorno* in Italy, *ordre du jour* in France), corresponds to the ancient British expression “orders of the day”.

Taking into consideration that in this specific context, the actual Spanish meaning of the English “order” is *orden, norma, disposición* or *directiva*, it is evidently inferred that *order of the day* makes allusion to each item of the agenda scheduled according to the corresponding House *order* for further consideration in the following and subsequent sitting days.

The British Parliament uses the expression “orders of the day” because it delivers “orders”. In other words, when the House agrees to a motion that a bill be called up for consideration, this adopted motion becomes an “order of the House” (*orden de la cámara*).

The Argentine Congress makes use of the expression *orden del día* (in the singular), notwithstanding that its chambers do not adopt *órdenes* but *resoluciones* (*resolutions*) and *decretos* (*legislative orders*).

In Argentina, the term “order” as used in the English expression “order of the day” is understood as the chronological order in which matters will be considered on the

floor. In the United Kingdom, however, “orders” are those directions which list the business of the English House of Commons for the following day. According to long-standing customs of the British Parliament, “a matter which has been appointed by an order of the House to be considered on a particular day is called an order of the day for the day for which it is appointed”.⁶⁰

“Orders of the day are items which the House of Commons has on the agenda for each day’s business (*sesión de cada día*). The orders of the day are set out in the Order Paper (*publicación del temario a tratarse en la sesión del día*) and the Clerk (*Secretario de la Cámara*) reads each one out as it is dealt with (*a medida que se las va considerando*). Often, the House is unable to complete all the items on the agenda for that day. If this is the case, the items not reached or ‘remaining orders of the day’ are rescheduled”⁶¹ (*se designa un nuevo día para la consideración de los puntos del temario que quedan sin tratar*).

In this regard, the Abraham and Hawtrey’s Parliamentary Dictionary states:

“A matter which has been appointed by an order of the House to be considered on a particular day is called an order of the day for the day for which it is appointed. If, as is commonly the case, several items of business are appointed for consideration on the same day, they are referred to collectively as the ‘orders of the day’.”

Translation:

“Un asunto que se ha seleccionado por una orden de la Cámara para su consideración en un día determinado se denomina ‘tema del plan de labor’ para tratarse el día para el cual ha sido seleccionado. Si sucediera como es habitual, que se designan varios asuntos para su consideración en un mismo día, se los denomina en conjunto, ‘temas del plan de labor’.”

⁶⁰ Hawtrey, S.C. and Barclay, H.M.: *Abraham and Hawtrey’s Parliamentary Dictionary*, 3rd edition, London, Butterworths & Co. (Publishers) Ltd., 1970.

⁶¹ British Parliament’s website <http://www.explore.parliament.uk/search>

Besides, Order 27 of the Standing Orders of the House of Commons states:

“The orders of the day shall be disposed of in the order in which they stand upon the paper,⁶² the right being reserved to Her Majesty’s Ministers of arranging government business, whether orders of the day or notices of motion, in such order as they think fit.”

Translation:

“Los temas del plan de labor se tratarán en el orden en que aparecen en el temario de la sesión (Order Paper), reservando a los Ministros de Su Majestad el derecho a arreglar, en el orden que consideren conveniente, el tratamiento de temas relacionados con asuntos de gobierno, ya sea el plan de labor o comunicaciones de presentación de mociones.”

On its part, Order 66 requires:

“Whenever an order of the day is read for the House to resolve itself into a committee on a bill, the Speaker shall leave the chair without putting any question (...).”

Translation:

“Toda vez que se lea un punto del plan de labor para que la Cámara se constituya en comisión para tratar un proyecto de ley, el Presidente abandonará el sitio sin poner el tema a votación (...).”

Likewise, Order 39 of the Standing Orders of the House of Lords states:

“the House shall proceed with the Notices and Orders of the Day in the order in which they stand in the Order Paper.”

Translation

“la Cámara pasará considerar las Comunicaciones de Mociones y los temas del plan de labor en el orden en que figuran en el Temario de la Sesión (Order Paper).”

⁶² “Paper” refers to “Order Paper” published each sitting day which lists the business of the House for that day and certain other items.

According to the preceding texts,⁶³ it is clearly understood that an order of the day is an item or point of legislative business to be discussed the following day of sitting. It is also inferred that when this expression is used in the plural (orders of the day), it refers to the number of topics forming the legislative agenda. In this case, this expression should be translated into Spanish as *temas o asuntos del plan de labor*. Taking this fact into account, and since the word “order” in this context refers to an order of the House and not to the sequence in which matters must be considered, I deem the translation into Spanish *orden del día* to be inaccurate. I also believe the masculine gender assigned to this expression is yet more inaccurate because it must be said *la orden del día* and not *el orden del día*.

By reason of the long-standing use of the erroneous translation of “order of the day”, it is probable that the result of this research may create a certain perplexity or opposition to accepting my findings as true fact. However, in defense of my interpretation of the stated expression, I point out Rule XIV of the Rules of the House of Representatives of the United States, which establishes the daily order of business (*que establece el orden de la sesión*). The last point of clause 1.9 mentions the orders of the day, although, in fact, this term has not been used for years, having been replaced by “legislative agenda”. Besides, the book *Politico’s Guide to Parliament*⁶⁴ states that:

“Orders of the day are basically those items of public business to be discussed that day; rather like the items on an Agenda for a committee meeting. For example, an ‘Order’ Might be the Second Reading or Report Stage of a Government Bill. When the Orders of the day are reached, the

⁶³ Note: Orders No. 27 and 66 of the Standing Orders of the House of Commons (U.K.) belong to Public Business 2002.- Order No. 39 of the Standing Orders of the House of Lords (U.K.) belong to Public Business 2001.

⁶⁴ Child, Susan: *Politico’s Guide to Parliament*, London, Politico’s Publishing, 1999, pp. 156-157.

Clerk at the Table reads them out and they are then taken in the order in which they ‘stand upon the Notice Paper’.”

Translation:

“Básicamente, “orders of the day” son aquellos temas de contenido público a ser considerados en la sesión de ese día, tales como los que figuran en el Plan de Labor de una reunión de comisión. Por ejemplo, una ‘Orden’ podría ser la segunda lectura de un proyecto o de un dictamen relativo a cuestiones de gobierno. Cuando llega el momento del tratamiento de las órdenes que indican los temas incluidos en el plan de labor, el Secretario de la Cámara las lee en voz alta y luego se las debate, según el orden cronológico en que aparecen impresas en la publicación conocida como ‘Notice Paper’.”

Having reached this point in my research, I find it significant that as I have established throughout this work, the rules of procedure of the Argentine legislative chambers were copied, translated and adapted from those used in the British and American houses. For this reason, the expression *orden del día* has appeared in the Journals of the Argentine Congress since an early date.

This expression always has been given different meanings, and it has been generally used in the singular. This fact may be seen in the *Reglamento que establece el Orden de las Operaciones y la Policía de la Sala de Representantes de la Provincia de Buenos Aires*,⁶⁵ adopted on July 26, 1822. Title 11, Section 87 “Order of business”, which states:

“Cumplido con lo que prescriben los tres artículos anteriores, en la parte que hubiese lugar, se dará principio a la orden del día.”

Translation:

Should the mandates in the three preceding sections be appropriately carried out in their pertinent part, consideration of the legislative agenda shall begin.

⁶⁵ Pitt Villegas, Julio César: *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación (Años 1822-1861)* – Buenos Aires, Editorial Centro de Estudios Unión para la Nueva Mayoría, 1991, pp. 37-53

The name of the stated set of rules of procedure (*reglamento*) also shows the influence of the English language. The expression *Orden de las Operaciones* appearing in its title, proves to be the literal translation of “Order of business” and *Cámara de Representantes* stands for the American “House of Representatives”.

Likewise, the expression *orden del día* is also mentioned in the *Reglamento de Debates y Policía de la Sala del Congreso General Constituyente de las Provincias Unidas del Río de la Plata* adopted in 1825 (Title 11, Section 85), in the *Reglamento de Debates, Procederes y Policía del Senado del Estado de Buenos Aires* adopted on July 29, 1854 (Title 12, Section 134) and in the *Reglamento de Debates, Procederes y Policía de la Cámara de Representantes* of 1855 (Title 12, Section 130).

In addition, in the *Diario de Sesiones de la Cámara de Diputados* (*House Journal*) of 1862⁶⁶ the phrase *orden del día* is also mentioned. In this respect, I find it important to reveal that such as happened in earlier texts, this expression always has been used in the singular, notwithstanding the existence of a legislative agenda with more than one topic to be discussed on the floor. Moreover, in 1892⁶⁷, this expression was assigned the feminine gender. As well, the expression is used in the singular in current practice. Yet, it continues to be used as a reference to one or more than one item on the legislative agenda.

As a result of careful reading of the Journals, I find it significant that during several years, the expression *orden del día* is not mentioned in the Summaries of the sessions (*Sumarios de las sesiones*) printed in the Journal. It reappears in 1924⁶⁸, but now the phrase is used in relation to the publication known as *Orden del Día*, which

⁶⁶ Diario de Sesiones H. Cámara de Diputados de la República Argentina, año 1863, Tomo II, p. 41.

⁶⁷ Diario de Sesiones H. Cámara de Diputados de la República Argentina, año 1892, Tomo II, pp. 103-169.

⁶⁸ Diario de Sesiones H. Cámara de Diputados de la República Argentina, año 1924, Tomo V, p. 338.

contains the texts of committee reports. In the 1928⁶⁹ House Journal, there is an allusion to the *orden del día propuesta*, although there is no reference to it in any of the titles of the Summary of the session.

It becomes clear that the use of the expression *orden del día* has always been a cause of misunderstanding and confusion. In spite of the fact that at some points in the history of the Argentine Congress, there existed a certain willingness to understand the actual meaning of the term, it can be said that this always failed because the stated expression is nothing more than the literal translation of foreign proceedings which have been never taught nor understood in our chambers.

I can also point out that it seems surprising that Section 1 of the *Reglamento de la Junta Provisional Gubernativa de las Provincias del Río de la Plata* adopted on December 6, 1810 states that:

“El artículo 8º de la orden del día 28 de mayo de 1810 queda revocado y anulado en todas sus partes.”

Translation:

Section 8 of *orden del día* dated May 28, 1810 is hereby wholly revoked and void.

According to this text, it is evident that the interpretation of the term under scrutiny has been impaired since the very start of Argentina's institutional life. The *orden del día* to which the previously mentioned 1810 rules refer, corresponds to one of the ten points ruling the office of the *Primera Junta*, which were signed by Cornelio Saavedra and Mariano Moreno on May 28, 1810.⁷⁰

However, after having carefully analyzed the first rules of procedure of the *Cortes Españolas* (Spanish parliaments), I can point out that as far back as 1810, they

⁶⁹ Diario de Sesiones H. Cámara de Diputados de la República Argentina, año 1928, Tomo IV, p. 35.

⁷⁰ Silva, Carlos Alberto: *El Poder Legislativo de la Nación Argentina* – Tomo I (1ª Parte), Honorable Cámara de Diputados de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1939, p. 8.

already made reference to *anuncio de las materias a tratarse el día siguiente* (announcement of the matters to be considered the following day) and that in those rules no reference to *órdenes del día* is made.

It is also important to point out that the *Reglamento que establece el Orden de las Operaciones y la Policía de la Sala de Representantes de la Provincia de Buenos Aires* of 1822 mentions the phrase *orden del día* in the feminine and in the singular. Its Section 92⁷¹ provides:

“Resuelto que la sesión sea cerrada, se acordará, a propuesta del presidente, el día y hora de la que deba seguirse, y la orden del día para ella”.

Translation:

“Resolved, that when the House be adjourned, it will agree, upon the President’s proposal, to the day and time to meet again and the agenda for that day.”

Later, Section 93⁷² states:

“En la mañana del día siguiente al de la sesión concluida, se repartirá manuscrita, o impresa la orden del día, para la próxima sesión, a todos los Representantes”.

Translation:

“On the morning following the adjourned meeting, the agenda for the next meeting, either in manuscript or printed form, shall be given to all representatives.

In addition, the *Reglamento de debates, procederes y policía del Senado del Estado de Buenos Aires* of 1854 determines that one of the duties of the Journal Clerk (*secretario encargado del Diario*) is:

⁷¹ Pitt Villegas, Julio César: *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación (Años 1822-1861)* – Buenos Aires, Editorial Centro de Estudios Unión para la Nueva Mayoría, 1991, p. 46.

⁷² Ibid.

*“Hacer llegar a los senadores y Ministros tanto la orden del día como el Diario de Sesiones”.*⁷³

Translation:

“To send senators and ministers the legislative agenda and the Journal as well.”

In relation to what I have just quoted, the fact of having *una orden del día impresa*, that is, the agenda for the following meeting of the house, was already mentioned in our first attempts to build a set of rules of parliamentary procedure. However, that *orden del día* mentioned in these rules does not make reference to the printing of committee reports as it is nowadays, but to the legislative agenda, or matters to be discussed on the following sitting day.

Conclusions (*Conclusions*)

As supported in the previous section, the conclusions of my investigation of the expression *orden del día* are the following:

- 1) *Orden del día* is the literal translation of the English “orders of the day”.
- 2) *Orden del día* does not refer to the chronological order in which matters should be discussed on the floor. It alludes to each order of a legislative chamber which enables a measure to be considered on the following day. **Therefore, the Spanish word *orden* should be used in the feminine gender for this purpose.**

⁷³ Ibid, p. 59.

- 3) The British Parliament uses the expression “orders of the day” because it adopts “orders”. Each “order of the day” refers to a single matter to be discussed on the floor. All orders of the day for the following sitting day are published in the “Order Paper”.
- 4) In England, the agenda or order of business (*plan de labor*) contains a number of measures eligible for consideration on the floor by means of their corresponding orders. Hence, an “order of the day” refers to a specific matter and the “order of business” lists all of the House’s items of business for a particular day, and in order – one matter after the other.
- 5) “Orders” are non-existent in the Argentine Congress. Therefore, the expression *orden del día* is not true to its meaning in Argentine parliamentary procedure. For this reason this expression continues to be the object of the most varied interpretations.

SECTION XXIII

CALENDARS – U.S. CONGRESS

(Calendarios legislativos – Congreso norteamericano)

In the U.S. Congress, once a matter is favorably reported by a committee (*una vez que un proyecto obtiene el despacho favorable de la comisión*), it is placed on the corresponding calendar for further consideration by the full house.

I have decided to translate “calendar” as *calendario* because even when this is an evident literal translation of the English term, it keeps close to the intention of its use in the Congress of the United States. In its strict sense, the word “calendar” does not refer to a current calendar but it is applied to the roster of reported bills (*nómina de proyectos de ley despachados*) which are chronologically placed according to the order of presentation of each report and, as well, according to the nature of the proposal. In the American system, specific days have been fixed for the consideration of bills, according to their type.

One of the questions that have ever preoccupied members of Congress since its creation in 1789 was the way they could make a better use of time. During the early years of Congress, this fact did not seem to be imperative because the flow of legislation was very little and, generally, did not demand immediate consideration. Modern society has brought about the concept of urgency, issues have become more complex and take longer to work through, and Congress has not remained free from this trend. In this regard, in 1950 Carlos María Bidegain said that “one of the characteristics

of government of this century's peoples is the fact that it must urgently solve many problems which, time ago, were outside its sphere of action".⁷⁴

This increasing requirement of a better use of time produced as a result that the chambers acquired a praiseworthy organization for their work, which along with certain changes, is still in force. In this sense, calendars help to organize the ever increasing number of questions which are awaiting a suitable moment to be considered on the floor. These questions are arranged according to the days of the week, and are governed by a precise calendar.

Once placed on the pertinent calendar (*una vez inserto en el calendario correspondiente*), each measure is assigned a calendar number, according to its order of presentation. However, this order generally does not coincide with the order in which the house will eventually consider it on the floor, because each body determines which matters shall be called up (*cuáles son los asuntos que llegarán al recinto*) and also states the time for their consideration according to questions of political timing and other variable factors. As a result, the assignment of a measure on one of the calendars does not assure its further consideration, unless it is so determined by a previous agreement between the party leaders and the presiding officer (*a menos que así lo disponga un acuerdo previo entre los líderes de los partidos políticos y la presidencia de la cámara*).

The House of Representatives uses five calendars:

- 1) **Union Calendar** (*Calendario de proyectos relativos a la Unión*).
- 2) **House Calendar** (*Calendario de la Cámara de Diputados*)
- 3) **Corrections Calendar** (*Calendario de correcciones*).
- 4) **Private Calendar** (*Calendario de proyectos de orden privado*).

⁷⁴ Bidegain, Carlos María: *El Congreso de los Estados Unidos de América – Derecho y prácticas legislativas*, Buenos Aires, Editorial Desalma, 1950, p. 23.

- 5) **Discharge Calendar** (*Calendario de proyectos que por orden de la Cámara, no tienen despacho de comisión*).

House members (*miembros de la Cámara de Diputados*) receive a daily printout called “Calendars of the United States House of Representatives and History of Legislation” (*Calendarios de la Cámara de Diputados de los Estados Unidos e Historial de las Iniciativas Legislativas*), which contains all the House and Senate initiatives that have been reported out of committee. Even though this publication is helpful in terms of listing eligible measures, it is understood that not all matters listed in there will be ultimately considered by the chamber.

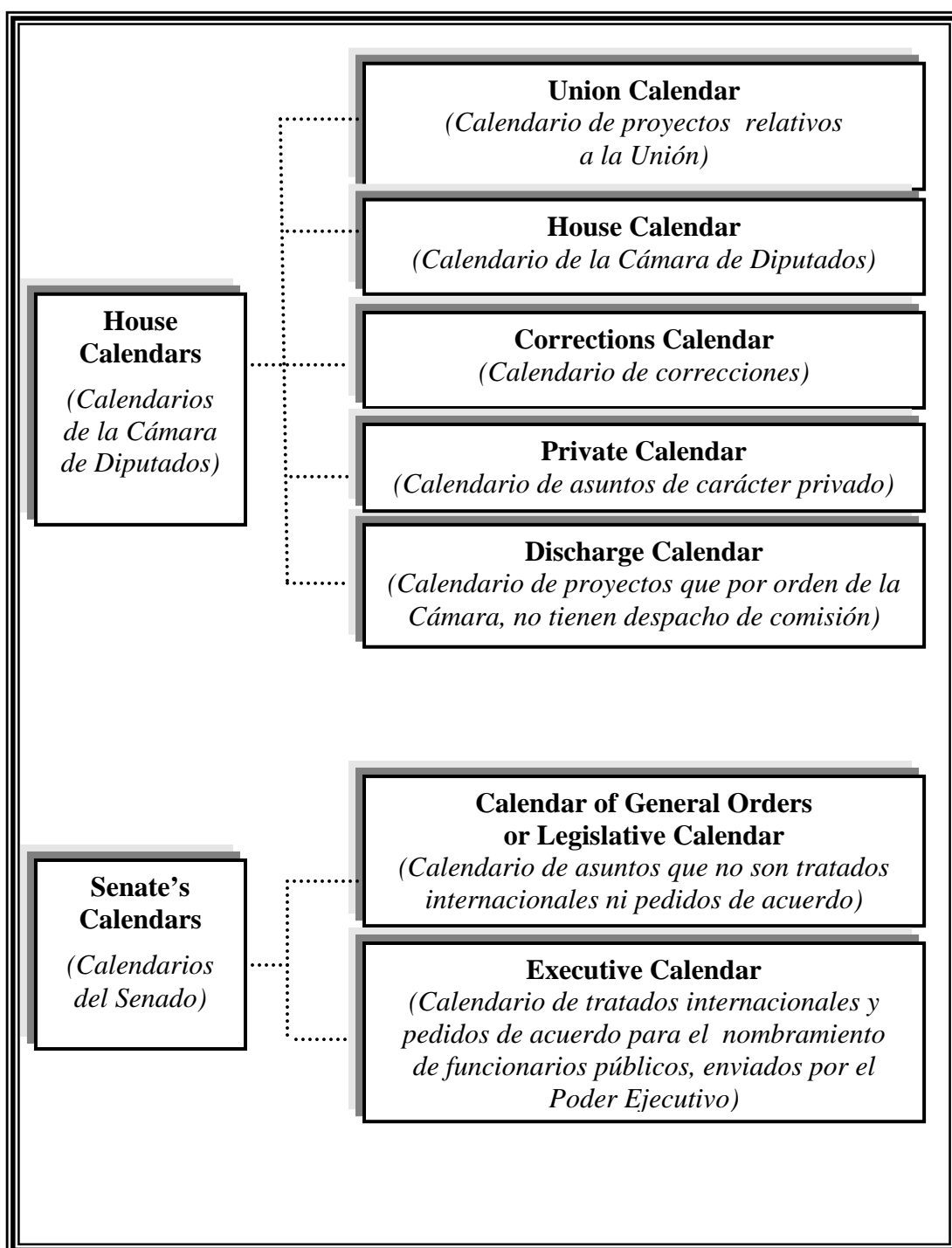
On its part, the Senate uses two Calendars:

- 1) **Calendar of General Orders** (*Calendario de asuntos que no son tratados internacionales ni pedidos de acuerdo*): It is also commonly referred to as the **Legislative Calendar** (*Calendario Legislativo*) because it lists all the pieces of legislation eligible for floor consideration, such as bills, resolutions and motions.

- 2) **Executive Calendar** (*Calendario de tratados internacionales y pedidos de acuerdo para el nombramiento de funcionarios públicos, enviados por el Poder Ejecutivo*): This is the daily calendar of executive business which contains nominations and treaties, in other words, business which derives from the Executive branch of government and is sent to the Senate for its “advice and consent”, as set forth by the U.S. Constitution.

The Senate publishes a daily “Calendar of Business” (*Calendario de Labor*) which contains questions relating to bills, resolutions, motions, rules and matters included in the Calendar of General Orders.

Table 11: Calendars
(*Calendarios de las Cámaras*)



CALENDARS OF THE U.S. HOUSE OF REPRESENTATIVES:

Union Calendar

(Calendario de asuntos relativos a la Unión)

This Calendar's full title is "Calendar of the Committee of the Whole House on the State of the Union" (*Calendario de la Cámara constituida en comisión para tratar temas sobre el estado de la Unión*). The measures placed on this Calendar must be first considered by the Committee of the Whole (*Cámara en comisión*), which reports them back to the House for a final vote on passage after completing debate and amendment (*la cual, una vez que los despacha, los devuelve a la Cámara para su votación final luego del debido debate e introducción de modificaciones*). Of course, as indicated above, there is no guarantee that all measures listed will receive eventual consideration. Listing merely indicates eligibility for floor consideration, in this case, in the Committee of the Whole.

All money measures (*proyectos que involucran dinero*) are placed on this Calendar, and therefore are considered by the House sitting as a Committee of the Whole. These measures are public bills connected with the Treasury; that is to say, directly or indirectly connected with money or property. This category contains the vast majority of legislation brought to the floor.

House Calendar

(Calendario de la Cámara de Diputados)

Public bills of major importance not affecting the Treasury in any way are assigned to this Calendar. These are non-money measures, generally related to administrative or procedural matters, and also important philosophical matters such as proposed amendments to the U.S. Constitution. After being favorably reported by a

committee, they are taken up directly by the full House, and never reach the Committee of the Whole.

Corrections Calendar (*Calendario de correcciones*)

This Calendar was created in 1995 due to the initiative taken by the new majority, who perceived a need to establish a “Corrections Day” (*Día de Correcciones*) in the House of Representatives. It was considered necessary to assign a day to “take the dumbest things the federal government is currently doing and just abolish them”.⁷⁵ After forty years of serving in the minority, the new Republican majority had targeted many existing laws as outdated or even outlandish.

There are only two Corrections Days in each month and all corrections legislation (*proyectos que requieren corrección*) assigned to either the Union Calendar or the House Calendar must be dealt with on those days.

Although the Speaker has the sole power to determine which corrections bills are to be taken up, an equally divided bipartisan advisory group (*grupo de asesamiento formado por igual cantidad de legisladores de las dos bancadas*) assists him in doing so by first reviewing the legislative candidates for inclusion on this calendar. The creation of a Corrections Committee was a necessary concession to the minority which had until then actively blocked the establishment of this new calendar.

The assignment of a measure to the Corrections Calendar guarantees its quick consideration and the chance to be amended. Should it fail to receive a three-fifths vote

⁷⁵ The Washington Post, January 31, 1995, Section A, p.13: Words attributed to House Speaker Newt Gingrich (R-Ga.).

of the full House on the Corrections Day, it shall remain on the Calendar to which it has been originally assigned and the chamber will be able to consider it again under some other procedure if it is still deemed a viable measure.

Private Calendar
(Calendario de proyectos de carácter privado)

The official title for this Calendar is the “Private Calendar”. Its object is to consider certain claims from individuals or private entities, which often deal with immigration questions or individual financial claims or grievances against the federal government. It is the office of the Parliamentarian which reviews legislation as it is introduced and determines whether it is a private or public bill. That initial decision then determines whether or not it will be placed on the Private Calendar, once reported from committee. The matters placed on the Private Calendar are considered once or twice per month on specific assigned days.

In general, private matters are studied by an informal committee of official objectors formed by a small number of legislators with an equal number from each party, which evaluates the measures’ viability and adequacy.

Discharge Calendar
*(Calendario de proyectos que por orden de la Cámara,
no tienen despacho de comisión)*

Whenever a public bill or resolution has not been reported from committee during thirty legislative days after its referral, or else, has not been reported out by the Rules Committee after seven days, any member may file a “discharge motion” on the measure (*moción para que se exima a una comisión de la producción del despacho de*

un proyecto que le ha sido girado). This motion is generally known as a “discharge petition” (*pedido de eximición*), and once signed by the majority of the house, is placed on the “Calendar of Motions to Discharge Committees” or “Discharge Calendar” for further consideration on the floor.

Should the motion carry, any of the signing members may move for the immediate consideration of the bill (*si se aprueba la moción, cualquiera de los legisladores puede presentar una moción para el tratamiento inmediato del proyecto*). However, if the chamber agrees to postpone action, the matter will be assigned to the respective Calendar which corresponds to its type of content (*si la cámara determina aplazar el tratamiento, el proyecto se colocará en el calendario respectivo*).

Generally, a discharge petition loses because members are reluctant to openly defy committees. Nevertheless, their sole intention of offering this motion spurs the committees on to report out the measure in question.

Calendar Wednesday (*Calendario de los Miércoles*)

In addition to discharge motions, the House of Representatives once used the Calendar Wednesday procedure to call up measures that were blocked in the committees. This procedure was first used at the beginning of the nineteenth century. At present it is seldom used because it is slow and complex. Most observers acknowledge it to be an arcane and outdated procedure.

Calendar Wednesday allows the chamber to consider a reported measure which is being blocked by the Rules Committee. According to this procedure, every Wednesday, the chamber calls standing committees (*comisiones permanentes*) in

alphabetical order so that they may call up some of its measures from the Union or House Calendar.

Debate of matters included in the Calendar Wednesday process must be brought to a close in only one single legislative day. As committees are called in alphabetical order, those appearing at the end of the roll must wait during several days before their measure is finally called up. Besides, each committee is allowed to call up only one bill at a time. This means that in order to bring up other bills, the committee will have to wait until all the other committees have been called.

It becomes evident that slowness and limitations of Calendar Wednesday are likely to obstruct the normal development of the House business, also giving way to dilatory tactics. For this reason, this procedure is no longer utilized.

CALENDARS OF THE U.S. SENATE

Calendar of General Orders

*(Calendario de asuntos que no son tratados internacionales
ni pedidos de acuerdo)*

Calendar of General Orders or “Legislative Calendar”, as it is informally named, includes all reported Senate bills and resolutions. It also lists those measures assigned directly by the Senate to this Calendar, with the exception of nominations and international treaties.

Executive Calendar

*(Calendario de tratados internacionales y pedidos de acuerdo para el nombramiento de
funcionarios públicos, enviados por el Poder Ejecutivo)*

This Calendar lists international treaties sent by the Executive Branch for their ratification and nominations of judges, ambassadors, consuls, etc., sent for their

confirmation (*tratados internacionales y nominaciones de jueces, embajadores, cónsules, etc., enviados por el Poder Ejecutivo para su ratificación y confirmación por parte del Senado*).

SECTION XXIV

COMMITTEE OF THE WHOLE

(Cámara en Comisión)

In Argentina, a house resolves itself into a Committee of the Whole (*una cámara se constituye en comisión*) by means of a member's motion, when it is considered necessary to discuss certain reported or non-reported matters under this procedure. In the Argentine Congress, either of its houses may resolve itself into a Committee of the Whole. However, in the U.S. Congress only the House of Representatives may do so, since the Senate gave up using this practice in 1986. The American House resolves itself into a Committee of the Whole by a member's motion or by special order of the House Rules Committee.

In the U.S. Congress, the full name for Committee of the Whole is "Committee of the Whole House on the State of the Union" (*Comisión de la Cámara en pleno para tratar asuntos relativos al estado de la Unión*). This name derives from the one used in the United Kingdom "Committee of the Whole House on the State of the Nation" (*Comisión de la Cámara en pleno para tratar asuntos relativos al estado de la Nación*).

The members of the Committee of the Whole are all members of the house (that is, either of the Argentine houses and only the U.S. House of Representatives). Whereas in the Argentine Congress, the chair of the Committee of the Whole is the same presiding officer of the house, in the U.S. House of Representatives, the Speaker appoints a member of the majority party to preside over the Committee of the Whole as its chairman (*elige a un miembro de la mayoría para que ocupe la presidencia de la Cámara en Comisión*).

The Argentine chambers very rarely go into a Committee of the Whole and their rules of procedure do not specify which matters should be considered under this procedure prior to their consideration by the full house as a deliberative body.

However, the Rules of the U.S. House of Representatives⁷⁶ state that all money bills and bills involving a tax or charge on the people or appropriations of money (*proyectos de ley que involucran dinero o cargas impositivas para la ciudadanía o que se refieren a la distribución de recursos*), must be first discussed in the Committee of the Whole. In other words, all those measures placed on the Union Calendar, which is the Calendar of the Committee of the Whole, are generally considered in this unique forum. For this reason, it is said that:

“The Committee of the Whole is the very essence of the House exercising its special (fiscal) powers and prerogatives under the Constitution”.⁷⁷

Translation:

“La Cámara en Comisión es la verdadera esencia de la Cámara en ejercicio de sus poderes (fiscales) especiales y prerrogativas que le confiere la Constitución.”

The method of debate of the American House of Representatives, when sitting as a Committee of the Whole, is similar to the one used by standing committees. The purpose of this device is to speed up floor action (*la finalidad de este procedimiento es la agilización del tratamiento de un proyecto en el recinto*). To this end, it is subject to a number of rules which are more abbreviated than those of the full House, such as, for example, a smaller quorum requirement and consideration of amendments according to the five-minute rule (*regla de los cinco minutos para la consideración de modificaciones a un proyecto*), which establishes a five-minute time limit for the

⁷⁶ Rules of the House of Representatives (106th Congress): Clause 3 of Rule XVIII.

⁷⁷ Oleszek, Walter J.: *Congressional Procedures and the Policy Process*, 4th edition, Washington D.C., Congressional Quarterly Inc., 1996, p. 166 (Locution attributed to a staff director of the House Rules Committee, 1993).

sponsor and another five-minute time limit for the opponent to speak about the amendment offered, as opposed to the standard one-hour rule of debate which prevails when sitting as the House.

Ilona Nickels⁷⁸ defines the Committee of the Whole as

“the House of Representatives operating as a committee on which every Member of the House serves. The House of Representatives uses this parliamentary device to take procedural advantage of a somewhat different set of rules governing proceedings in the Committee than those governing proceedings in the House.”

Translation:

“la Cámara de Diputados sesionando como una comisión formada por todos sus miembros. La Cámara de Diputados utiliza este mecanismo a fin de hacer uso de las ventajas de su procedimiento, que incluye un conjunto de reglas algo diferentes de aquéllas que regulan el procedimiento de la Cámara.”

The American practice stems from English parliamentary precedent. During the sixteenth century, the increasing power of the House of Commons over the finances of the realm demanded the creation of a special mechanism to deal with money bills and resolutions, in a way that precluded the English Speaker from taking part in the debate. At the beginning, the solution took the form of small committees of investigation within the Parliament, whose principal object was to control financial policy and avoid misappropriation of funds by the monarch. With the passing of time, these committees were not small any longer. They turned into committees formed by all members of the House of Commons, that is to say, they were committees of the whole House. The Speaker, who was the king’s agent, acted on behalf of the crown and was considered to be “the king’s man”, was not present during these meetings. In this way, he was

⁷⁸ Nickels, Ilona: *Committee of the Whole: An Introduction*, Congressional Research Service Report for Congress (85-943 GOV), September 12, 1985, p. 1.

prevented from taking part in decisions which could favor the crown's side as regards appropriation of money from the country's treasury.

The House of Commons would then hold secret deliberations; it elected a chairman out of its members and then proceeded to the consideration of those matters connected with taxes and spending. Eventually, in 1593 a large committee did not retire to the outer room where they used to meet, but actually sat in the House. "Then on 11 March 1607 the first true Committee of the Whole House of Commons sat (...) By 1614 the Commons went into such a committee on the least occasion, and Committees of the Whole House became daily occurrences".⁷⁹

The creation of the Committee of the Whole gave the House of Commons the opportunity of becoming independent of the crown, since it not only unseated the Speaker, but it also avoided small committees from making important decisions. In this way, the Committee of the Whole assured greater decision-making among all members of the House.

The first legislative assemblies during the colonial years of the United States immediately assimilated this device and so did the House of Representatives from its creation in 1789.

At present, the House most often goes into a Committee of the Whole by means of a "special rule" (*regla especial*) or an "order of business resolution" (*resolución de colocación del asunto en el plan de labor*). Thus, the legislative measure is given a privileged status for immediate consideration in a Committee of the Whole (*se otorga al proyecto la calidad de privilegiado para su inmediata consideración por parte de la Cámara en Comisión*).

⁷⁹ *The Evolution of Parliamentary Procedure*, House of Lords Record Office, Publications in Print, <http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldparlac/bondlec2.htm>

In the Argentine Congress, debate under this procedure is always unlimited (*la discusión es siempre libre*). In the United States, there are no limitations of time on the books either, and once recognized, each member may theoretically speak as many times as he or she deems convenient. However, in actual practice, before resolving into a Committee of the Whole, the House always establishes the duration of the debate.

However, it must be kept in mind that the Committee of the Whole cannot pass a bill (*la Cámara en comisión no puede pronunciar sanción definitiva*). It is, after all, a committee, and lacks the authority of the full chamber. After stopping debate by a favorable vote on a motion to rise and report, the Committee of the Whole rises and reports back to the House with a recommendation that the bill be passed with whatever amendments were approved by the Committee of the Whole (*luego de cerrada la conferencia mediante el voto favorable de una moción de cierre de debate de la Cámara en Comisión, ella cierra el debate y produce despacho al pleno de la Cámara recomendando que se apruebe el proyecto con las modificaciones que ha introducido*). Likewise, the Committee of the Whole cannot reject a bill or recommit it to the legislative committee where it originated (*la Cámara en comisión no puede rechazar un asunto o volverlo a comisión*) but cedes that authority to the parent chamber. Should the Committee of the Whole decide that a bill be rejected or recommitted, it must report it with recommendations for its rejection or recommitment to the full House (*debe despacharlo a la cámara en pleno con recomendaciones para su rechazo o vuelta a comisión*).

Once the Committee of the Whole has adopted a motion to rise and report, it is considered as dissolved. Its chairman reports its recommendations to the full House orally and immediately upon rising (*una vez que la Cámara en Comisión ha aprobado la moción de levantar la sesión en comisión y despachar el proyecto en tratamiento, su*

presidente informa sus recomendaciones al pleno de la Cámara en forma oral e inmediatamente después de levantada la sesión de la Cámara en Comisión). The chamber reconvenes as the full House to continue considering the measure (*la cámara vuelve a sesionar como cámara en pleno a fin de continuar con la consideración del proyecto*). At this point, no new amendments may be offered in the House. The remaining steps are to either recommit the bill to the committee where it originated or to pass the bill or reject it.

In neither of the Argentine chambers is it possible to determine at first sight if it is transacting business as the full house or as the Committee of the Whole. However, any visitor to the American House of Representatives may be sure of what kind of forum is sitting, by only looking at the mace (*bastón ceremonial*). If the mace sits on a pedestal on the same level as the Speaker, and on his right, it means that the House is in session (*significa que la Cámara está en sesión*). If it has been placed on a lower pedestal, it means that the House is in Committee of the Whole (*significa que Cámara está sesionando en comisión*).

As regards this ceremonial device, I find interesting to add some details about its origin, description and use. The mace is the reproduction of the ancient *fascēs*, which was a bundle of rods borne before Roman magistrates as a badge of authority. This symbol was adopted by the English Houses of Parliament and later, by the House of Representatives. It is about forty-six inches high and is made of thirteen ebony rods (one per each of the original colonies), tied together with silver thongs and topped with a silver globe and a silver eagle. The mace used at present was built in 1841, being a replica of the original one which was burned during the Capitol blaze of 1814.

The mace is the symbol of authority of the House Sergeant-at-arms (*funcionario de la Cámara de Diputados encargado del orden*), who takes it to the floor every sitting

day, raising it every time it is necessary to preserve order on the floor. During the early days of the House of Representatives, the mace was used as a practical element rather than as a symbolic one. The Rules of the House established that whenever extreme disorder arose on the floor, the Speaker might direct the Sergeant-at-arms to enforce order with the mace. The last time it was used as a method of visual persuasion was in 1994.

SECTION XXV

**COMISION DE LABOR PARLAMENTARIA DE
DIPUTADOS Y PLENARIO DE LABOR PARLAMENTARIA
DEL SENADO**

*(Committee on the House's Legislative Agenda and Scheduling Plenary of the Senate's
Legislative Agenda)*

In Argentina, the *Comisión de Labor Parlamentaria de la Cámara de Diputados* (*Committee on the House's Legislative Agenda*) and its counterpart, the *Plenario de Labor Parlamentaria del Senado* (*Scheduling Plenary of the Senate's Legislative Agenda*), have as their primary responsibility, the schedule of the legislative agenda for each sitting day. To this end, they are informed about the status of the matters under study in committees and also decide practical proceedings to speed up floor action.

On the one hand, and quoting Schinelli,

*“Obtener un plan de labor representa un esfuerzo que contempla tener en cuenta todas las inquietudes políticas o de otra índole, que influncian sobre la labor de la Cámara”.*⁸⁰

Translation:

“Producing the schedule of a legislative agenda signifies an effort that consists of taking into account all political points of view or any other kind of considerations which influence upon the chamber's transaction of business.”

On the other hand, should the agenda not be scheduled, the houses would find themselves forced to analyze the whole of the committee reports according to the chronological order of their publication.

⁸⁰ Schinelli, Guillermo G.: *La Comisión de Labor Parlamentaria de la Cámara de Diputados de la Nación*, Revista de Derecho Parlamentario N° 2, Dirección de Información Parlamentaria, Congreso de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1989, p. 17.

The *Comisión de Labor Parlamentaria* of the Lower House and the *Plenario de Labor Parlamentaria* of the Senate do not share the characteristics of current committees. Their composition varies according to their impending needs. These bodies are formed by the corresponding house and party officers. However, the group chairmen (*presidentes de bloque*) may be replaced by any party officer (*autoridad de bloque*). Besides, the rules of procedure of the houses do not state a steady number of members for these bodies because the number of party groups is not always the same. It varies in accordance with the organization of the chamber and consequently, there is not any rule regarding a fixed quorum for these meetings.

To this respect, Schinelli considers that:

*“La Comisión de Labor Parlamentaria es un ámbito en el cual las decisiones se adoptan por asentimiento. Es un campo propicio para la negociación, sin producirse votaciones formales. Sucede que, como regla general, la comisión no ‘decide’ sino que ‘propone’ caminos a quien, en todos los casos, la debe avalar: la Cámara en su plenario”.*⁸¹

Translation:

“The Committee on the House’s Legislative Agenda is a field where decisions are made by agreement. This is a field suitable for negotiation, where no formal vote is cast. As a general rule, the Committee on the House’s Legislative Agenda does not ‘decide’ but ‘proposes’ a number of approaches to the full house, which, in all cases, is the one which must support it”.

In summary, the Committee on the House’s Legislative Agenda and the Scheduling Plenary of the Senate’s Legislative Agenda are the adequate field where a few members who represent all the political factions of their respective house may propose their chamber the measures to be included in the legislative agenda. In addition,

⁸¹ Ibid, p. 16.

through these bodies, each chamber may request from committees the urgent report of certain questions.

The terms *plan de labor*, *plan de trabajo* and *orden del día* are frequently used without distinction and are applied to the roster of measures the house has decided to discuss in a certain sitting day.

In the Argentine chambers there are two procedures which enable a question to be considered on the floor:

- 1) A member may offer a motion for its prompt consideration.
- 2) The measure is placed on the agenda.

In this sense, as like the Rules Committee of the House of Representatives of the U.S., the House's *Comisión de Labor Parlamentaria* and its counterpart, the Senate's *Plenario de Labor Parlamentaria* assemble the legislative agenda with those measures which, according to the party groups' proposal and its own understanding, should be considered during the following sitting day. For this purpose, these bodies have ample powers to select the measures to be discussed next, disregarding the chronological order in which committee reports have been published.

SECTION XXVI

RULES COMMITTEE – U.S. CONGRESS

*(Comisión de Reglamento y elaboración del Plan de Labor –
Congreso norteamericano)*

The Rules Committee, which is the unavoidable path for most measures to have floor action, is one of the characteristics of the U.S. House of Representatives. Via a special resolution called “special order”, “special rule” or “special order of business resolution”, this committee makes a bill in order for floor consideration, without taking into account in what position it has been placed on the Calendar to which it was assigned (*instala un proyecto dentro de la norma reglamentaria para su consideración, sin tener en cuenta el orden que ocupa en el Calendario al que fue asignado*). This procedure expedites consideration of certain matters; otherwise, they would have to respect the chronological order of their placement on the Calendar and, as a result, many measures would most probably never have any opportunity to reach the floor. In this sense, the Rules Committee resembles the Argentine Committee on the House’s Legislative Agenda and Scheduling Plenary of the Senate’s Legislative Agenda, already described in the previous Section.

The importance of the Rules Committee is shown in its ample decision-making power. Scheduling a Rules hearing on a bill generally determines the feasibility of the matter being called up for floor consideration (*el hecho de programar una audiencia para considerar un proyecto sobre el que la Comisión de Reglamento y elaboración del Plan de Labor debe dictar resolución, generalmente determina la posibilidad de que este proyecto sea tratado en el recinto*).

The Rules Committee is one of the most powerful committees in the House of Representatives. It has the power to clear bills for floor action (*tiene el poder de rescatar ciertos proyectos que están aguardando su turno en el Calendario correspondiente, para su tratamiento en la Cámara*). More importantly, this committee is empowered to recommend the rules of debate under which a certain question will be considered, and limiting or even prohibiting amendments to the measure (*tiene autoridad para recomendar las reglas del debate y limitar o aún prohibir la introducción de modificaciones*). It also acts as an invaluable support to the Speaker's and majority leader's duties, since it shares with these two officers the decision of expediting certain matters and ignoring others.

The Rules Committee adopts resolutions which define the rules under which certain legislation will be considered, setting specific procedures for each matter to be considered on the floor. Through these resolutions, which are later adopted by the House with a simple majority vote, the Rules Committee sets the time limit on general debate (*establece la duración máxima de la discusión en general*) and determines the extent to which amendments can alter the measure in question. It also has powers to prevent a bill from coming to the floor (*tiene facultades para impedir que un asunto llegue al recinto*). However, its chairman takes part in the arrangement of the House's agenda (*su presidente participa de la responsabilidad de estructurar el plan de labor de la Cámara*) only after extensive consultation with the majority leadership, consisting of the Speaker and the Majority Leader of the House.

The purpose of a special rule is to permit the consideration of legislation that is otherwise not privileged through other procedures to reach the floor.

A special rule of the Rules Committee may set aside many of the usual standing rules of procedure during debate of a question. Its "rules" or "special rules" have the

form of temporary resolutions (*resoluciones transitorias*) which are to be applied to each measure individually. Once these resolutions are adopted by the House, they acquire the same validity as those forming part of the permanent Standing Rules of the House of Representatives. However, their authority lapses immediately after action has been completed on the measure to which they pertain (*caducan tan pronto como se ha completado el tratamiento de la medida que les dio origen*).

The kind of temporary rules chosen to govern the consideration of a certain matter will determine the way amendments to the measure will be considered, if at all. Types of rules are an: “open rule”, “closed rule”, “modified rule”, “modified open rule”, “modified closed rule” and “waiver rule”.

Open rule (*regla abierta*): It allows an unlimited number of amendments to a measure under discussion.

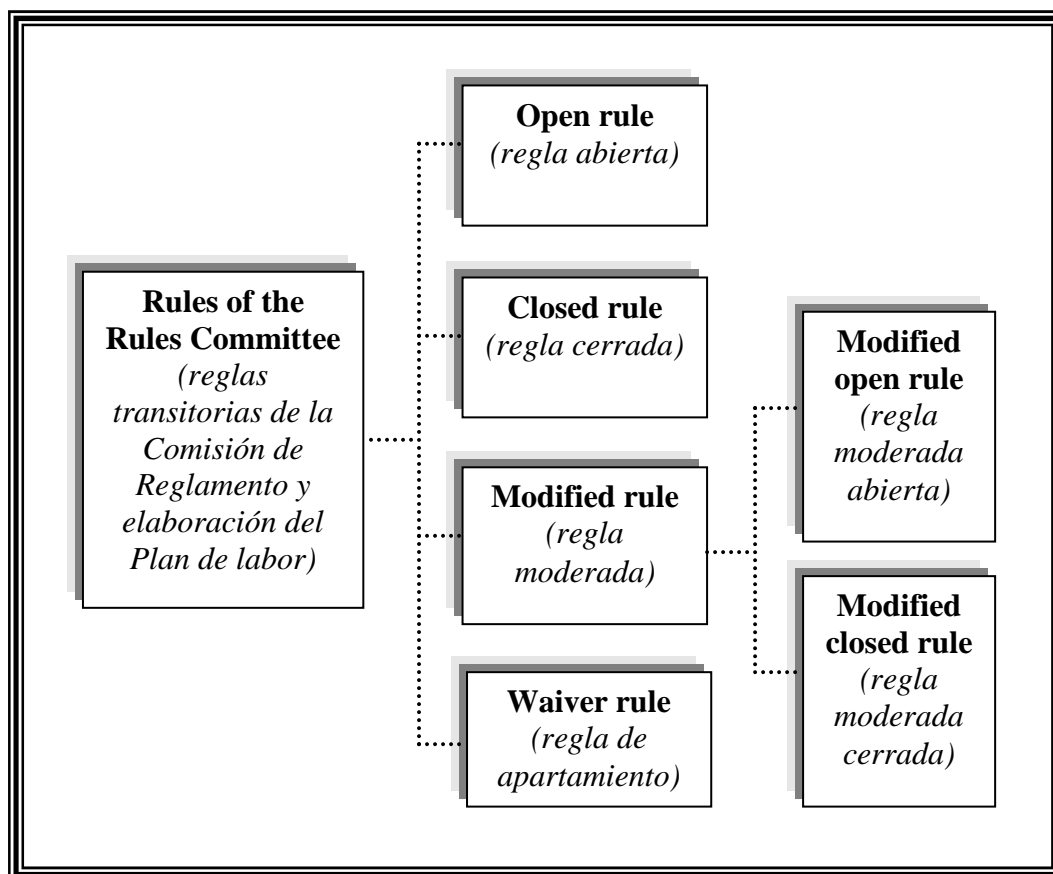
Closed rule (*regla cerrada*): Sometimes criticized by minority party members as a “gag rule” (*regla mordaza*), it only allows those amendments already filed by the reporting committee or does not allow any amendments from the floor at all (*sólo acepta la introducción de las modificaciones ya sugeridas por la comisión productora del despacho o no permite ninguna modificación que surja del debate en el recinto*).

Modified rule (*regla moderada*): It only allows amending under certain conditions or limits amending to specified amendments. A “modified open rule” (*regla moderada abierta*) allows a measure to be amended but places restrictions on amending by either placing a time limitation on the overall amending process or by requiring that all amendments be printed and filed in advance. A “modified closed rule” (*regla moderada*

cerrada) prohibits all amendments except those specified and listed in the special rule or it closes off portions of the bill to any amending while permitting amendments to the remaining text.

Waiver rule (*regla de apartamiento*): It waives points of order against a measure or amendments or both (*deja de lado una cuestión reglamentaria contra una medida, contra modificaciones, o contra ambas*).

Table 12: Different kinds of rules of the Rules Committee
(*Distintas clases de reglas transitorias dictadas por la Comisión de Reglamento y elaboración del Plan de Labor*)



SECTION XXVII

UNANIMOUS CONSENT AGREEMENTS

(Acuerdos aprobados por consentimiento unánime del Senado)

Although major legislation is often brought to the U.S. Senate floor via unanimous consent agreements reached between the two party leaders, this procedure is seldom used in the House of Representatives. With four hundred and thirty-five Members, there are simply many individuals to consult to be able to achieve negotiated settlements. In contrast, the smaller number of Senators, one hundred, as well as a long established tradition in that chamber of reciprocity and accommodation, make negotiated agreements possible.

This *modus operandi* consists of a “special order” approved without objections by the Senate (*orden o directiva temporaria que el Senado aprueba sin objeciones*). Its purpose is to expedite legislation by means of restrictive procedures (*agilizar el tratamiento de un proyecto en el recinto mediante procedimientos restrictivos*). For example, many unanimous consent agreements determine that only certain senators will be able to offer amendments, or else, specify the kind of amendments that may be made to the matter under consideration. And, most importantly in a chamber that permits unlimited debate, these agreements place a time limitation on the overall debate period.

The advantages of this informal procedure through negotiation lie in the fact that:

- 1) A measure may be called up without the need to make any motion to that end (*la cámara puede considerar un proyecto sin necesidad de que se ofrezca una moción a tal fin*).

- 2) Time limit for debate of the measure is imposed (*se limita el tiempo de debate*).
- 3) Amendments must be germane⁸² (*debe existir unidad de debate*), which is otherwise not the case.

The time assigned to strict debate of the measure up to the point of final passage is known as “bill time” (*tiempo de debate del proyecto*). This time does not include the discussion devoted to analyze the amendments which might be offered. Bill time is organized according to unanimous consent agreements and is equally divided between the majority and minority floor managers (*encargados del proyecto designados por la mayoría y por la minoría política*).

Unanimous consent agreements on major legislation (*el acuerdo aprobado por consentimiento unánime para la determinación de las reglas de debate de proyectos de gran importancia*) are printed and delivered to senators prior to the consideration of the measure on the floor, if the consideration is set for the next or subsequent days. If the agreement is reached for consideration to be held that same day, then senators are notified by recorded telephone messages which ring on dedicated lines in their offices. Each unanimous consent agreement, which is often the result of skilled and patient negotiations, pertains to only one measure under discussion.

Unanimous consent agreements give rise to conditions nearly identical to those established by the House of Representatives’ special rules. However, there is one substantial difference between these two procedures: while unanimous consent agreements are halted by a single objection from the floor, special rules issued by the House Rules Committee are approved by a majority vote of the full House (*se aprueban con el voto de la mayoría de la Cámara*).

⁸² Term developed in Section XXXVII “Amendments”.

SECTION XXVIII

MOTIONS

(*Mociones*)

A motion is a formal proposal (*proposición formal*) made by a member to take a procedural action. Motions do not affect the structure of a measure, their nature is temporary and they may be offered during general debate (*discusión en general*) or during the amendment process (*discusión en particular*). They are usually made orally by a member once recognized (*las ofrece un miembro al que se ha concedido el uso de la palabra*); yet, they must also be reduced to writing and sent up to the desk (*también se las puede presentar por escrito a la presidencia*).

The word *motion* and its corresponding Spanish term *moción* derive from the Latin *motio*, which means “moving or being moved”. The *Enciclopedia Universal Espasa Calpe* makes reference to the opinion of certain specialists of the Spanish language about one of the meanings the *Real Academia Española* gives to this word. They hold that “proposition made or suggested in a deliberative assembly” is a Gallicism, “since, according to its etymology (*motio* from *moveo*, meaning “to move”), the term cannot be extended beyond the actions of “to move” or “being moved”. These scholars also disagree with the use of the phrases *hacer una moción*, *defender*, *combatir* or *admitir una moción*. According to this line of thought, and having the etymology of the Spanish word *moción* in consideration, it is not surprising that in English the verb “to move” is used to anticipate the name of the motion as may be seen in the example “the member moved to adjourn” (*el legislador presentó una moción para levantar la sesión*).

Further related to the offering of motions on the floor or during a committee meeting, once a motion has been offered, the presiding officer puts the question (*una vez formulada la moción, el presidente la pone a votación*). Motions must be offered one by one and voted on in the same way. Then, each of them becomes a pending motion (*moción pendiente*). Generally, a motion is effective only after the chamber agrees to it by a vote (*una moción tiene efecto sólo luego de que la Cámara la aprueba mediante votación*), or in the U.S. Congress, adopted “without objection” (*sin objeción*), which does not require a vote.

A motion may also be withdrawn by the mover before the chair puts the question to a vote (*el legislador que presenta la moción puede retirarla antes de que la presidencia la someta a votación*). According to the result of the vote, the motion will be either carried (agreed to) or rejected (*aprobada o rechazada*).

SECTION XXIX

MOTIONS USED IN THE U.S. CONGRESS

(Mociones usadas en el Congreso norteamericano)

According to American parliamentary procedure, a proposal takes the name of “motion” when it is offered as such, e.g. a member says, “I move to suspend the rules” (*cuando se la formula, por ejemplo, el legislador dice “solicito que la cámara se aparte de las prescripciones del reglamento”*). When the presiding officer puts the question for its acceptance or rejection, the proposition is called “question”, e.g. the chair says, “The question occurs on ...” (*cuando el presidente la somete a votación para su aprobación o rechazo se la denomina “cuestión”, por ejemplo la presidencia dice “la cuestión se refiere a ...”*). When it is adopted, it develops into an “order”, “resolution” or “vote of the chamber” (*cuando se aprueba, toma el nombre de orden, resolución o voto de la cámara*).⁸³

The U.S. Congress uses a large number of motions in the different stages of debate. However, only some of them are specifically mentioned in their Rules.

Establishing the order of precedence of the diverse motions made during discussion of a measure is not always easy. For this reason, when there are several motions with different purposes, the order of precedence of motion prevails (*se respeta el orden de precedencia de las mociones*), and that is determined by the rules and long-standing practices of the houses.

Generally speaking, it is said that a member makes or offers a motion (*presenta o formula una moción*), but when doing so, the verb used in the American Congress is

⁸³ Cushing, Luther: *Rules of Proceeding and Debate in Deliberative Assemblies –Manual of Parliamentary Practice*, Boston, Thompson, Brown & Co., 1877, p. 138 (Biblioteca del Congreso de la Nación, Signatura N° 9877).

“to move”. For example, it is said that a member “moves to postpone (a measure) to a certain day”, or that he “moves that a measure be postponed to a certain day” (*presenta una moción para que se aplase la consideración de un asunto por tiempo determinado*).

The following Table shows the order of precedence of the only motions in order when a question is under debate (*las únicas mociones que, de acuerdo con la norma reglamentaria, se permiten formular cuando una cuestión está en tratamiento*). In other words, when a question is pending, only the motions mentioned hereinafter may be made, and they must be voted on, in the established order by the rules of each chamber.

Table 13: Precedence of motions⁸⁴ - U.S. Congress
(Orden de precedencia de las mociones – Congreso norteamericano)

Rules of the House of Representatives (Rule XVI clause 4)	Standing Rules of the Senate (Rule XXII)
<p>“When a question is under debate, only the following motions may be entertained (which shall have precedence in the following order)”: <i>(cuando un asunto está en consideración, sólo se podrán aceptar las siguientes mociones (que observarán el orden de precedencia que se indica a continuación):</i></p> <ol style="list-style-type: none"> 1.- To adjourn <i>(levantar la sesión)</i> 2.- To lay on the table <i>(rechazar un asunto)</i> 3.- For the previous question <i>(cierre del debate y votación inmediata)</i> 4.- To postpone to a day certain <i>(aplazar la consideración de un asunto por tiempo determinado)</i> 5.- To refer <i>(enviar el asunto a comisión)</i> 6.- To amend <i>(introducir modificaciones)</i> 7.- To postpone indefinitely <i>(aplazar la consideración de un asunto por tiempo indeterminado)</i> 	<p>“When a motion is pending, no motion shall be received but”: <i>(cuando un asunto está en consideración, no se admitirá ninguna moción, con excepción de las siguientes):</i></p> <ol style="list-style-type: none"> 1.- To adjourn <i>(levantar la sesión)</i> 2.- To adjourn to a day certain <i>(levantar la sesión por tiempo determinado)</i> 3.- To take a recess <i>(pasar a cuarto intermedio)</i> 4.- To proceed to the consideration of executive business <i>(pasar a la consideración de tratados internacionales y pedidos de acuerdos para el nombramiento de funcionarios públicos, enviados por el Poder Ejecutivo)</i> 5.- To lay on the table <i>(rechazar un asunto)</i> 6.- To postpone indefinitely <i>(aplazar la consideración de un asunto por tiempo indeterminado)</i> 7.- To postpone to a day certain <i>(aplazar la consideración de un asunto por tiempo determinado)</i> 8.- To commit <i>(enviar un asunto a comisión)</i> 9.- To amend <i>(introducir modificaciones)</i>

⁸⁴ Rules of the House of Representatives and Standing Rules of the Senate, 106th Congress.

The only motions in order when a question is under debate

(Las únicas mociones que, de acuerdo con la norma reglamentaria, se permiten formular cuando una cuestión está en tratamiento)

Motion to adjourn (*Moción de levantamiento de la sesión*): This is a highly privileged motion, and first in the order of precedence of both the House of Representatives and the Senate. It is used to end a day's session of a house (*para dar fin a un día de sesión de una cámara*). When it is made, the day and time for reconvening may be mentioned. For procedural reasons (*por razones de procedimiento*), the Senate sometimes decides to recess rather than adjourn (*decide pasar a cuarto intermedio en lugar de levantar la sesión*). This resource allows the Majority Leader to extend one legislative day over several calendar days (*este recurso permite que el líder de la Mayoría prolongue un día legislativo durante varios días calendario*).

The motion to adjourn is made when no other business is pending and it is not used when the House of Representatives has agreed to go into a Committee of the Whole because in this case the pertinent motion would be to “rise and report” (*esta moción se ofrece cuando no quedan más asuntos pendientes que tratar y no se utiliza cuando la Cámara de Diputados ha acordado constituirse en comisión, ya que en este caso la moción apropiada sería la de levantar la sesión de la Cámara en Comisión y despachar*).

Motion to lay on the table: With respect to this expression, it is important to point out that the term “table” (*mesa*) has been used for centuries in parliamentary procedure. It originated in the British Parliament and refers to the Clerk's Table at the House of Commons (*la Mesa del Secretario de la Cámara de los Comunes*), where all documents

are presented to the House. The American Congress adopted this term, though connoting the Speaker's table instead.

In the American Congress, the favorable vote on a "motion to lay on the table" - also known as "motion to table" - means to postpone a measure indefinitely, which actually signifies its permanent rejection. Unlike civic parliamentary procedure, in which a motion to table merely sets a matter aside for a time, in congressional procedure, tabling means to kill permanently.

With the purpose of not confusing the "motion to lay on the table" with the "motion to postpone indefinitely" and since its literal translation into Spanish *dejar en la mesa* does not provide the true meaning of the motion, I have decided to translate it as *moción de rechazo del asunto*, because this is exactly what it produces once it is favorably adopted.

By adopting this motion during the early years of the American Congress, the House laid the pending question aside temporarily when something else of immediate urgency had arisen (*la Cámara suspendía temporariamente la consideración de una cuestión a fin de atender otra más urgente*). With the passing of time, the meaning of this expression changed. Today's meaning of "a matter is laid on the table" is that the matter will be postponed indefinitely by the chamber. In this way, that matter will not ever be considered by the chamber, unless suspension of the rules is adopted, and this has not happened in modern times (*a menos que se apruebe una moción de apartamiento del reglamento, cosa que no ha ocurrido en los últimos tiempos*).

In the British Parliament, the expression "to lay on the table" has a different meaning from that given to it in the American Congress. In England, "to lay on the table" is the equivalent to the expression *sobre tablas* used in Argentine parliamentary law. According to the English use, by the adoption of a motion "to lay on the table" or

“to table”, the urgent consideration of a certain question is required. That is to say, the matter is put before the House for deliberation (*se somete el asunto a la Cámara para su consideración*). To this respect, “Winston Churchill quipped that, unlike the British meaning of putting an urgent matter on the table for immediate action, the American meaning was ‘putting it away in a drawer and forgetting it’.”⁸⁵

With the purpose of postponing a matter indefinitely – that is, rejecting it – some members of the American chambers prefer to vote on a motion to lay on the table. The purpose of this choice is to avoid being registered as voting “against what might be seen as a popular bill or amendment”.⁸⁶ Once, this was a more subtle way of quietly opposing a measure. However, today’s reporting of legislative action is both televised and more thorough and makes hiding behind procedural votes less effective for members.

The motion “to table” is not a debatable question in the U.S. Congress. It is settled without debate. Thus, its adoption allows both ending debate and killing floor amendments (*su aprobación permite tanto cerrar el debate como rechazar las modificaciones introducidas durante su tratamiento en el recinto*). However, it is not frequent that this motion is made on the bill itself because its adoption would kill the entire measure. It is generally used to table another motion or amendments (*generalmente se la vota para aplazar indefinidamente otra moción o el tratamiento de modificaciones*).

Motion for the previous question (*Moción de cierre de debate y votación inmediata*):

In its literal meaning, the term “previous question” stands for the Spanish *cuestión*

⁸⁵ Dickson, Paul and Clancy, Paul: *The Congress Dictionary – The ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc. 1993, p. 348.

⁸⁶ Ibid.

previa. It refers to a matter whose debate has been closed and is awaiting a vote. Having made this caveat, I shall say that by means of a “motion for the previous question” the debate is closed and voting on the immediate pending business follows.

The British House of Commons started using this procedure in the seventeenth century with the purpose of suppressing a main motion (*moción principal*) or question under consideration. In fact, what was really sought by this motion was to suppress “subjects of a delicate nature relating to high personages, or the discussion of which might call forth observations of an injurious tendency”.⁸⁷

The negative decision of the House to put the question (*la decisión negativa de la Cámara para votar la cuestión*) banned any further debate because, such as Cushing⁸⁸ states,

“no further consideration or discussion can regularly be had of a subject which it has been decided shall not be put to the question”

Translation:

(porque), normalmente, no puede existir discusión ulterior sobre un tema que se ha decidido no votar.

The House of Representatives of the United States included this motion in its Rules from the very start. When decided affirmatively, this motion became a device to stop debate (*al decidirse por la afirmativa, se convirtió en un instrumento para cerrar el debate*). Since then, its use has changed several times until becoming today the sole motion used by the House to suppress debate on a question and come to a vote upon it immediately (*concluir el debate y proceder a la votación en forma inmediata*).

⁸⁷ Cushing, Luther: *Rules of Proceeding and Debate in Deliberative Assemblies – Manual of Parliamentary Practice*, Boston, Thompson, Brown & Co. 1877, p. 50 (Biblioteca del Congreso de la Nación, Signatura N° 9877).

⁸⁸ *Ibid*, p. 51.

Taking into consideration that adopting this motion leads to stopping debate and voting at once, it becomes clear that it has been an important House device to abbreviate the discussion of a certain matter. In other words, it is a debate-limiting device; its adoption puts the main issue to an immediate vote and cuts off further amendments (*su aprobación lleva el asunto a votación inmediata e impide cualquier otra introducción de modificaciones*).

As distinguished from the English parliamentary procedure regarding the motion for the previous question, if the motion is rejected (*si la moción no se aprueba*) in the American House of Representatives, the question which has given rise to it remains in the House as if no motion had ever been made. To this respect, Carlos María Bidegain⁸⁹ states that:

“Puede apreciarse que las disposiciones comentadas ponen a disposición de la mayoría amplias facultades para acortar las discusiones, pero (...) las mayorías han sabido interpretar esas prácticas en sus justos alcances y fundamentos, como medios que deben ser utilizados con suma prudencia para facilitar la acción del cuerpo y no con otros propósitos.”

Translation:

“It can be observed that the regulations herein discussed put ample powers at the majorities’ disposal; however, (...) the majorities have learnt how to interpret those proceedings, within their correct scopes and grounds, as means to be used very carefully, with the only purpose of achieving expeditious house proceedings.”

The Committee of the Whole does not use a motion for the previous question to close debate. Instead, it uses the “rise and report” motion mentioned earlier (*cerrar el debate y despachar*).

⁸⁹ Bidegain, Carlos María: *El Congreso de los Estados Unidos de América – Derecho y prácticas legislativas*, Buenos Aires, Editorial De Palma, 1950, pp. 617-618.

The U.S. Senate gave up using this motion in 1806. As a result, discussion on its floor permits unlimited debate (*debate libre*), except when a “cloture motion” (*moción de limitación del tiempo de debate*) or a unanimous consent agreement has been adopted. In its strictest sense, the Senate does not allow debate-ending motions (*mociones de cierre de debate*). Once cloture has been invoked, a time limit (capped at thirty hours) for a certain period of remaining debate is set.

The dangerous factor of allowing unlimited debate is the Minority’s primary tool of obstructionism. In the United States, dilatory tactics which obstruct final action on a bill through extending debate are known as “filibuster”. When a measure is called up (*cuando una iniciativa llega al recinto para su discusión*) and no time limit has been set for its consideration, it is generally liable to suffer dilatory tactics, which have always given rise to serious controversies in the Senate. However, what is significant to remember here, is that while this is inefficient because it does give way to dilatoriness, it is also an important right. The Senate was established to be the more deliberative body and to form a kind of court of appeals from hasty House action. The right of unlimited debate is key to exercising the Senate’s deliberative role.

According to Paul Dickson and Paul Clancy,⁹⁰ the word “filibuster” comes from the Dutch *vribuiter* and the French *filibustier* (meaning “pirate”), evolving into the English “freebooter” and the Spanish *filibustero*. Eventually, this term was “first applied to the nineteenth-century tactic in which adventurers seized power in a nation through a false or faked revolution and then looted the country”.⁹¹ The term “filibuster” reached

⁹⁰ Dickson, Paul and Clancy, Paul: *The Congress Dictionary – They ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc., 1993.

⁹¹ Ibid.

the U.S. Congress in 1858, where it was “applied to legislative piracy in which an issue is plundered by oratory”.⁹²

As regards this topic, Carlos María Bidegain states:

Es un “*recurso de la minoría, reducida a veces a un solo senador, de aprovechar la libertad del debate para paralizar el progreso de la acción del cuerpo y forzarlo a seguir una deliberada conducta no querida por la mayoría*”.⁹³

Translation:

It is a “Minority device, sometimes limited to a sole senator, to take advantage of unlimited debate to stop progress of action on the floor and force the body to follow a deliberate direction not wanted by the Majority.”

Those in favor of unlimited debate consider it as a defense against superficial analysis of a matter under discussion and also as an assurance that the Minority stand will be heard. However, legislators opposing dilatory tactics hold that it is not sensible that the Senate may not pass a law when, in fact, there exists a Majority supporting it. Bidegain states that the longest filibuster took place in 1893. It covered forty-six sitting days. To this respect, he says:

“*Poco éxito ha tenido la contramaniobra de la mayoría de prolongar la duración de las reuniones a fin de derrotar a los obstruccionistas por extenuación física, porque les es fácil a éstos turnarse en la tarea de hablar y leer continuamente (...). En 1923 se consumieron 122 días en cinco filibusters, y en 1917 varios proyectos apoyados por el presidente Wilson fueron derrotados de esa manera*”.⁹⁴

⁹² Ibid.

⁹³ Bidegain, Carlos María: *El Congreso de los Estados Unidos de América – Derecho y prácticas legislativas*, Buenos Aires, Editorial Depalma, 1950, p. 585.

⁹⁴ Ibid, p. 586.

Translation: “The Majority’s counterattack has not been wholly successful in prolonging the length of the sittings aimed to defeat all the obstructionists by physical exhaustion, because it is easy for them to take it in turns to speak and read continuously (...) In 1923, one hundred and twenty-two days were used in five filibusters and in 1917, several measures supported by President Wilson were defeated in that way.”

There were also very long individual filibusters, such as for example, that of 1957, which extended over twenty-four hours eighteen minutes. That Senator, Strom Thurmond of South Carolina, age 99, is still alive and serving in the Senate today.

Up to 1917, Senate debate would conclude by unanimous consent agreement. In that year, the cloture motion was included in the procedure, and hence it has been considered as a formal way of closing an extended debate, therefore avoiding all kind of perpetual filibuster (*prácticas dilatorias y obstruccionistas*).

The cloture motion is a complex procedure by which debate time is limited to “no more than thirty hours of consideration of the measure, motion or other matter on which cloture has been invoked”.⁹⁵ However, putting this device into practice is not easy, since it requires the three-fifths affirmative vote of the total Senate membership, a minimum of sixty votes (*requiere el voto favorable de los tres quintos del número total de senadores, o sea un mínimo de sesenta votos*).

Motion to postpone to a day certain (*Moción de que se aplaze por tiempo determinado la consideración de un asunto pendiente*): This motion is occasionally used. It is offered when a matter is recommitted (*cuando el asunto vuelve a comisión*). Thus, the matter is reported back to the full house on the day fixed for its consideration.

⁹⁵ Standing Rules of the Senate, clause 2 of Rule XXII (1999).

Motion to commit or refer (to a committee) (*Moción de que el asunto se envíe o vuelva a comisión*): In this case the terms “commit”, “recommit” and “refer” are synonyms. When this motion carries, the measure is referred or recommitted for a more detailed analysis (*cuando se aprueba esta moción, el asunto se envía o vuelve a comisión para un análisis más detallado*). In essence, this is a way of killing a bill (*es un modo de rechazar un proyecto*). This device is frequently used by the House Minority party, which moves a motion to recommit with instructions to add a specific amendment, but it rarely produces the votes to carry (*lo usa frecuentemente la bancada minoritaria, quien formula una moción para que el asunto en cuestión vuelva a comisión con instrucciones para incluir una modificación determinada, aunque rara vez alcanza la cantidad de votos para que prospere*).

Motion to amend (*Moción para introducir modificaciones*): This motion is regularly used to amend a matter under discussion. Since the Standing Rules of the Senate allow non-germane⁹⁶ amendments (*permiten dejar de lado la unidad del debate, es decir, permiten la incorporación de cláusulas adicionales que no guardan relación con el resto de la cuestión*), “riders” may be also proposed.

The American Congressional Dictionary⁹⁷ defines “rider” as the “Congressional slang for an amendment unrelated or extraneous to the subject matter of the measure to which it is attached.” In other words, these amendments “ride” on the principal question.

⁹⁶ Term developed in Section XXXVII “Amendments”.

⁹⁷ Kravitz, Walter: *American Congressional Dictionary*, Washington, D.C., Congressional Quarterly Inc., 1997.

The term “rider” was first used about the middle of the twentieth century as a synonym of “piggyback legislation” (*proyectos que cabalgan sobre los hombros de otros*). It made reference to those bills or joint resolutions which were passed piggybacked on other bills or resolutions, thus benefiting from their advantages.

This procedure allows an often controversial measure, which might otherwise be defeated, to be attached to a popular bill. Thus, this measure is passed while “riding” or “piggybacking” on a main question.

There exist riders which are so obvious and so out of place that they ring as a wrong musical note. Actually, “in November 1973, President Nixon complained about ‘a couple of clinkers’ in the Alaska pipeline bill with which business groups were unhappy”.⁹⁸ Etymologically speaking, the term “clinker” derives from the Dutch *klinker*, a vitrified brick that clinks when struck.⁹⁹ Therefore, “clinker” is an amendment attached to a measure, which is evidently irrelevant to the rest of the subject matter under consideration.

In spite of the fact that the current Argentine parliamentary vocabulary does not include the terms *encabalgado*¹⁰⁰ and *al socaire*¹⁰¹ any longer, they were often used during some decades of the twentieth century as the exact equivalent of the American “rider”. At present, the idioms *leyes fugitivas* and *leyes intrusas* convey this meaning. However, it is important to notice the locution of a member of the Lower House on November 30, 2000¹⁰², during the amendment process of the *Ley de Presupuesto* (*budget bill*). In that instance, that member said that the inclusion of a certain section in

⁹⁸ Dickson, Paul and Clancy, Paul: *The Congress Dictionary – They ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc., 1993.

⁹⁹ Ibid.

¹⁰⁰ Encabalgado: Descansar, apoyarse una cosa sobre otra (Real Academia Española: *Diccionario de la Lengua Española*, 20ª edición, Madrid, 1984).

¹⁰¹ Al socaire: Al amparo (de una idea, de una frase, de un principio). (Corominas, Joan y Pascual, José A.: *Diccionario Crítico y Etimológico Castellano e Hispánico*, Editorial Gredos, Madrid, 1983).

¹⁰² Stenographic version of House session held on November 30th, 2000, pp. 16-18. www.hcdn.gov.ar

that bill signified *un contrabando* (smuggling) within the bill. The meaning suggested by this term in this particular case holds the connotation of some section or amendment irrelevant to the subject matter. Therefore, *contrabando*, as used by the said legislator, has the intrinsic meaning of “rider” and of the *démodé* Spanish *encabalgado* and *al socaire*. Even though this is the first time this word has been used in this sense, it has probably established a precedent for its further use.

As mentioned before, riders are frequently used in the American Senate but the House of Representatives requires amendments to be germane. However, it sometimes allows favored members to offer them, such as, for example, during consideration of the so-called “must-pass-bills” (*proyectos de ley de urgente sanción*). These are appropriation bills or continuing resolutions which need urgent passage (*son proyectos de asignaciones de fondos o resoluciones que al finalizar el año fiscal, permiten continuar operando sin la aprobación de la “Annual Appropriation Bill”—Ley de Asignaciones Anuales—y que por lo tanto, requieren pronta sanción*). Often necessary last-minutes votes are obtained in exchange for the chance to offer a rider. The riders generally attached to these measures are unrelated to the bill’s subject, but provide benefits for interest groups, specific states, congressional districts, companies, or individuals.

Usually, the last major must-pass-bill of a session of Congress (*el último proyecto que se presenta en el período de sesiones ordinarias, que reviste importancia primaria y que es de urgente sanción*), is known as “the last train out of the station” or “the last train out”. It is also referred to as “Christmas tree bill” because it is adorned with riders.

Motion to adjourn to a day certain (*Moción de levantar la sesión por tiempo determinado*): By the affirmative vote on this motion, the meeting is adjourned and the day and time for the following meeting are then fixed.

Motion to (take a) recess (*Moción de pase a cuarto intermedio*): The purpose of this motion is to make a short interruption of debate, after which business will be immediately resumed at exactly the point where it was interrupted. The difference between adjournment and recess is that recess does not end a legislative day.

Instead of adjourning, the Senate usually recesses from one day to another. Thus a legislative day may extend over several calendar days, weeks or even months. However, the House of Representatives prefers to recess only for a few hours, or even minutes, and when no question is pending (*cuando no existen cuestiones pendientes*).

Motion to proceed to the consideration of executive business (*Moción de pasar a la consideración inmediata de un tratado internacional o pedido de acuerdo para el nombramiento de funcionarios públicos, enviado por el Poder Ejecutivo*): This motion is connected with the treaties sent by the Executive Branch for their ratification (*ratificación*) and with the appointment of judges, ambassadors, consuls, etc., also sent by the Executive for their confirmation (*confirmación*), after the pertinent advice and consent of the Senate (*acuerdo del Senado*).

Other motions
(*Otro tipo de mociones*)

About eighty-five motions exist in the House of Representatives and slightly fewer in the Senate under the differing rules of debate. The following are some of these motions:

Motion to proceed (to the consideration of a bill or resolution): It is a motion used in the Senate and is generally known as the “motion to proceed”. In some circumstances, it is equivalent to the Argentine *moción sobre tablas*. When adopted, the Senate may bring a bill to the floor for debate and amendment (*mediante su aprobación, se permite que un asunto sea considerado inmediatamente por el Senado y que se le introduzcan las modificaciones necesarias*).

Motion to limit or extend limits of debate (*Moción de que se limite o se amplíe el tiempo de debate*): The affirmative vote on this motion allows the chamber to either limit or extend the time of debate or else, the number of times members may speak on the floor. It may also establish a time certain to close debate.

Question of privilege (*Cuestión de privilegio*): By the adoption of this motion, the House may consider a matter as privileged for floor consideration, which in some way affects the rights and privileges of the House or its members. The Senate does not use this motion because - according to its precedents - any of its members may raise a question of privilege any time while having the floor (*cualquiera de sus miembros puede plantear una cuestión de privilegio en cualquier momento, mientras esté haciendo uso de la palabra*).

The expression “question of privilege” (*cuestión de privilegio*) must not be mixed up with “privileged business” (*asunto privilegiado*), since the latter is connected with a measure that is granted prompt floor consideration by the rules. Privileged business may interrupt the regular order of business established by the house’s rules of procedure (*los asuntos privilegiados pueden interrumpir el orden de la sesión establecido por el reglamento de la cámara*). A question of privilege is just one kind of privileged business.

Questions of the privileges of the House (*cuestiones de privilegio de la Cámara de Diputados*) are defined as those which somehow affect the safety, dignity of the body or integrity of its proceedings. For example, a question of privilege may be raised due to the presence on the floor of unauthorized persons (*se puede plantear una cuestión de privilegio ante la presencia en el recinto de personas no autorizadas*), or it may pertain to aspersions cast upon the institution by an outside entity. In its most frequent use, the House adopts a resolution to send to the Senate when it returns legislation to the Senate containing revenue language. The U.S. Constitution grants the House the right to initiate revenue or tax legislation and it protests any trespass of this authority by the Senate by raising a question of privilege and refusing to accept the Senate’s “tainted” legislation.

A question of personal privilege (*el planteo de una cuestión de privilegio personal*) is grounded on a question that affects members individually (for example, their rights or reputation), in their representative capacity only.

Point or order (*Exigencia de cumplimiento de las normas de procedimiento*): Its purpose is “to object to an alleged violation of a rule and demand that the chair enforce the rule”.¹⁰³

“To make a point of order” or “to raise a question of order” demands the enforcement of the rules of the house. This expression has a twofold meaning: (1) it refers to a perceived violation of any rule of the body, and (2) it also refers to the request to restore quiet when there is disorder in the house or committee room.

The objector (*miembro que formula la objeción*) points out the rule that has been violated and then the chair either sustains or overrules the objection (*hace lugar a la objeción o la rechaza*). A point of order temporarily halts the house proceedings until the chair decides in favor or against its validity.

The presiding officer of the house has the sole responsibility of deciding whether the contention is valid. In order to reach a decision about it, however, he relies on the Parliamentarian’s¹⁰⁴ advice. Then, he either applies a previous ruling on the similar question (called “precedent”) or makes a new ruling. This new ruling will be added to the periodic compilation of “rulings of the chair” as a precedent for the resolution of further similar questions in the future. However, any member may challenge the chair’s decision (*cualquier miembro puede objetar la decisión de la presidencia*) and the majority vote of the house may overturn this ruling. This formal challenge is known as an “appeal” (*apelación*). In spite of the fact that it might be seen as a direct attack against the presiding officer, the fact is that it is permitted as a guarantee against arbitrary decisions of the chair. It should be noted that while successful appeals of the

¹⁰³ Kravitz, Walter: *American Congressional Dictionary*, Washington, D.C., Congressional Quarterly Inc., 1997.

¹⁰⁴ Parliamentarian: An expert in the rules and usages of a parliament or other deliberative assembly. An officer of a legislative body acting as adviser to the presiding officer on matters of procedure. (Webster’s Third New International Dictionary – Unabridged, Springfield, Massachusetts, G. & C. Merriam Co., 1976).

chair's ruling are common in the Senate, they are extremely rare in the House. Over a hundred years have passed since the last such instance.

Motion to suspend the rules (*Moción de apartamiento del reglamento*): This procedure enables a matter to be taken up for consideration out of order (*permite dejar de lado las disposiciones del reglamento, a fin de considerar un asunto cuyo tratamiento no corresponde, según el orden reglamentario*) or under extremely expedited procedures.

This procedure was first put into practice in the nineteenth century. A Rule of the House of Representatives stated that no rule could be rescinded without a day's notice. Some years later, after a number of amendments, a clause was attached, by which it was established that the order of business could not be altered unless otherwise determined by a two-thirds majority. This is the fundamental basis of this motion, whose purpose is to enable the house to consider certain measures outside the regular rules (*apartándose de las disposiciones del reglamento de la cámara*).

In spite of the fact that at the beginning, this motion was meant to suspend the rules with the purpose only of including a measure on the order of business (*tenía la finalidad de sólo permitir el apartamiento del reglamento a fin de incluir un proyecto en el plan de labor*), at present, the house generally moves to suspend the rules and pass (*formula la moción de apartarse del Reglamento y aprobar el proyecto*). Therefore, this motion has become an expeditious procedure in the House of Representatives, which enables the passing of urgent non-controversial measures. Furthermore, it limits debate on the matter being suspended to a total of forty minutes and forbids all amendments, thus greatly expediting a measure's consideration. Because this method so favors the version of a bill produced by a committee's majority, it is no wonder that it is used to

consider very close to half of all measures which receive consideration on the House floor.

In the Senate, the motion to suspend the rules must be filed with one day's notice in writing and is seldom used.

Motion for division of the question (for voting) (*Moción de fraccionamiento o división de la cuestión para votar*): It consists of dividing the question into two or three parts so that a vote must be cast on each of them individually. However, it is required that the division be made in a logical manner from the point of view of the grammar and context of the text, so that each part may have its own autonomy and meaning. If such a logical division for purposes of voting is not apparent, the chair will rule that a demand for a division of the question is not in order.

Motion to discharge a committee¹⁰⁵ (*Moción de eximir a una comisión de presentar despacho*): Any legislator may offer this motion when, by reason of urgency, he deems convenient that the house discuss a certain question which has not been yet reported out by committee. However, a House member may only do so on the days twice a month provided for the consideration of items on or related to the Discharge Calendar.

Motion to reconsider (a vote) (*Moción de reconsideración de un asunto ya votado por la Cámara*): Adoption of this motion – sometimes called a “revisit” (*revisión*) – allows the chamber to review a decision (amendment, motion, measure) which has been already voted on.

¹⁰⁵ Term developed in Section XXIII “Calendars”.

In the House of Representatives, the motion to reconsider must be made on the same voting day or on the next legislative day. In the Senate this motion must be offered on the same voting day or on the next two legislative days. Its adoption results in holding the vote to which it is directed over again, or “revisiting” it.

A successful tabling of this motion will result in closure, locking in the vote results and disallowing any further attempt to reverse the outcome. Thus, in the Senate, with the aim of obstructing the reconsideration of an adopted measure, soon after the result of the vote has been announced, one of the senators who voted on the winning side (*uno de los senadores que participaron del voto de la mayoría*) usually offers a motion to reconsider. Then, another senator offers to lay it on the table (*plantea la moción de rechazo de dicha moción*), to which the presiding officer states that this motion is agreed to without objection (*declara que esta moción se aprueba sin objeción*).

With the same purpose, immediately after the voting in the House of Representatives, the Speaker states “without objection, the motion to reconsider is laid on the table” (*sin objeción, se rechaza la moción de reconsideración*). By dispensing with this motion quickly and automatically from the chair, no member on the floor is afforded the opportunity to revisit the outcome by offering this motion.

In both the House and the Senate, only one motion to reconsider each vote is in order.

SECTION XXX

MOTIONS USED IN THE ARGENTINE CONGRESS

(Mociones usadas en el Congreso Argentino)

Motions provided by the Rules of the Argentine Congress's chambers are the following:

- 1) ***Mociones de orden*** (Motions in order when a question is under debate).
- 2) ***Mociones de preferencia*** (Motions to bring up a measure before the time assigned to it).
- 3) ***Mociones de sobre tablas*** (Motions to call up a matter and debate it at once).
- 4) ***Mociones de reconsideración*** (Motions to reconsider).

Mociones de orden

(Motions in order when a question is under debate)

The so-called *Mociones de orden* are those procedural motions which depend on an order or precedence of priority when a question is under debate. They are connected with the fundamental aspects of debate procedure and their aim is to establish an order during deliberation.

These motions, which depend on the priority order established by the Rules of each house, may be offered almost at any stage of deliberation and they have priority over any other question, even over that under debate (*son previas a cualquier otro asunto, aún al que está en debate*).

When there are two pending motions at the same time (*cuando al mismo tiempo se encuentran pendientes de discusión varias mociones*), their pre-determined order of precedence prevails. The priority of each motion is therefore established.

At this point of the explanation of the concept of *mociones de orden* in the Argentine Congress, I wish to point out that some of them coincide with those which the American chambers consider as the only ones in order when a question is under debate (*las únicas que se pueden presentar cuando una cuestión está en debate*); that is to say, those previously mentioned motions “to adjourn”, “to lay on the table”, “for the previous question”, “to postpone to a day certain”, “to refer or to commit”, “to amend”, “to postpone indefinitely”, “to take a recess”, “to proceed to the consideration of executive business”.¹⁰⁶

While in the Argentine Congress these motions are known under the name of *mociones de orden*, in the American Congress they are not given a generic name. They are named individually and form a category of motions which the chambers must consider in order of precedence during the discussion of a certain question, according to what is established by the House or Senate Rules. Thus, the respected tome of legislative parliamentary philosophy known as “Jefferson’s Manual” refers to them as “motions in order when a question is under debate”.¹⁰⁷

As we know, the English term “order”¹⁰⁸ forms part of the long list of the so-called “false friends”. In this particular case, motions under study belonging to the Argentine parliamentary procedure have been called *de orden* because of an inaccurate translation of the English expression “in order”. To this respect, I must point out that the *Reglamento de la Sala de Representantes de la Provincia de Buenos Aires*¹⁰⁹ adopted on July 26, 1822, which is rendered as the first set of rules of procedure of an Argentine

¹⁰⁶ See Table 13: “Precedence of motions – U.S. Congress”.

¹⁰⁷ Johnson, Charles W. (House Parliamentarian): *Constitution, Jefferson’s Manual and Rules of the House of Representatives of the United States*, Washington, U.S. Government Printing Office, 1999, p. 1257.

¹⁰⁸ Term developed in Chapter XXXI “The English Term ‘Order’ and its Different Meanings in Parliamentary Procedure”.

¹⁰⁹ Pitt Villegas, Julio César: *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación*, 1ª edición, Buenos Aires, Editorial Centro de Estudios Unión para la Nueva Mayoría, 1991, p. 44.

deliberative body, was formed by rules which did not mention the expression *moción de orden* in any of their provisions, though they included *cuestión de orden* with that meaning.

Afterwards, the *Reglamento de Debates, Procederes y Policía del Senado del Estado de Buenos Aires* adopted on July 29, 1854 defines *cuestiones de orden* as:

*“toda proposición verbal, cuyo objeto sea aplazar, por tiempo determinado o indeterminado, una discusión iniciada, o que va a iniciarse, pero sin sustituir a ella otra proposición o asunto.” - (art. 88).*¹¹⁰

Translation:

all verbal proposition, the object of which is to postpone a discussion already initiated or to be initiated, for a day certain or indefinitely, without being replaced by another proposition or question. - (Section 88).

Besides, the aforementioned set of rules also states:

*“Es también es cuestión de orden, toda proposición verbal, cuyo objeto sea que una discusión iniciada, o que va a iniciarse, quede suspendida mientras que se considere otra proposición o asunto de distinta naturaleza, que en aquel momento ocurre o se promueve” - (art. 90).*¹¹¹

Translation:

It is also a *cuestión de orden* all verbal proposition, whose object is that a discussion already initiated or to be initiated, come to a halt whilst another proposition or question of a different nature arising or promoted in that moment is under consideration.

However, Section 92 states that:

“Es igualmente cuestión de orden, toda proposición verbal, cuyo objeto sea que la Cámara, por algún motivo, u ocurrencia especial, se desvíe,

¹¹⁰ Ibid, p. 63.

¹¹¹ Ibid, p. 63.

respecto de algún asunto, de las disposiciones del presente Reglamento, especialmente de las relativas a la introducción y tramitación de los proyectos, al orden de la palabra, y al orden de la discusión.”

Translation:

It is likewise a *cuestión de orden* all verbal proposition whose object is that the chamber, due to some reason or special decision, leave aside the provisions of these rules of procedure with regard to some question, especially those connected with the introduction and proceeding of measures, order of speech and order of debate.

Finally, Section 94¹¹² mentions the term *moción* and states that:

“En la discusión de las cuestiones de orden, y en general, de toda moción el autor podrá hablar dos veces, y los demás Senadores una sola.”

Translation:

During the consideration of the *cuestiones de orden*, and in general, of all motion, the mover will be twice recognized, and the other members only once.

The details I have uncovered in this research have the purpose of establishing the inaccuracy of the translation into Spanish of the expression “motion in order”, since it does not refer to a *moción de orden*, as it has been translated, but it is connected with the motion offered in accordance with the rules of procedure of a deliberative body, which must be made in a certain time during debate under a fixed order of precedence.

Having made this caveat and adjusting myself to the terminology of Argentine parliamentary law, I hereinafter include a Table of *mociones de orden*, as they appear in the Rules of procedure of the Argentine chambers:

¹¹² Ibid, p. 64.

Table 14: Mociones de orden - Congreso argentino
(Motions in order when a question is under debate – Argentine Congress)

“Es moción de orden toda proposición que tenga alguno de los siguientes objetos”:
Translation: *Moción de orden* is any proposition having the following objectives:

<i>Cámara de Diputados</i> (Reglamento, art. 143)	<i>Senado</i> (Reglamento, art. 127)
1. <i>Que se levante la sesión (to adjourn).</i>	1. <i>Que se levante la sesión (to adjourn).</i>
2. <i>Que se pase a cuarto intermedio (to recess)¹¹³.</i>	2. <i>Que se pase a cuarto intermedio (to recess).</i>
3. <i>Que se declare libre el debate (to extend the limits of debate)</i>	3. <i>Que se declare libre el debate (to extend the limits of debate).</i>
4. <i>Que se cierre el debate (to close debate).</i>	4. <i>Que se cierre el debate (to close debate).</i>
5. <i>Que se pase al Orden del Día (to motion to require the chamber to conform to its legislative agenda)</i>	5. <i>Que se pase al Orden del Día (to motion to require the chamber to conform to its legislative agenda)</i>
6. <i>Que se trate una cuestión de privilegio (for a question of privilege).</i>	6. <i>Que se trate una cuestión de privilegio (for a question of privilege).</i>
7. <i>Que se aplase la consideración de un asunto pendiente por tiempo determinado (to postpone to a day certain).</i>	7. <i>Que se aplase la consideración de un asunto pendiente por tiempo determinado (to postpone to a day certain).</i>
8. <i>Que el asunto se envíe o vuelva a comisión (to refer or to recommit).</i>	8. <i>Que el asunto se envíe o vuelva a comisión (to refer or to recommit).</i>
9. <i>Que la Cámara se constituya en comisión (that the Chamber go into a Committee of the Whole).</i>	9. <i>Que la Cámara se constituya en comisión (that the Chamber go into a Committee of the Whole).</i>
10. <i>De apartamiento del Reglamento (to suspend the rules).</i>	10. <i>Que el asunto se envíe a la comisión o comisiones que lo hayan considerado, para su tratamiento en particular, de conformidad al art. 79 de la CN (to recommit for amendment process under section 79 of the Constitution).</i>
	11. <i>Que el asunto delegado para su tratamiento en particular en comisión, de acuerdo con el art. 79 de la CN, vuelva a consideración del cuerpo (that the question recommitted for amendment process under section 79 of the Constitution be brought back before the Chamber).</i>
	12. <i>Que la Cámara se aparte de las prescripciones del reglamento en puntos relativos a la forma de la discusión de los asuntos (to suspend the rules as to the rules governing debate).</i>

¹¹³ Also used “motion for a recess” and “motion to take a recess”.

The result of this research on the so-called *mociones de orden* shows that the start of Argentine parliamentary procedure and vocabulary are based on translated versions of those already existing in the United States and Europe.

In my understanding, those responsible for the drafting of the first sets of Argentine parliamentary rules had neither a sound knowledge of parliamentary law nor a good handling of the English language. As a consequence of this fact, most rules and terminology, which had been plainly word-by-word translated from those used by the British and American procedure, became vague, confusing, and even difficult to put into practice.

Lack of experience in this field and the wish to imitate a procedure that had been successfully used for a long time in English speaking countries, gave rise to certain misinterpretation of terms and rules. For this reason, the expression “motions in order” was translated into *mociones de orden*, instead of *mociones en orden de precedencia*. Hence, this expression could never be defined nor accurately interpreted.

Next, I will list in detail each of the motions in order when a question is under debate, mentioned in the Rules of the Argentine chambers. I leave out those already described in Section XXIX “Motions used in the U.S. Congress”.

Moción que se pase al Orden del Día (Motion to call the legislative agenda): When a member makes this motion, he is in fact demanding the regular order. However, this motion is rarely used in the Argentine houses.

Taken into consideration what I have already stated in Section XXII “The expression *orden del día* used in Argentine parliamentary procedure and the expression ‘orders of the day’ used in British parliamentary procedure”, the vagueness in the use of

this motion is not surprising. Even Schinelli's *Reglamento de la Cámara de Diputados de la Nación Comentado*¹¹⁴ is imprecise in this respect.

In spite of the fact that the translation into English of this motion is “motion to call for the orders of the day”, it is important to point out that the American Congress gave up using the expression “orders of the day”¹¹⁵ some years ago. To this respect, Jefferson's Manual¹¹⁶ establishes that “although a mention of them has survived in clause 1 of Rule XIV, ‘orders of the day’ have disappeared from the practice of the House (...).” For this reason, and also to be consistent with the terminology used in the congresses of Argentina and the United States of America, I have decided to translate the name of the said motion as “motion to require the chamber to conform to its legislative agenda”, since it fits its real meaning and in this way, it may be clearly understood by the English speaking reader.

Moción que la Cámara se constituya en comisión (Motion that the Chamber go into a Committee of the Whole): Through this research, I have already developed the theme “Committee of the Whole” in Section XXIV; I must nevertheless underline that this motion is seldom used in the Argentine Congress. Probably, the vagueness of this practice is due to the fact that - unlike the Rules of the American House of Representatives - the rules of procedure of the Argentine chambers are not explicit as regards to the circumstances under which each chamber must go into a Committee of

¹¹⁴ Schinelli, Guillermo G.: *La Comisión de Labor Parlamentaria de la Cámara de Diputados de la Nación*, Revista de Derecho Parlamentario N° 2, Dirección de Información Parlamentaria, Congreso de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1989, p. 303.

¹¹⁵ Term developed in Section XXII “The Expression ‘Orden del Día’ used in Argentine Parliamentary Procedure and the Expression ‘Orders of the Day’ used in British Parliamentary Procedure”.

¹¹⁶ Johnson, Charles W. (House Parliamentarian): *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States*, Washington, U.S. Government Printing Office, 1999, p. 220.

the Whole (*no especifican bajo cuáles circunstancias cada cámara debe constituirse en comisión*).

Moción que el asunto se envíe a la comisión o comisiones que lo haya considerado, para su tratamiento en particular de conformidad con el art. 79 de la Constitución Nacional (Motion to recommit for amendment process under Section 79 of the Constitution): The said constitutional provision establishes that:

“Cada Cámara, luego de aprobar un proyecto de ley en general, puede delegar en sus comisiones la aprobación en particular del proyecto, con el voto de la mayoría absoluta del total de sus miembros. La Cámara podrá, en igual número de votos, dejar sin efecto la delegación y retomar el trámite ordinario. La aprobación en comisión requerirá el voto de la mayoría del total de sus miembros. Una vez aprobado el proyecto en comisión, se seguirá el trámite ordinario.”

Translation:

“After the affirmative vote on a bill during general debate, each chamber, by a majority vote of its members, may delegate to its committees the amendment process of that bill. By the same number of votes, the chamber may revoke the said delegation and continue with the ordinary procedure. Committee approval shall require the affirmative vote of the majority of its members. Once the bill is approved in committee, ordinary procedure shall follow.”

Moción que el asunto delegado para su tratamiento en particular en comisión, de acuerdo con el artículo 79 de la Constitución Nacional, vuelva a consideración del cuerpo (Motion that the question recommitted for amendment process under section 79 of the Constitution be brought back before the Chamber).

Motions which are not *mociones de orden* must be made at the appropriate time, according to their particular nature. Besides, these motions do not depend on any priority order and refer to non-fundamental aspects of procedure. In 1877, the Rules of the Senate named them *indicaciones* (indications) when they referred to routine questions. Within this category of motions, the Argentine Congress uses the so-called *mociones de preferencia*, *mociones sobre tablas* and *mociones de reconsideración*.

Mociones de preferencia

(Motions to bring up a measure before the time assigned to it)

The purpose of this kind of motion is to make a matter in order so that it may be considered by the chamber before the time assigned to it. The general principle states that the chamber usually considers measures according to the order in which their committee reports are published in the so-called *Orden del Día*. However, for practical reasons, the schedule of the agenda is under the charge of the *Comisión de Labor Parlamentaria de la Cámara de Diputados* and *Plenario de Labor Parlamentaria del Senado*.

It is important to mention that there exist certain matters which are always in order, such as for example, the consideration of a member's disqualification.

These motions, which depend on the priority order established by the Rules of each house, may be offered almost at any stage of deliberation and they have priority over any other question, even over that under debate (*son previas a cualquier otro asunto, aún al que está en debate*). They may be made "to a day certain" (*con fecha cierta*) or "sine die" (*sin fecha fija*).

Should the chamber adopt a motion to consider a matter without time specification, this matter will be considered first in the agenda of the following sitting

day. Should the chamber adopt a motion to consider a matter with time specification, that is to say, “to a day certain”, the matter will be considered only on that specified day. Should the question fail to be considered on that specific day, its opportunity of being discussed under the corresponding adopted motion will lapse.

There exists a difference between measures considered by the chamber by virtue of the so-called *moción de preferencia*, that is, a motion to bring up a measure before the time assigned to it, and those considered by decision of the *Comisión de Labor Parlamentaria de la Cámara de Diputados* and *Plenario de Labor Parlamentaria del Senado* because the former need a two-thirds vote to be passed and the latter need a majority vote.

Mociones de sobre tablas

(Motions to call up a matter and debate it at once)

The object of this kind of motion is to consider a matter during the same sitting day on which the motion has been made. Once this motion has been adopted, the matter that has given rise to it will be considered as first in the legislative agenda of that same day, prior to any other question. However, if by any circumstance, the house adjourned without having discussed this question, the corresponding resolution which enables it to be considered under this specific motion will lapse and a new motion to call up the matter and debate it at once shall be made in a subsequent meeting of the house.

The U.S. Senate has a motion which is similar to the Argentine *moción de sobre tablas*. It is the so-called “motion to proceed to consider (a bill or resolution)”, usually referred to as the “motion to proceed”. However, the U.S. House of Representatives does not use any motion of this kind. In spite of it, the same end is achieved by means of a “unanimous consent request” (*pedido de consentimiento unánime*), by a “special

rule from the House Rules Committee” (*regla especial dictada por la Comisión de Reglamento y elaboración del Plan de Labor*), or else, by a “motion to suspend the rules and pass a bill” (*moción de apartamiento del reglamento y sanción de un proyecto de ley*).

Mociones de reconsideración (Motions to reconsider)

These motions are debated soon after being moved. Their purpose is to review a specific House vote. They may only be offered while the question is still pending (*sólo mientras el asunto está en consideración*) or during the sitting where the consideration of the question has come to an end.

A motion to reconsider is the only recourse a chamber has to amend a decision previously adopted (*único recurso para corregir una decisión previamente aprobada*). What is being reconsidered by the adoption of this motion is a vote of that house.

As in the U.S. Congress, the Argentine chambers have a number of motions which may be made during the different phases of debate. The following are some examples of them:

- ♦ ***Aprobar una resolución citando a la Cámara a una sesión especial*** (to adopt a resolution to call the house to an unscheduled sitting).
- ♦ ***Cerrar el debate de la Cámara en Comisión*** (motion to rise and report).
- ♦ ***Aplicar una sanción por faltar al orden*** (motion to impose disciplinary measures on one or more Members).
- ♦ ***Prolongar los plazos de uso de la palabra*** (to extend the limits of debate).

SECTION XXXI

THE ENGLISH TERM “ORDER” AND ITS DIFFERENT MEANINGS IN PARLIAMENTARY PROCEDURE

(El término inglés “order” y sus diversos significados en el procedimiento parlamentario)

The English term “order” is one of the words commonly used in parliamentary procedure. However, it not always conveys the same meaning.

- 1) Firstly, the word “order” refers to the order or discipline of the members of a chamber during session. Therefore, in this case, the Spanish term for this word is simply *orden* or *conducta*, such as in the expression “to call a member to order” (*llamar al orden a un legislador*). Thus, it is inferred that uttering unparliamentary words on the floor is against order (*hablar en el recinto en forma irreverente o procaz es un acto de inconducta*). In addition, the word “order” is used with this same meaning in the expression “the House is called to order” or “the Senate is called to order”, which signifies that as from that moment, order is required on the floor so that transaction of business may start. The translation of this expression into Spanish is simply *se abre la sesión*.
- 2) The word “order” also bears the meaning of “sequence”, such as in the case of “voting order” (*orden de la votación*) or “motions in order of precedence”, which are those considered according to the order of precedence established by the Rules of the houses (to adjourn, to lay on the table, etc.).

- 3) Another meaning of “order” corresponds to the Spanish words *orden, regla, norma, disposición* or *directiva*. “Orders” are adopted by a chamber to make procedure adequate for the consideration of a certain question. Thus, “standing orders” (*órdenes, disposiciones o normas de procedimiento que tienen carácter permanente y continúan de un período de sesiones a otro*) are those incorporated into a chamber’s standing rules and “special orders” are temporary directives created either by unanimous consent or by adopting a resolution (*órdenes, disposiciones o normas temporarias que se dictan mediante acuerdo aprobado por unanimidad o resolución*).
- 4) “Order” is also related to parliamentary procedure. Thus, the expression “Rules or Order” is synonym of “Rules of procedure”. It involves a number of rules, precedents and customs generally used by the chambers with the aim of (1) keeping order and decorum on the floor, (2) assuring the fulfillment of the Majority’s wish and preserving the right of the Minority, (3) establishing the duties of officers and (4) facilitating the orderly transaction of business. This meaning sometimes gives way to misinterpretation, such as it is evidenced in the Spanish version of “Robert’s Rules of Order”,¹¹⁷ which has been mistranslated as *Reglas de Orden*, when, in fact, the title of this book alludes to written rules of parliamentary procedure formally adopted by a deliberative body, that is, what in Spanish would be called *reglas de procedimiento* or else *reglamento*.

¹¹⁷ Robert, Henry M.: *Robert’s Rules of Order*, traducción Carlos Palomar, *Reglas de Orden (revisadas) de Robert*, primera edición en español, México, D.F., Unión Tipográfica Editorial Hispano Americana, 1964.

- a) “Order of business” is synonymous with “general order of business” and “regular order”. It refers to the sequence of events at the beginning of a new legislative day prescribed by a chamber’s rules of procedure. In the U.S. Congress, these events are: Chaplain’s prayer, Approval of the Journal, Pledge of Allegiance, among others. According to the terminology used in the Argentine Congress, this expression is equivalent to *Orden de la Sesión* which appears under the title *Sumario (Summary)* in the respective Journals: Hoisting of the Flag, Messages entered, Messages from the Executive Branch, among others.
- 6) “Regular order” or “order of business” refers to the order established by the Rules to facilitate the smooth transaction of business. Any legislator may demand the regular order (*cualquier legislador puede exigir que se respete el orden de la sesión*).
- 7) “Daily order of business”: Considering that the chambers of the United States meet on a daily basis, the expression “daily order of business” corresponds to the order in which business must be transacted every day, according to what is established by the House and Senate Rules.
- 8) Yet, the term “order” has another meaning when used in the expression “in order”. Whenever a motion is said to be “in order”, it means that it has been made according to the Rules of procedure. For this reason, “motions in order” may not be translated into Spanish as *mociones de orden* but as *mociones que se presentan dentro de las disposiciones reglamentarias*. An initiative is in order for consideration on the floor when it fulfills all the requirements established to that end (*una iniciativa se*

encuadra dentro del procedimiento cuando cumple con todos los requerimientos a tal fin).

As regards the motions known in the Argentine Congress as *mociones de orden*, it is evident that such a name arises from a careless translation into Spanish of the expression “motions in order”, which refers to those procedural motions which as a matter of fact must be discussed in order of precedence (*en orden de precedencia*).

- 9) Besides, the expression “out of order” is connected with some kind of violation of the rules. It may be used with different meanings:
 - a) A motion is “out of order” when it is not procedurally correct (*viola alguna disposición del reglamento*), such as for example, when it is not the proper time for its offering.
 - b) The expression “out of order” may also allude to a member’s misbehavior during session, such as for example, when this member addresses another member during debate instead of addressing the presiding officer.
 - c) “To speak out of order” means to speak out of the matter when germane debate is required (*hablar sobre un tema ajeno a la cuestión en tratamiento cuando se ha establecido la unidad de debate*).
- 10) The expression “question of order” may not be translated into Spanish either as *cuestión de orden* or as *moción de orden*, such as it was understood by the drafters of the first Rules of procedure of the Argentine chambers. This expression, which is

synonymous with “point of order”,¹¹⁸ refers to a procedural question. It is a demand to fulfill the rules when an alleged violation of a rule has taken place. According to the meaning of this expression, I have decided to translate it as *exigencia de cumplimiento de las normas de procedimiento*.

- 11) “Special Order speeches” are speeches given by members on a single elected topic, by means of a unanimous consent agreement¹¹⁹ (*acuerdo aprobado por consentimiento unánime*). These speeches are not used in the Argentine chambers. Consequently, according to their meaning, I have decided to translate them into Spanish as *manifestaciones verbales autorizadas mediante consentimiento unánime de la cámara*.
- 12) “Order of business resolution”. The Spanish for this expression is *resolución de colocación de un asunto en el plan de labor*.
- 13) “Special Order of business resolution” It is also called “rule” (*regla*) or “special rule” (*regla especial*). It is a temporary rule by the Rules Committee¹²⁰ which establishes certain limitations for the consideration of a question on the floor.
- 14) “Calendar of General Orders” is the Calendar¹²¹ used in the Senate where legislation which is not executive is placed (*calendario de asuntos que no son tratados internacionales ni pedidos de acuerdo*). It is informally known as the “Legislative Calendar” (*Calendario Legislativo*). It includes all bills and resolutions which have

¹¹⁸ Term developed in Section XXIX “Motions used in the U.S. Congress”.

¹¹⁹ Term developed in Section XXVII “Unanimous Consent Agreements”.

¹²⁰ Term developed in Section XXVI “Rules Committee”.

¹²¹ Term developed in Section XXIII “Calendars – U.S. Congress”

been reported out by committee and also all those placed directly by the Senate.
Treaties and nominations are excluded.

SECTION XXXII

THE FLOOR

(El recinto)

In the Argentine chambers, the seats (*bancas*) on the floors consist of desks with their pertinent seats, from where the legislators speak (*hacen uso de la palabra*). Whereas the U.S. Senate has this same kind of floor, U.S. House floor has no desks. House Members address the Chamber from a lectern in the well (*desde un atril dispuesto en el área por debajo del nivel de las bancas, que se encuentra entre ellas y el estrado*). This is not an impediment for a member who does not wish to speak from the well. He may do so from the “party tables” (*pupitres de las bancadas*), which are placed on the Democratic and Republican sides of the aisle. Party tables are also known as the “committee tables” (*pupitres de las comisiones*) because they are also used by the floor managers.¹²²

Regarding this matter, Carlos María Bidegain considers that members of the U.S. House of Representatives are not as comfortable as their Argentine counterparts, since their seats do not afford them the comfortableness of the revolving armchairs of our floors. “These seats are arranged in semicircular rows of long fixed benches where the American legislators sit shoulder to shoulder, as if they were in a theatre”.¹²³ In addition, it is important to add that this custom has been inherited from the British Parliament, where its members sit in opposing rows with no desks.

The removal of the desks in the U.S. Congress goes back to the nineteenth century, this being a matter of disagreement during many years. The removal of the

¹²² Term developed in Section XXI “Committee Report”.

¹²³ Bidegain, Carlos María: *Instrumentos del Congreso de los Estados Unidos de América*, Buenos Aires, Boletín de la Biblioteca del Congreso N° 60-72 (Tomo I), 1947-48, pp. 115-143.

desks was due to the fact that they were considered to be the cause of confusion on the floor. It was understood that the absence of desks would favor the orderly transaction of business, since meetings would then be less noisy and more to the question. In those years it was also thought that a sharp change in speaking was impending, since it had been agreed that reading of long speeches aimed to impress the people in the galleries would be prohibited from then onwards. In spite of all these arguments, the House passed a majority report and the desks were reinstalled. Nevertheless, in 1911 the number of House members increased and this fact determined the need of some extra room on the floor. As a consequence, the removal of desks was unavoidable.¹²⁴

In both congresses, the floors have semicircular rows of seats, in the fashion of an amphitheater, which face the rostrum (*sitial del presidente*). Also in both congresses, the Senate's floor is smaller than that of the House.

¹²⁴ Ibid.

SECTION XXXIII

THE SESSION

(La sesión)

At present, the chambers of the Argentine Congress meet once or twice a week, on the day established during the so-called *sesiones preparatorias* (early organization sittings).¹²⁵ These sittings are called *sesiones de tablas* (*scheduled sittings*). The chambers may also assemble on some other day, that is, on a day and time eventually determined according to the urgency of the matters to be discussed. In this case the sitting is known as a *sesión especial* (unscheduled sitting).

The American chambers are in session every day, from Monday through Friday. Taking into consideration that some legislators travel to their respective states for the weekend, the chambers usually discuss major legislation on Tuesdays, Wednesdays and Thursdays, leaving routine business to be transacted on the other two days.

While in the Argentine Congress days and time of session are determined during the early organization sittings, in the U.S. Congress they are determined at the commencement of each Congress. However, by motion or unanimous consent agreements, the chair may modify the time for meeting, according to the load of work of that chamber.

¹²⁵ Term developed in Section VI “*Sesiones Preparatorias – Congreso Argentino*”.

SECTION XXXIV

READING OF BILLS AND RESOLUTIONS

(Lectura de los proyectos)

The practice of reading bill texts aloud is very old. It started during the early years of British Parliament, when printing did not yet exist and only few people could handwrite an initiative to be introduced. In those times, the houses had a unique draft of each measure, which was read aloud so that all members could be acquainted with it.

This tradition continued alive until the end of the seventeenth century. The reason for this was that the British Parliament took too long to adopt the advantages of the printing press and besides, because illiteracy was still present among its members. This situation was identical in the beginnings of the U.S. Congress.

Between the fifteenth and sixteenth centuries, the English parliamentary procedure required three readings of each measure. However, some old Journals which have survived up to the present, reveal that sometimes, six readings were needed.

The reading-over was the Clerk's responsibility (*Secretario de la Cámara*), who undoubtedly, performed a long and monotonous job, after which, the Speaker would say "You have heard the bill, the contents whereof be these". Then, he summarized the bill in order to help members fix its principal points in their minds. To this respect, the Clerk of Records (*Secretario de Actas*) Maurice Bond,¹²⁶ during one of his speeches before the Members of the House of Commons said:

"It became customary only towards the end of the 17th century for printed copies to be made of the bill. Then, both the habit of reading over the text,

¹²⁶ UK Parliament web site

<http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldparlac/bondlec2.htm>

and, of preparing and reading out a brief, came to an end, but each practice has left its memorial in present day procedure. We still speak of the ‘reading’ of bills, and when a new bill is first printed there may appear at the head of it a section of ‘explanatory memoranda’ which does for the present generation very much what the Speaker’s brief did in Elizabethan days.”

Translation:

“Recién hacia fines del siglo XVII se adquirió la costumbre de imprimir copias del proyecto. De este modo, tanto el hábito de leer el texto como de preparar y leer un resumen llegaron a su fin, pero cada una de estas prácticas ha dejado su recuerdo en el procedimiento moderno. Todavía hablamos de ‘lecturas’ y la primera impresión de un proyecto puede contener una sección de notas explicativas, las cuales, para la presente generación, son tan útiles como el resumen del ‘Speaker’ de la Cámara de los Comunes de la época isabelina.”

During the reign of Elizabeth I (1558-1603), both houses of Parliament established that bills should be read only three times. These readings marked

“three necessary stages in legislation: the introduction of a bill; the discussion of its general character; and the approval of its detailed and complete text.”

Translation:

“tres etapas necesarias en el trámite legislativo: introducción del proyecto en la cámara; discusión en general; y aprobación de su texto completo y discutido en particular.”

At present, the English and American houses, and consequently, the Argentine houses, still use the term “reading”, although procedure to this respect has changed.

Following the English parliamentary tradition, rules of procedure of the U.S. Congress establish that bills must be read three times in different stages of their consideration. However, it is understood that these readings are by the title of the

measure only (*sólo se lee el título de la medida*). Nevertheless, upon request of any member, full reading of the bill may be ordered.

The so-called *lectura de los asuntos* (reading) of the Argentine Congress only takes place during scheduled sittings (*sesiones de tablas*). This means that reading is never carried out during either *sesiones de continuación* (sittings for the consideration of unfinished business) or *sesiones especiales* (*unscheduled sittings*), since they have no *asuntos entrados* (matters introduced).

Bills are published and distributed among legislators as soon as they are introduced. Publishing of bills replaces reading and grants each of the bills the so-called *estado parlamentario* (that is to say, validity of a measure to be considered as formally introduced as legislation), which gives committees the possibility to report on them.

Table 15: Readings of bills and resolutions in the U.S. Congress
(*Lecturas de los proyectos en el Congreso de los Estados Unidos*)

First reading (<i>Primera lectura</i>)	Second reading (<i>Segunda lectura</i>)	Third reading (<i>Tercera lectura</i>)
In both houses, after introduction and once the bill has been printed and published in the Congressional Record.	In the House, when the bill is presented for debate, or else, when the House goes into a Committee of the Whole.	In both houses, by title only before the vote on passage. The early purpose for a third reading was that all members could listen to the full text of the measure, after amendment. In modern practice, it only consists of a pro forma proceeding.
	In the Senate, second reading is performed before referral to committee.	

SECTION XXXV

ORDER OF BUSINESS

(Orden de la sesión)

According to Jefferson's Manual, the organization of the daily order of business was not originally set up in the House of Representatives, "but certain simple usages were gradually established by practice before the first rule on the subject was adopted in 1811. The rule was amended frequently to arrange the business to give the House as large a freedom as possible in selecting for consideration and completing the consideration of the bills that it deems most important. The basic form of the rule has been in place since 1890"¹²⁷ and there have been few changes since then.

Order of business – U.S. Congress

(Orden de la sesión – Congreso norteamericano)

House of Representatives:

According to the Rules of the House of Representatives, order and priority of business (*orden y prioridad de los asuntos a tratar en la sesión*) shall be as follows, unless otherwise varied by the application of other rules or determined by matters of higher precedence:

- 1) **Prayer by the Chaplain** (*plegaria a cargo del Capellán*)
- 2) **Reading and approval of the Journal** (*lectura y aprobación del Diario de Sesiones*)
- 3) **The Pledge of Allegiance to the Flag** (*promesa de lealtad a la Bandera*)

¹²⁷ Johnson, Charles W. (House Parliamentarian): *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States*, 106th Congress, Washington, U.S. Government Printing Office, 1999, p. 611.

- 4) **Correction of reference of public bills** (*corrección del giro de los proyectos de carácter público*)
- 5) **Disposal of business on the Speaker's table** (*presentación del plan de labor a la presidencia*)
- 6) **Unfinished business** (*continuación del tratamiento de asuntos pendientes de la sesión anterior*)
- 7) **Morning hour for the consideration of bills called up by committees as provided in clause 4** (*hora de la mañana para el tratamiento de proyectos presentados por las comisiones, según lo dispone la cláusula 4*)
- 8) **Motions that the House resolve into the Committee of the Whole House on the state of the Union subject to clause 5** (*mociones para que la Cámara se constituya en comisión para tratar asuntos relativos al estado de la Unión, de acuerdo con lo dispuesto por la cláusula 5*)
- 9) **Orders of the day** (*asuntos a tratar en la sesión del día*).¹²⁸

Senate:

After the Senate is called to order by the presiding officer (*luego de que la presidencia del Senado abre la sesión*), the regular order of business starts with the prayer by the Chaplain, after which a period of time is assigned to the caucus's leaders. This period of time is known as the "leader's time". It consists of a few minutes during which the majority and minority leaders are recognized for opening remarks.

¹²⁸ Term developed in Section XXII "The expression 'Orden del Día' used in Argentine Parliamentary procedure and the expression 'Orders of the Day' used in British parliamentary procedure".

Morning hour and morning business (*hora de la mañana y labor de la mañana*): Senate's morning hour stands for the first two hours of a legislative day, intended for the consideration of routine business (*para la consideración de asuntos de rutina*).

A legislative day begins when the house is called to order after adjournment (*un día legislativo se inicia con la apertura de la sesión luego de que se ha levantado una sesión anterior*). Since the usual practice of the Senate is to recess rather than to adjourn, the morning hour is seldom used (*como la práctica común en el Senado es pasar a cuarto intermedio en lugar de levantar la sesión, la hora de la mañana se utiliza con poca frecuencia*).

During the Senate's morning hour, the so-called "morning business" (*labor de la mañana*) is carried out. During this period, measures are introduced, and committee reports and messages from the House and from the Executive are received. It is important to point out that "morning hour" and "morning business" do not share the same meaning. Morning hour corresponds to the first two hours after the Senate convenes, after adjournment. Morning business is the period included within morning hour during which senators introduce measures and petitions, committees report matters and the chamber deals with matters that come over from the previous day (*los senadores presentan proyectos y peticiones, la comisiones entregan sus dictámenes y se tratan asuntos pendientes de la sesión anterior*).

As said before, instead of adjourning, the Senate generally recesses from day to day (*en lugar de levantar la sesión, el Senado generalmente pasa a cuarto intermedio de día en día*) because in this way, the chambers achieve a better control over the daily schedule. However, those senators who are interested in delaying action on a measure usually push for adjournment. In this way, the convening of a new legislative day offers

them the opportunity of delaying action on the measure (*la iniciación de un nuevo día legislativo les ofrece la oportunidad de retardar el tratamiento en cuestión*).

The decision to adjourn or to recess is determined by either unanimous consent agreement or adoption of a motion usually made by the majority leader.

During morning business, there is a period destined to the so-called “special orders” or “special orders speeches”. They are temporary orders adopted by unanimous consent agreements which allow legislators to speak on any subject when their chamber is not considering business. It is important to point out the need of a unanimous consent agreement because, according to procedure, members may give speeches on the floor only during debate on a certain question.

The expression “special orders” or “special order speeches” was first used in 1930 when, by unanimous consent agreements of the House of Representatives, it was decided to recognize a member outside the regular order (*se decidió conceder la palabra a un miembro, fuera del orden regular de la sesión*). As a result, presiding officers usually recognize members for special order speeches when the chamber is not considering business (*los presidentes de las cámaras generalmente autorizan a los legisladores a dirigirse a la cámara a fin de exponer cualquier tema de su elección, mientras ella no esté considerando ningún asunto*).

While in the Senate these speeches are given at the beginning of a day’s session, in the House, members are recognized to do so after the end of legislative business (*los miembros pronuncian estos discursos una vez que ha finalizado la actividad parlamentaria del día*).

It is known that the real addressees of special order speeches are the television spectators. For this reason, vigorous speeches on an empty floor are not rare in the U.S. Congress.

After special order speeches have been completed, the Senate turns to unfinished business (*el Senado comienza la continuación del tratamiento del proyecto que quedó pendiente en la reunión anterior*). However, should any other business not be pending, any member may offer a motion to take up a new measure that the majority and minority leaders have scheduled for floor action (*si no existiera asunto pendiente que tratar, cualquier legislador puede formular una moción para considerar un nuevo asunto que los líderes de las dos bancadas han acordado llevar al recinto*).

According to the meaning and use of the expression “special order” or “special order speeches” and taking into consideration that there is no possible terminological counterpart in the Argentine chambers, I have decided to translate it as *manifestaciones verbales autorizadas mediante consentimiento unánime*. However, another suitable translation would be *discursos que pronuncian los legisladores sobre un tópico a su elección cuando la cámara no está considerando ningún asunto*.

During morning hour, the president also refers “engrossed bills” to committee. They are House passed bills, that is to say, the definite version of measures received from the House of Representatives, which must include all amendments on such measure and must be signed by the Secretary of the Senate in the U.S. Senate and by President and Secretary in the Argentine Senate. Thus, the translation of “engrossed bill” into Spanish is *versión definitiva del proyecto con media sanción de Diputados*.

The term “engrossed bill” means “final copy written in big letters” and comes from the phrase “fairly engrossed on parchment” used in the Declaration of Independence. Its translation into Spanish is *copia definitiva sobre papel pergamino*.

Order of business – Argentine Congress
(Orden de la sesión – Congreso Argentino)

Cámara de Diputados:

Once the House has been called to order, the following order of business is followed, unless otherwise decided:

- 1) ***Izamiento de la Bandera Nacional*** (hoisting of the Flag)
- 2) ***Diario de Sesiones*** (reading and approval of the Journal)
- 3) ***Asuntos Entrados*** (*matters introduced*):
 - a) ***Mensajes del Poder Ejecutivo*** (messages from the President)
 - b) ***Comunicaciones oficiales*** (official communications)
 - c) ***Mensajes del Senado*** (messages from the Senate)
 - d) ***Despachos de comisión*** (committee reports)
 - e) ***Peticiones*** (petitions)
 - f) ***Proyectos presentados*** (measures introduced)
- 4) ***Licencias*** (leaves of absence)
- 5) ***Plan de labor parlamentaria*** (schedule of the legislative agenda)
- 6) ***Mociones de preferencia*** (motions to bring up a measure before the time assigned to it)
- 7) ***Mociones de orden*** (motions in order when a question is under debate)

Once the House has been called to order, the presiding officer directs one of the members to hoist the flag on the floor. The hoisting of the flag is performed session after session by each member of the House in an alphabetical order. During this ceremony, all members remain standing and afterwards, everybody applauds. At the

same time, another National Flag is hoisted on one of the outside masts placed at each wing of the Congress building. This means that the house on that wing is in session.

The hoisting of the National Flag is not mentioned in the Rules of procedure of the houses, though it is the first point of their order of business. Fermín Pedro Ubertone¹²⁹ who has thoroughly researched on this matter, points out that this practice began in 1948 by a resolution signed by the Speaker of the Argentine House of Representatives. After the ceremony of the first hoisting, it was established that in the future this act would be in charge of the members, according to the alphabetical order of their last names. The wooden mast was hand made by seventeen carpenters and craftsmen of the House and the flag was donated by the House employees.

During the periods 1958-1962 and 1963-1966 the flag was not hoisted on the House floor, although there was no reason justifying this decision. The efforts to recapture this practice and the repeated attempts to include it in the House Rules were systematically rejected. However, the said 1948 resolution had been included in the compilation of *Leyes, Resoluciones e Interpretaciones Reglamentarias* (laws, resolutions and rules' interpretations).

In 1973, the practice of hoisting the flag was renewed, but it was again interrupted during the years 1976-1983 as a consequence of the suspension of the sessions of Congress after a *coup d'état*. When a new constitutional era started in 1983, the custom of hoisting the National Flag on the House floor came into practice again.

The mast with the National Flag on the House floor is placed on the rostrum (*sitial del presidente*). In the periods 1949-1955, 1973-1976 and 1983 to the present, the flag has been hoisted at the beginning of each House session. In some occasions, it has

¹²⁹ Ubertone, Fermín Pedro: *La Bandera del Recinto de la Cámara de Diputados de la Nación*, Buenos Aires, La Ley Actualidad, Año LVIII N° 250/ISSN1636-0024, 29 de diciembre de 1994, pp. 1-2.

been hoisted at half mast as a sign of mourning for the death of some legislator or religious dignitary.

Senado:

As regards the Senate, its order of business is the following:

- 1) ***Izamiento de la Bandera Nacional*** (hoisting of the Flag)
- 2) ***Asuntos Entrados*** (matters introduced)
 - a) ***Comunicaciones Oficiales*** (official communications)
 - b) ***Despachos de comisión*** (committee reports)
 - c) ***Peticiones o asuntos particulares*** (petitions from individuals or private matters)
 - d) ***Plan de labor parlamentaria*** (schedule of the legislative agenda)
- 3) ***Orden del día*** (items on the legislative agenda)

SECTION XXXVI

DEBATE

(El debate)

In parliamentary jargon, the word “debate” is connected with those “speeches delivered during consideration of a measure, motion or other matter, as distinguished from speeches in other parliamentary situations, such as one-minute and special order speeches when no business is pending”.¹³⁰

The term “debate” derives from the French *débattre*, which means “to fight”. Taking into consideration that all fight has rules, debate, such as it is nowadays interpreted, is governed by rules designed for the different steps of deliberation.

A measure which has reached floor consideration must have its corresponding committee report, unless the chamber has adopted a resolution to exempt it from this requisite. However, this is not valid for money matters, since all of them must be previously reported out by committee.

Debate in the Argentine Congress

(El debate en el Congreso argentino)

Consideration of a measure by the full house has two stages. Each of these stages ends with the corresponding voting.

The first stage of debate on the floor is the so-called *discusión en general* (general debate). This is the consideration of the fundamental idea of the matter under discussion. The second stage is the so-called *discusión en particular* (amendment

¹³⁰ Kravitz, Walter: *Congressional Quarterly's American Congressional Dictionary*, 2nd edition, Washington, D.C., Congressional Quarterly Inc., 1997.

process), which is the consideration in detail of the bill, during which the bill is amended as necessary (*estudio detallado del proyecto, durante el cual se introducen las modificaciones necesarias*).

Discusión en general (*general debate*): Should voting at the end of general debate give as a result the rejection of the bill, all further discussion on the matter shall end. However, if the voting result signifies the adoption of the matter, *discusión en particular* (amendment process) comes next, or else, the chamber may opt to proceed according to section 79 of the National Constitution, which states:

“Cada Cámara, luego de aprobar un proyecto de ley en general, puede delegar en sus comisiones la aprobación en particular del proyecto, con el voto de la mayoría absoluta del total de sus miembros. La Cámara podrá, en igual número de votos, dejar sin efecto la delegación y retomar el trámite ordinario. La aprobación en comisión requerirá el voto de la mayoría del total de sus miembros. Una vez aprobado el proyecto en comisión, se seguirá el trámite ordinario.”

Translation:

“After the affirmative vote on a bill during general debate, each chamber, by a majority vote of its members, may delegate to its committees the amendment process of that bill. By the same number of votes, the chamber may revoke the said delegation and continue with the ordinary procedure. Committee approval shall require the affirmative vote of the majority of its members. Once the bill is approved in committee, ordinary procedure shall follow.”

In case a motion to recommit is adopted during general debate, floor proceedings will cease to have effect (*si durante la discusión en general se aprueba una moción para que el proyecto vuelva a comisión, todo lo actuado por la cámara sobre el asunto*

quedará sin efecto). Thus, when the measure is sent back for new consideration by the full chamber, all pertinent proceedings shall have to be repeated.

General debate is omitted when the matter has been considered by Committee of the Whole. In Argentina, this is valid in both chambers. Once the corresponding chamber resumes sitting as the full house, it limits itself to voting (*una vez que la cámara correspondiente se ha constituido nuevamente en sesión, sólo se limita a votar*). It is important to notice that amendments defeated in Committee of the Whole cannot be offered again at this stage (*las modificaciones rechazadas por la Cámara en comisión, no pueden volver a proponerse en esta instancia*).

Legislators may speak only once during general debate. However, whenever they wish to rectify an inaccurate statement another legislator has made on their speech, an additional period of time may be granted to them.

During general debate, a motion to extend the limits of debate may be offered (*puede presentarse una moción para declarar libre el debate*). In this case, each member may speak as many times he or she asks for recognition but only on the subject at issue. Besides, other measures on the question under discussion may be introduced to replace the original measure. The chamber shall then decide whether they will be considered on that same sitting day according to their order of introduction, or referred to committee.

Discusión en particular (amendment process): This is a detailed consideration of the measure. It is carried out section by section, chapter by chapter or period by period (*por artículo, por capítulo o por período*).

All amendments must be germane. This means that amendments outside the matter under discussion are not allowed and the member who does not respect this rule shall be ordered to speak within the matter (*el miembro que no respete esta disposición reglamentaria será llamado a la cuestión*).

During this stage, the chamber may allow the introduction of one or several sections of a measure wholly substituting that under consideration. These new sections may also amend, strike or insert new text as long as they have been previously introduced in writing and have the pertinent approval of the reporting committee (*estos nuevos artículos también pueden modificar, suprimir o adicionar texto, siempre que previamente se hayan presentado por escrito y cuenten con la aprobación de la comisión que ha producido el despacho*).

Debate in the U.S. Congress (*El debate en el Congreso norteamericano*)

House of Representatives:

Such as it happens in both Argentine chambers, debate in the American House of Representatives has two well differentiated stages: “general debate” (*discusión en general*) and “amendment process” (*discusión en particular*). The first stage belongs to the general study of the measure and the second stage belongs to its detailed analysis, which is made section by section or title by title (*por artículo o por título*).

Amendment process refers to amendments the chamber wishes to introduce to a bill. Legislators must offer these amendments only on the portion under discussion, orderly continuing till all amending is complete.

Amendment process is generally subject to time limitations previously determined by the Rules Committee. This Committee sets up special rules for consideration of each matter, including time limits on debate.

The Rules Committee usually establishes very strict rules which ban spontaneous debate. In fact, “modified closed rules” (*normas moderadas cerradas*) only allow those amendments already adopted by the Rules Committee. To this respect, in 1963, Arthur Edson, a reporter of Associated Press who created his own “Congressional Glossary of Terms”, advised not to be misled by the word “debate”:

“Don’t be misled by this word; in the House, there is no such thing. With 435 members, time is severely limited. On important issues, where everyone wants to talk, a congressman thinks he has hit the jackpot if he gets as much as five minutes at the House microphone. So he gets his great opportunity and drones until time runs out and the gavel falls. Orator follows orator, with hardly anyone listening to what is said – except, possibly, the fellow doing the talking (...) If you want to appreciate the House, you have to march right in to the committees, where the work is done, and investigate the interesting stuff on the shelves yourself”.¹³¹

Traducción:

“No hay que dejarse engañar por esta palabra (debate); en la Cámara no existe tal cosa. Con 435 legisladores, el tiempo está severamente limitado. Cuando se tratan temas importantes sobre los que todos quieren hablar, un legislador puede considerarse afortunado si logra cinco minutos para estar frente al micrófono de la Cámara. De este modo, logra su gran oportunidad y con voz monótona, hace su exposición hasta que cae el martillo, indicando que se le ha terminado el tiempo. Un orador sigue a otro, mientras casi nadie escucha lo que dice – excepto, posiblemente, el que está hablando (...) Si se desea apreciar la actividad de la Cámara, habrá que dirigirse a las comisiones, que es donde se lleva

¹³¹ Dickson, Paul and Clancy, Paul: *The Congress Dictionary – The ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc., 1993, p. 86.

a cabo el trabajo, e investigar por sí mismo todo el material interesante que hay en sus anaqueles.”

Senate:

Theoretically speaking, consideration of a measure by the Senate has two stages: “debate on the bill” (*discussion en general*) and “amendment process” (*discussion en particular*). However, in practice, it is observed that the Senate does not follow any order during the second stage of consideration, since the entire bill is before the chamber and open for amendment at any point of discussion (*ya que la integridad del proyecto está abierta a modificaciones en cualquier punto*). This peculiarity of the Senate’s procedure makes this stage somewhat confusing, and this confusion is even worse when the stages “debate on the bill” and “amending” are mixed. In this case, the so-called “opening statements” take place by the bill’s managers (*tienen lugar las llamadas ‘manifestaciones preliminares’ a cargo de los voceros del proyecto*).

After opening statements, general debate and amendment depend on the rhetoric of the recognized senators.

As aforesaid, debate in the U.S. Senate is unlimited.¹³² This practice means that during consideration of a matter, each senator may speak with no restrictions of time and as long as he or she deems necessary. However, this characteristic of procedure brings about the frequent use of filibusters (*prácticas dilatorias*).¹³³

Since the Senate procedure does not include motions to close debate, unlimited debate only comes to an end by invoking a cloture motion¹³⁴ (*moción de limitación del tiempo de debate*) that is to say, a motion by means of which a thirty-hour limit is fixed to speak on the bill. It is evident that on expiration of the established time, debate

¹³² Term developed in Section XXIX “Motions used in the U.S. Congress”.

¹³³ Ibid.

¹³⁴ Ibid.

closing overcomes. However, as it has already been stated, offering a motion to directly close debate is not a practice used by the Senate.

Although the length of House debate is generally predictable in view of the time limit set up by the Rules Committee, this does not happen in the Senate. Only a unanimous consent agreement (*acuerdo unánime*) or a cloture motion may determine the duration of debate on a certain question.

SECTION XXXVII

AMENDMENTS

(Amendments)

The Spanish for “amendment” is *modificación* or *enmienda*. It consists of a motion whose purpose is to alter all or part of the text of a bill, resolution, report or another amendment. To this end, some provisions are inserted, stricken out or changed (*para ello, se adiciona, suprime o cambia alguno de sus términos*).

Notice must be taken that committees cannot either adopt or reject amendments; they just recommend them to their parent chamber. Only the chambers are empowered to amend a measure. However, amendments on a bill are effected as long as the chamber does not decide to close debate until final passage (*las modificaciones se llevan a cabo siempre que la cámara no resuelva cerrar el debate hasta la sanción definitiva*).

The amendment directly affecting a legislative initiative is known as “amendment in the first degree” (*modificación en primer grado*). The amendment on another amendment previously offered, is known as “amendment in the second degree” (*modificación en segundo grado*). Amendments in the third degree are not allowed, that is, an amendment to an amendment to an amendment (*modificaciones que se propongan sobre una modificación introducida a otra modificación*).

The Rules of procedure of the Argentine Senate states:

“Durante la discusión en particular de un proyecto, pueden presentarse otro u otros artículos que substituyan totalmente el artículo que se está

*discutiendo, o supriman algo de él o lo adicione o altere su redacción”.*¹³⁵

Translation:

“During amendment process on a bill, one or several sections may be introduced to substitute the full text of a section under consideration, or strike part of it, or insert text, or alter its text”.

According to this provision, once the fundamental part of a measure has been affirmatively voted on during general debate, the second stage of consideration, that is, amendment process follows. During this stage, second reading of the bill is made. According to what has been decided by the chamber, this reading may be made period by period, section by section or title by title and even, clause by clause. However, the bill may be considered as already read. In this case, the chamber directly turns to consider the amendments offered.

In general, committee amendments are always considered before amendments offered from the floor (*en general, las modificaciones sugeridas por la comisión que tuvo a su cargo el estudio y despacho del proyecto tienen prioridad sobre las que se ofrecen durante su consideración por parte de la cámara*). Amendments may be voted individually or else *en grosse*. When the amendment is decided affirmatively, it becomes part of the measure or report, as the case may be.

The American houses classify amendments into two generic types: those pertaining to the subject matter of the measure and proposing a mere change in its language, which are called “perfecting amendments” (*modificaciones que mejoran la redacción del proyecto*) and “riders”, which are those that are not germane to the subject matter.

¹³⁵ Reglamento del Senado de la Nación, art. 177 (año 2000).

According to another classification, the U.S. Congress has still three more types of amendments.

- 1) Amendments to strike (*modificaciones para suprimir texto*).
- 2) Amendments to insert (*modificaciones para adicionar texto*).
- 3) Amendments to strike and insert (*modificaciones para suprimir y adicionar texto*).

The term “substitute” (*texto sustituto*) refers to a text resulting from an amendment, which replaces the original text of a bill.

A “substitute amendment” is an amendment, which replaces the entire text of a pending amendment (*modificación que reemplaza al texto completo de una modificación que está en tratamiento*). Considering the meaning of this idiom, I consider that a truthful translation of this term is *modificación sustituta*.

A variety of the “substitute”—in Spanish, *texto sustituto*—known as “amendment in the nature of a substitute” has the purpose of replacing the pending bill with an entirely new measure. In general, any bill reported by the committee is an “amendment in the nature of a substitute of the original bill (*modificación que se considera texto sustituto del proyecto original*).

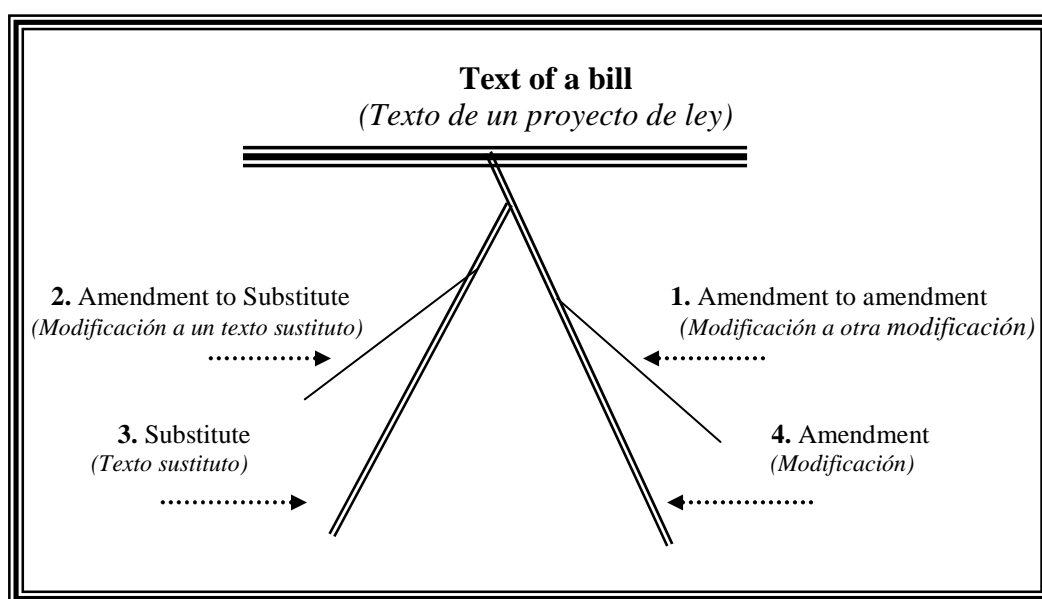
In addition, the American chambers may consider four types of amendment proposals at the same time:

- 1) Amendment to the text of the bill (*modificación al texto del proyecto*)
- 2) Amendment to that amendment or perfecting amendment (*modificación a la modificación* or *modificación que mejora la redacción del texto*): an amendment to partially amend the original amendment may be offered.
- 3) A substitute amendment for the original amendment (*modificación sustituta de la primera modificación*): A substitute amendment to replace the first amendment may be offered.

- 4) A perfecting amendment to the substitute (*modificación que mejora la redacción del texto sustituto*): The proposed amendment partially alters the text of the substitute (*altera la redacción del texto sustituto en forma parcial*).

The following graphic corresponds to what in the U.S. Congress is known as the “amendment tree” (*árbol de las modificaciones*), which establishes the order in which amendments must be voted on.

Table 16: Amendment tree
(*Árbol de las modificaciones*)



When the U.S. House of Representatives resolves itself as a Committee of the Whole, its members may be allowed to speak during five more minutes on the amendment under discussion. This recognition from the chair to speak during an extra five minutes is achieved by moving to strike the last word (*moción para eliminar la última palabra*).

Motion to strike the last word does not require to be voted on and besides, it does not produce any change in either the amendment under consideration or in the measure itself. Its only purpose is to obtain time for debate (*obtener tiempo de exposición durante la discusión*).

Germaness (*Unidad de debate*)

The term “germane” is synonym of “pertinent”, “appropriate”, “relevant”. It is the equivalent of the Spanish expression *unidad de debate*, which means to keep coherence with the subject matter of the amendment under discussion.

In the American Congress, “germaness” is a widely used technical word, which refers to the fact that no motion outside the matter under consideration is allowed. Actually, it is usually said that an amendment “is germane to a bill” or else, “non-germane to a bill”. These expressions imply that that amendment is pertinent or not pertinent to the same.

Such as it happens in the Argentine Congress, in the American House of Representatives, germaness must be observed at any moment of the consideration. “To speak out of order”, which means that germaness is not observed, is only allowed when the exception is made by special rule, in the U.S. House.

On its part, the U.S. Senate procedure is less strict. It allows senators to offer amendments on any matter, in spite of the fact that they may be not related to the subject matter of the bill under discussion.

SECTION XXXVIII

WHIP

(Legislador que colabora con el líder de su bancada para procurar el quórum en el recinto y el consenso político que se ha acordado sobre determinada cuestión)

The word “whip” as used in parliamentary parlance, derives from the English foxhunting expression “whipper-in”, which was attributed to the huntsman’s assistant who whipped in the dogs so that they did not stray from the pack. In this way, the term “whip” is applied to the legislator who is in charge of gathering together the members of a party for united action.

It is believed that the first time the term “whip” was used with a parliamentary connotation was in the British Parliament in 1769, when the intense lobbying led to obtain the passage of a law was described as a “whipping-in of Members”. There is still another version that holds that the term had already been used in 1621 to refer to a document instructing Members which side to take on a particular question.

With the passing of years, the term “whipper-in” developed into “whip”, which is still used in the British Parliament and in the U.S. Congress as well.

In modern England, whips are Members of Parliament and Peers whose duty is to manage the affairs of their parties and to organize their forces in debates and voting. They arrange the business of their party in the House and inform their members of all forthcoming business. To this end, they distribute a weekly circular with information on the business of their pertinent house. The degree of importance of the business to be transacted is denoted by the number of times that the debate or voting is underlined in the circular. According to this practice, items underlined once are considered routine

business and attendance is optional. Items underlined twice are important and attendance is required, unless a pair¹³⁶ has been previously arranged. Items underlined three times are highly important. Here, attendance is “particularly requested” and pairing is not allowed. Hence, a “three-line whip” (*asunto con triple subrayado*) denotes a very important business. In fact, it is the most urgent communication of all and failure by a Member to attend a vote may be considered as a rebellion against the party and may even result in disciplinary action (*puede derivar en una sanción disciplinaria*).

In the U.S. Congress, the duties of the whip are similar to those of his English counterpart. The term “whip”, which was first used in 1897, refers to a caucus member elected to perform the duties of assistant floor leader. The elected legislator helps in the scheduling of political strategies and encourages the caucus members to vote according to what has been decided.

Phrases like “whipping a member” or “the member is whipped” are often used. They make reference to the encouragement given by the whip to a member to vote according to the political stand of their party.

In the American chambers, the whip is the “assistant leader” (*segundo líder de una bancada*). This caucus officer is required to perform a multitude of tasks, such as for example:

- 1) To secure the presence on the floor of the largest number of members of his party to give a quorum and to cast their vote.
- 2) To inform the leader of his caucus on pending business or next voting and about the opinion of the party members as regards a certain matter.
- 3) To inform legislators on the party position about certain questions.
- 4) To weekly inform members in writing about the agenda for the following week.

¹³⁶ Term developed in Section XXXIX “Voting”.

Besides, the whip takes part in the task of organizing the number of speakers and establishing the priority in speech (*organiza la cantidad de oradores y establece el orden de sus intervenciones*). It is important to point out that the knowledge that the whip acquires about the interest of the members of his caucus, turns him into a skilled informer to the Executive Branch. This fact will allow him to give his opinion with respect to the feasibility of passing certain legislation promoted by the Executive.

Having offered the explanation of the meaning of “whip” in English and American parliamentary procedure, and taking into account that this office has no possible equivalent in the Argentine Congress, I consider that there is no correspondent Spanish word which may closely adjust to the said title. Sharing this line of thought with Bidegain, who believes that this word is not susceptible of being truly translated into Spanish, I would rather offer an explanation of the term instead of venturing an inexact translation of the same. Thus, I can say that the Spanish for “whip” is *legislador que colabora con el líder de su bancada para procurar el quórum en el recinto y el consenso político que se ha acordado sobre determinada cuestión*. Besides, as the whip is also the “assistant leader”, I could also translate the term as *segundo líder de una bancada*.

SECTION XXXIX

VOTING

(*Votación*)

Section 82 of the Argentine Constitution establishes that the will of a chamber must be expressly stated. This means that voting is an unavoidable act by which the decision of a chamber is expressed.

In both Argentine and American chambers, the member who casts his vote must be present within the Hall of the House. The implied voting is not allowed and no other person may cast a member's vote. However, the member having personal or pecuniary interest in the matter at issue is excused from voting. However, the U.S. Senate allows that the vote may be also cast by proxy in committee. "Proxy voting" (*voto por poder*) means that a committee member may empower another member to cast a vote in his name.

It is known that in both Argentine and American chambers certain irregularities may take place during the voting stage. In the United States, these voting abnormalities were discovered in the electronic voting system, where a "ghost voting" appeared (*donde apareció el voto de un legislador ausente*). A few years ago, something similar occurred in the Argentine Lower House, when the vote of the so-called *diputrucho*,¹³⁷ that is to say, a false member, was discovered. On that occasion, the vote of an impostor seating on an absent member's seat was electronically recorded.

In case of doubt with respect to the voting result, any member may request the "recapitulation of the vote" (*rectificación del voto*). In this procedure, which consists of

¹³⁷ Diputrucho: joining of *dipu* + *trucho*; where *dipu* is root of the word *diputado*, meaning "representative", and *trucho*, a vulgar term meaning "false".

the verification of a previous voting, only those members who have cast their vote are allowed to vote again. Another requirement is that they may not change their previous vote.

The American practice of “yeas and nays” or “yea-and-nay vote” (*votos por sí y por no*) is the old form of the modern “roll-call vote” (*voto por pase de lista*). However, when answering, legislators do not use those same words; they just say “aye” (*sí*) or “no” (*no*). This kind of voting is not used in committee of the Whole, so that a “recorded vote” (*voto nominal*), which is its equivalent, may be used.

In general, there are several methods of voting:

- 1) Recorded vote (*votación nominal*)
- 2) Division vote (*votación por signos*)
- 3) Voting by electronic system (*votación mecánica o por medios electrónicos*)
- 4) Voice vote (*votación a coro o a “viva voz”*)
- 5) Roll-call vote (*votación por pase de lista*)

Recorded vote (*votación nominal*): By this system, the names of the legislators and their vote are recorded.

In the Argentine Congress, this voting is carried out by roll call, following an alphabetical order. It takes place at the request of a number of legislators or in certain circumstances such as, for example, the election of Officers (*cuando se eligen Autoridades de Cámara*).

Division vote (*votación por signos*): It consists of raising the hand or standing up with the purpose of voting for or against an issue. This voting is not recorded, and is used when the question to be voted on, is a routine business.

With the purpose of counting votes (*a fin de llevar a cabo el recuento de votos*), the presiding officer of the U.S. Senate asks senators to raise their hands or else to remain standing. In the U.S. House of Representatives, members are only required to stand. For this reason, this kind of voting is also known as “standing vote” (*voto de pié*). However, this method of voting has gradually been replaced by voting by electronic system.

“Division vote” is equivalent to *votación por signos* used in the Argentine chambers. It emerged in England, during the sixteenth century. Whenever there was a doubt as to the result of a voting, a division overcame between those in favor of the measure and those against it.¹³⁸

Under this procedure, the house was physically divided: some members remained in their seats and others went to the ante-room or Members’ lobby, whose doors were closed. The secretaries in charge of the vote count, known as the “tellers”, announced the result of voting. With certain varieties, this system is still used in the British House of Commons, where debate normally finishes with a Division. “The signal for this is given by the Speakers’ command ‘Clear the lobby’. On this members begin to leave the chamber and make their way into the division lobbies, while the electric ‘division bells’ are rung all over the building to announce that a division is about to take place”.¹³⁹

¹³⁸ Lecture given by Maurice Bond, Clerk of the Records, delivered before Members of the House of Commons on 21st June 1966: *The History of Parliament and The Evolution of Parliamentary Procedure*, House of Lords Record Office, Parliamentary Archives, III.
<http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldparlac/bondlec.htm>

¹³⁹ Hawtrey, S.C. and Barclay, H.M.: *Parliamentary Dictionary*, third edition, London, Butterworths, 1970.

Voice vote (*votación a coro, por aclamación o a “viva voz”*): Because it is quick and easy to accomplish, this method of voting is the one generally used by the U.S. House of Representatives. However, the Argentine Congress does not use voice vote.

In the United States, this kind of voting takes place when the presiding officer of one of the chambers puts the question and calls for the “ayes” first and then the “noes” (*tiene lugar cuando la presidencia pone un tema a votación de la cámara, pidiendo a sus miembros que primeramente se manifiesten por sí y luego por no*). In this way, in turns, those in favor of the proposition shout “aye” and those against it say “no”. The presiding officer is in charge of deciding the result of the voting. In case of doubt as to the result, any legislator may demand either a “division”, which in Argentina is known as *votación por signos*, or a “standing vote”, which, as I said before, may be translated into Spanish as *voto de pié*. Hence, those in favor of the proposal and then those against it stand up (*de esta manera, se ponen de pié aquéllos que están a favor de la propuesta, y posteriormente, los que están en contra*). Finally, the chair takes a head count (*la presidencia realiza el cómputo de cada grupo*).

Voice vote only provides vote totals and there is no record of how individual members have voted (*sólo arroja el resultado general de la votación, sin dejar constancia del tipo de voto emitido por cada uno de los legisladores*).

Roll-call vote (*votación por pase de lista*): The roll is called alphabetically and the vote of each legislator is recorded. Under this method, votes may also be electronically recorded. As it is a recorded vote, it is said to be “the public face that Congress wears”.¹⁴⁰

¹⁴⁰ Dickson, Paul and Clancy, Paul: *The Congress Dictionary – The ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc.

The U.S. Senate only uses two types of votes: voice votes and roll-call votes.

Pairing – U. S. Congress

(Acuerdo entre dos legisladores para compensar el voto de uno de ellos, que estará ausente durante la votación – Congreso norteamericano)

“Pairing” is a procedure frequently used in both chambers of the U.S. Congress. It consists of an agreement between two legislators who have opposing stands on a measure to be voted on (*consiste en un acuerdo entre dos legisladores que tienen puntos de vista opuestos sobre un asunto a votar*).

If a member wishes to be absent from the house, he may arrange with a member of the opposite party, who also wishes to be absent, that neither of them shall attend the house. In this way, both absences will not alter the voting result.

It is said that pairs are “gentlemen’s agreements”, whose purpose is to neutralize the effect of the absences of legislators during a recorded voting.

When a member wishes to be paired, that is, to compensate his absence with the opposing vote of another legislator, he just has to inform the “pair clerk of his party” about this fact, so that he arranges a pair for a certain sitting day.

When two legislators agree on a pair, it is said that one of them “pairs off with another member”, which may be translated into Spanish as *se acuerda compensar su ausencia con el voto opuesto de otro miembro*.

Live pair (*acuerdo para compensar el voto cuando uno de los legisladores está ausente*): This kind of pair takes place when a member in attendance withdraws his vote announcing that he has a live pair with an absent member (*cuando un legislador que*

está presente en la sesión, retira su voto y anuncia que lo compensa con el voto de otro legislador ausente). He also indicates in what way they would have voted - that is to say, one in favor and the other opposed - in case the absent member had been present.

Simple pair (*acuerdo para compensar el voto entre dos legisladores ausentes, que se sabe que votan por la afirmativa y por la negativa, respectivamente*): This kind of pair takes place when two absent members have decided to vote for and against a proposition, respectively.

General pair (*acuerdo para compensar el voto entre dos legisladores ausentes, sin revelarse el tipo de voto*): The agreement is made between two members who will be absent during a session. The kind of vote they would have cast in case they had been present, is not made public

SECTION XL

RULES OF PROCEDURE

(*Reglamento*)

The legislative chambers of both Argentina and the United States of America adopt their own rules of procedure under their Constitution.¹⁴¹ These rules set up the structure of the legislative bodies, establishing the duties of officers, jurisdiction of committees, parliamentary proceedings, handling of legislation and other matters connected with the lawmaking procedure and passage of legislation (*establecen las estructuras de los cuerpos legislativos, disponiendo las responsabilidades de las autoridades, la competencia de las comisiones, el trámite parlamentario, el manejo de los proyectos y demás temas relacionados con el procedimiento de producción y sanción de leyes*).

The Rules of the chambers are nothing but resolutions adopted by each of them. Yet, in order to make an amendment of the Rules, it is necessary that a resolution be adopted. This resolution must follow all legislative steps of any ordinary initiative. Consideration of this kind of resolution on the very same day of its introduction is not allowed. In Argentina, it is said that no *resolución sobre tablas* is allowed on this issue. This means that rules cannot be amended through the immediate consideration of a resolution to this effect.

The term “Rules”—in the Argentine Congress called *Reglamento*—refers to the set of rules and procedures of each chamber. Oleszek¹⁴² states:

¹⁴¹ Constitución de la Nación Argentina, art. 66: “Cada Cámara hará su reglamento...”

U.S. Constitution, Article I, Section 5: “Each House may determine the rules of its proceedings”.

¹⁴² Oleszek, Walter J.: *Congressional Procedures and Policy Process*, 4th edition, Washington, D.C., Congressional Quarterly Inc., 1996, p. 5.

“Rules and procedures in an organization serve many functions. Among them are to provide stability, legitimize decisions, divide responsibilities, reduce conflict, and distribute power.”

Translation:

“Las normas y procedimientos sirven a múltiples propósitos. Entre ellos, otorgar estabilidad, legitimar decisiones, dividir responsabilidades, reducir el conflicto y distribuir el poder.”

At the commencement of each Congress, the American House of Representatives approves a resolution by which it adopts the Rules of the House at the expiration of the preceding Congress (*en el inicio de cada período bienal de sesiones ordinarias, la Cámara de Diputados aprueba una resolución mediante la cual se adoptan las normas de procedimiento vigentes a la finalización del período anterior*). Thus, the Rules of the House of the preceding Congress become the Rules of the House in this new Congress.

However, rules of procedure may also be amended, according to new needs and circumstances. In some opportunities, these changes clearly show the legislative history of a chamber. To this respect, it was said:

“The day-to-day functioning of the Senate has given rise to a set of traditions, rules, and practices with a life and history all its own. The body of principles and procedures governing many senatorial obligations and routines (...) is not so much the result of reasoned deliberations as the fruit of jousting and adjusting to circumstances in which the Senate found itself from time to time”.¹⁴³

¹⁴³ Ibid, p. 7. (locution attributed to Senator Robert C. Byrd, W. Va., Congressional Record, April 8, 1981 – S3615).

Translation:

“El funcionamiento cotidiano del Senado ha dado origen a una cantidad de tradiciones, normas y prácticas que tienen su propia vida e historia. El cuerpo normativo que rige muchas obligaciones y actos de rutina del Senado (...) no es tanto el resultado de deliberaciones razonadas, sino el fruto de amoldarse y ajustarse a las circunstancias en las que el Senado se encontraba en determinadas ocasiones.”

In the particular case of the American chambers, the gradual amendments made on their Rules show the evolution of their procedure. One of the reasons for these amendments has been the increase in the number of House members, which has brought about limitations on debate for each recognized member (*limitaciones en el uso de la palabra*). With respect to the Senate, an important sign of change is the frequent use of filibusters, which were practically non-existent a few decades ago.

In Argentina, the Rules of the House are called *Reglamento de la Honorable Cámara de Diputados de la Nación* and the Rules of the Senate are called *Reglamento del Honorable Senado de la Nación*.

In the United States, the “Standing Rules” (*reglas permanentes*) are the formal rules which make up the so-called “Rules of the House of Representatives”. They are included and commentated on in the “Constitution, Jefferson’s Manual and Rules of the House of Representatives”.¹⁴⁴ With respect to the Senate’s Rules, they are known as the “Standing Rules of the Senate” (*Reglas Permanentes del Senado*). They are included in the “Senate Manual Containing the Standing Rules, Orders, Laws and Resolutions Affecting the Business of the United States Senate”. Both guides of procedure are published every two years, coinciding with each new Congress.

¹⁴⁴ During his office as Vice president of the United States, Thomas Jefferson prepared a Manual of interpretation of parliamentary procedure for the Senate (1797-1801). In 1837 the House of Representatives adopted it as a formal part of its Rules of procedure. However, the Senate never conferred such hierarchy on it.

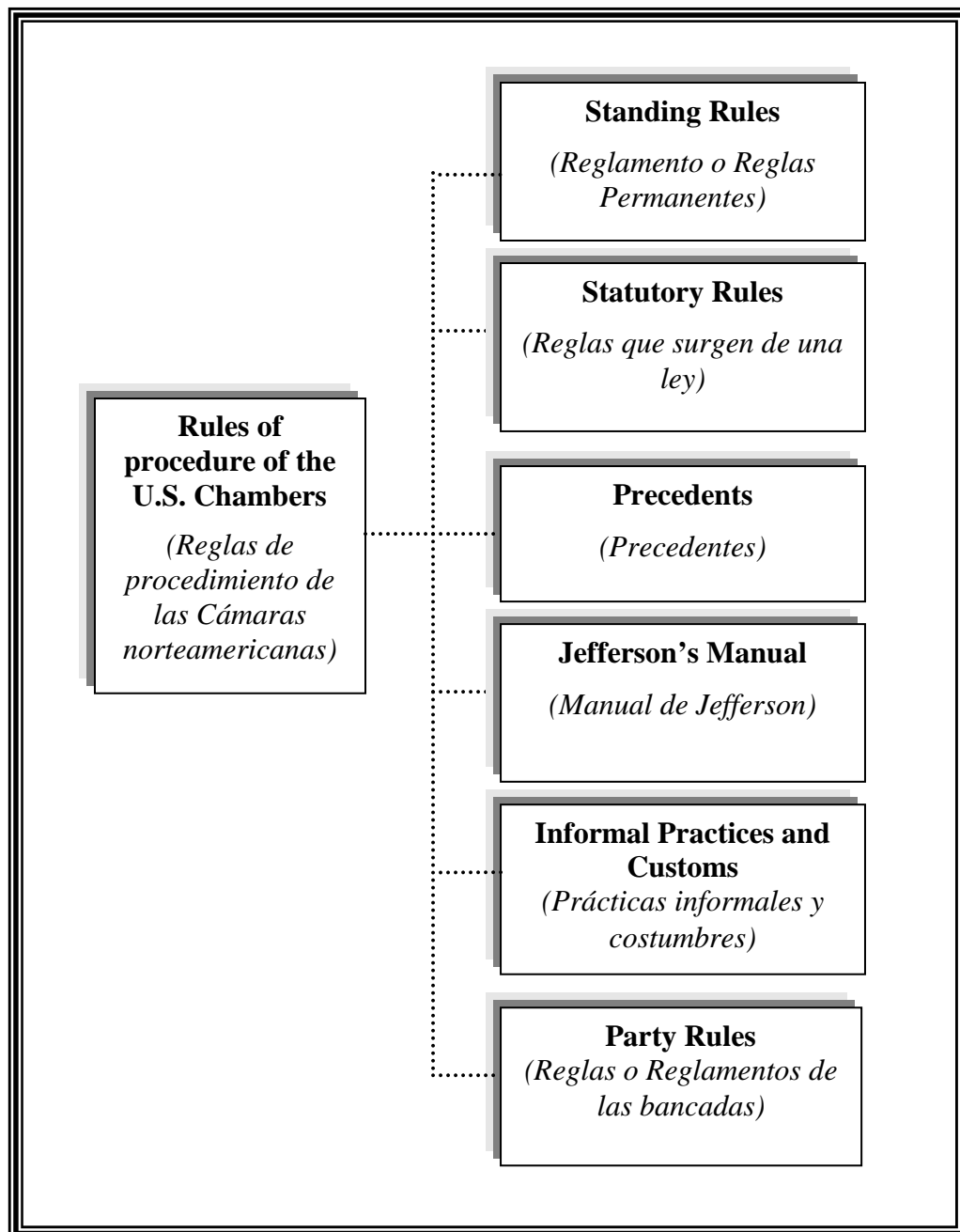
It is important to highlight that besides its own Rules of procedure, each chamber has a significant number of precedents based on rulings of the Chair (*cada cámara cuenta con una importante cantidad de precedentes basados en las disposiciones o resoluciones de la presidencia*). In the case of the U.S. Senate, these precedents, which are compiled and periodically updated, are known as the “Senate Procedure, Precedents and Practices”. The U.S. House of Representatives, on its part, publishes its precedents in the “Hind’s Precedents of the House of Representatives” (1789-1936), “Cannon’s Precedents of the House of Representatives” (1908-1936), “Deschler-Brown Precedents of the United States House of Representatives” (1936-1988) and in the periodic updating publication known as the “Procedure of the U.S. House of Representatives”, which is under the charge of the House Parliamentarian.

In addition, each American house has certain procedural rules included in a Law of the Congress, known as “Statutory Rules”, which may be translated as *reglas por mandato de ley*. An example of these Statutory Rules is the set of rules contained in the Legislative Reorganization Acts (*Leyes de Reorganización Legislativa*) of 1946 and 1970, many of which were later included in the Rules of procedure of the chambers. However, by the rulemaking power conferred on the houses by the Constitution, the houses may amend or replace any Statutory Rule (*por la autoridad conferida por la Constitución para dictar sus propias normas de procedimiento, las cámaras pueden modificar o reemplazar cualquier regla que emana de una ley*).

Those informal practices and customs which form part of the Congressional Record are also considered as rules of procedure by the American houses. Apart from including the reproduction of debates of both chambers, the Congressional Record also incorporates research works on procedure by analysts and consultants on the subject.

Other two sources which contribute to the understanding and relevance of the Rules of procedure in the U.S. Congress are: the Jefferson's Manual and the Party Rules (*Reglas o Reglamento de las bancadas*). The latter are internal rules of the two large parties of the chambers, which may directly influence upon procedure.

Table 17: Rules of procedure of the U.S. chambers
(*Reglas de procedimiento de las cámaras norteamericanas*)



To know the meaning and scope of the Rules benefits legislative proceedings. Those members with a good handling of legislative techniques, appropriate language and rules of procedure have the advantage over those who own a scarce knowledge of the subject. Such as it was once said:

“Procedure hasn't simply become more important than substance - it has, through a strange alchemy, become the substance of our deliberations.

Who rules House procedures rules the House - and to a great degree, rules the kind and scope of political debate in this country”.¹⁴⁵

Translation

“El procedimiento no sólo ha llegado a ser más importante que la esencia – a través de una extraña alquimia, se ha convertido en la esencia de nuestras deliberaciones. Quien domina las reglas de la Cámara, domina la Cámara – y en gran medida, domina la modalidad y alcance del debate político en este país”.

In short, as Oleszek states:

“Rules and procedures affect what Congress does and how it does it. They define the steps by which bills become law, decentralize authority among numerous specialized committees, distribute power among members, and permit orderly consideration of policies”.¹⁴⁶

Translation:

“Las reglas y los procedimientos afectan las acciones del Congreso y el modo en que las lleva a cabo. Definen el camino que transitará un proyecto para convertirse en ley, descentraliza la autoridad entre numerosas comisiones especializadas, distribuye el poder entre los miembros de la Cámara y permite la consideración de políticas en forma ordenada”.

¹⁴⁵ Floor Operations Manual, p. 1, American Information Web
http://usinfo.org/house/rule/floor_man.htm - Statement by representative Robert H. Michel (Illinois), December 6, 1987.

¹⁴⁶Oleszek, Walter J.: *Congressional Procedures and the Policy Process*, 4th edition, Washington, D.C., Congressional Quarterly Inc., 1996, pp. 22-23.

One of the duties of the Chair is to demand observance of the Rules. Thus, any member may make a point of order whenever he considers there is a violation of a rule (*cualquier legislador puede solicitar la observancia del reglamento si considera que existe alguna contravención a alguna de sus disposiciones*).

Origin of the Rules of Procedure – U.S. Congress
(*Origen de los reglamentos – Congreso norteamericano*)

Since its very start, the U.S. Congress adopted most of the rules that had been governing British parliamentary procedure for centuries. Without going deeply into the evolution of the British Parliamentary rules, I will try to give a brief account of its principal facts because it is important to point out that in spite of the fact that a number of early rules of debate had been used for centuries through oral tradition, in 1583, Sir Thomas Smyth published his *De Repvblica Anglorvm, The manner of gouvernement or policie of the realme of England*, which, among other themes, included the first formal treatise of procedure of the House of Commons. Later, G. Petyt published a pocket book for the Members' benefit, which was known as *Lex Parliamentaria* (1689). This book, which included thirty-five works on procedure and annotations on the subject which Petyt had extracted from the Journals of the House of Commons, shows the gradual evolution of certain rules of parliamentary law which – with a certain adequacy – have prevailed till nowadays.

In 1844, Thomas Erskine May, Assistant Librarian of the House of Commons, published a large treatise on procedure, which is still considered as an outstanding reference book. In 1999, the twenty-second edition of this book was published.

With respect to the extensive range of rules and procedures, Thomas Jefferson, Vice-President of the United States (President of the Senate) from 1797 to 1801, stated in the Preface of his Manual:

“The proceedings of Parliament in ancient times, and for a long while, were crude, multiform, and embarrassing. They have been, however, constantly advancing toward uniformity and accuracy, and have now attained a degree of aptitude to their object beyond which little is to be desired or expected”.¹⁴⁷

Translation:

“Las normas de procedimiento parlamentario usadas en tiempos remotos y que se aplicaron por un extenso período, eran crudas, multiformes y confusas. Sin embargo, ha habido en ellas un constante avance hacia la uniformidad y la precisión, y en la actualidad han alcanzado un grado de adecuación a su objetivo, más allá del cual queda poco por desear o esperar.”

Most of those rules were eventually adopted by the English colonies in America. Ironically, some years later, the accurate handling of parliamentary procedure helped the inhabitants of those colonies obtain their independence by repealing the orders of the English Parliament.

According to this research, I can establish that the first corpus of rules of the newly inaugurated chambers of Congress in the city of New York, on March 4, 1789 appeared in the Journal of the House of Representatives of April 7, 1789 and Journal of the Senate of April 16, 1789.

¹⁴⁷ Johnson, Charles W., *House Parliamentarian: Constitution, Jefferson's Manual and Rules of the House of Representatives*, Washington, U.S. Government Printing Office, 1999, p. 120.

Origin of the Rules of Procedure – Argentine Congress
(Origen de los reglamentos – Congreso argentino)

The origin of the Rules of the Argentine chambers goes back to the 1822's *Reglamento de la Sala de Representantes de la Provincia de Buenos Aires*, whereupon subsequent sets of rules were drafted. The evolution of these rules was progressive and, today, they continue being amended in accordance with the needs of the legislative bodies.

Julio César Pitt Villegas's book *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación (Años 1822-1861)*¹⁴⁸ provides valuable historical testimonies on the origin and evolution of the Rules of Argentine legislative chambers. Through the reading of the several sets of rules reproduced in this book, I have observed that, such as it happened with the Rules of the American chambers, many of the rules used by the early Argentine parliamentary procedure were the same as those that the British Parliament had used for centuries, with the important addition of other rules which belonged to the parliamentary procedure prevailing in the United States, France and Spain in those years.

Having made a detailed research on this subject with the intention of establishing the real historical origin and evolution of a great deal of terms used in Argentine parliamentary procedure, I can assume that our early legislative rules and the terminology used in our chambers were the result of the combination of rules of procedure already existing in several countries at the time the Argentine Congress was created. According to the studied terminological backgrounds, I consider it important to point out the following considerations:

¹⁴⁸ Pitt Villegas, Julio César: *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación (Años 1822-1861)*, Buenos Aires, Editorial del Centro de Estudios para la Nueva Mayoría, 1991.

1) Before British and American parliamentary terminology was adopted by the Argentine chambers, this terminology had already been used, in its Spanish version, in the *Constitución Política de la Monarquía Española* of 1812 and in the *Reglamentos de las Cortes Españolas* (Rules of the Spanish Legislatures) of 1810, 1813 and 1821.¹⁴⁹ The following are some examples of specific early British and American parliamentary terminology still used in those countries and Argentina as well.

- ♦ *Mesa*: Table
- ♦ *Lectura del acta del día anterior*: Reading of the journal of the last day's proceedings
- ♦ *Lectura de un proyecto de ley*: Reading of a bill
- ♦ *Llamar al orden*: To call to order

2) Early Argentine parliamentary procedure assimilated certain terminology used in the *Cortes Españolas* (Spanish Legislatures) and also incorporated some new idioms which approached the parliamentary vocabulary, which started being used in France, disregarding the British and American procedure.

- ♦ *Junta preparatoria*: Equivalent to today's *sesiones preparatorias* (1813)
- ♦ *Despacho de los asuntos*
- ♦ *Discusión en general y en particular*

¹⁴⁹ *Constitución Política de la Monarquía Española* (1812), *Reglamento para el Gobierno Interior de las Cortes* (1810), *Decreto de las Cortes – Reglamento para el Gobierno Interior de las Cortes* (1813), *Reglamento del Gobierno Interior de las Cortes y su Edificio* (1821). (Kindly afforded by the Dirección de Estudios y Documentación de la Secretaría General del Congreso de los Diputados, Madrid, España).

- ♦ *Fórmula de juramento*
- ♦ *Negar sanción: Vetar*
- ♦ *Proyecto de ley*

3) The designers of the rules of the Argentine chambers also took into consideration some terminology used in the Rules of the *Assemblées Législatives* of France and the *Règlement le Conseil Représentatif de la Ville et République de Genève*.

- ♦ *Asamblea: Assemblée*
- ♦ *Reglamento: Règlement*
- ♦ *Orador: Orateur*
- ♦ *Decreto: Décret*
- ♦ *Se abre la sesión: La séance ouverte*
- ♦ *Pedir la palabra: Demandé la parole au président*
- ♦ *Orden de la palabra: Tour de parole ; Ordre de la parole*
- ♦ *Decreto de urgencia : Décret d'urgence*
- ♦ *Proyecto de resolución: Project de résolution*
- ♦ *Cámara de Diputados: Chambre des députés*

SECTION XLI

VETO

(*Veto*)

The word “veto” derives from the Latin *vĕto* (first person singular, present tense), which means “I forbid”. “In Roman historical tradition, in 494 BC the plebeians withdrew from Rome and occupied the Sacred Mount. There they declared an alternative government. They formed a tribal assembly, modeled after the Roman assembly, which would be headed by tribunes who were heads of their tribes. They declared that these tribunes could veto any decision by a Roman magistrate or official, and could also veto any decision or legislation by the Senate”.¹⁵⁰

According to the *Enciclopedia Jurídica Omeba*, the concept of “veto”, as used in contemporary political organizations, started with the English Constitution, through the ratification of the American Constitution in 1788 and the French Constitution enacted in 1791. Even though the English crown has not exercised this prerogative since 1707, the United States has continued this practice up to the present time.

Although the term “veto” is regularly used in Constitutional Law, it is not mentioned in the constitutions of either Argentina or the United States. Instead, they make reference to the power of the Executive to disapprove and object to a bill (*rechazar o formular observaciones a un proyecto de ley*).

The President has a qualified veto power, which means to disapprove a bill passed by the Congress (*goza de la facultad exclusiva de vetar un proyecto de ley, lo cual significa rechazar un proyecto de ley sancionado por el Congreso*). Should the

¹⁵⁰ Washington State University, <http://www.wsu.edu/~dee/ROME/REPUBLIC.HTM>

President not exercise this constitutional power within a ten-day period, the bill shall automatically become law without the President's signature.

In the Argentine Republic, this period within which the Executive may either approve or disapprove a bill corresponds to ten working days. In the United States, however, this period corresponds to ten days running, Sundays excepted.

*“Nuestra constitución no dice desde cuándo se computa el plazo de diez días útiles durante el cual el poder ejecutivo puede observar el proyecto de ley, y transcurrido el cual sin haberlo observado, se reputa aprobado. El texto norteamericano, en cambio, dice expresamente que el mismo plazo corre desde que el proyecto sancionado le es presentado al presidente”.*¹⁵¹

Translation:

“Our Constitution says nothing about the moment of commencement of the ten-day period during which a bill may be observed by the Executive Branch and becomes law after this period has elapsed without having been objected. In contrast, the U.S. Constitution text expressly states that this period starts after the bill has been presented to the President.”

As a matter of fact, the *American Congressional Dictionary* states that “The ten-day clock begins to run at midnight following his receipt of the bill”.¹⁵²

After both Houses of Congress have given final approval to a bill (*una vez que ambas cámaras del Congreso han sancionado un proyecto de ley*) they prepare a clean copy of the same where all amendments are included. In Argentina, this clean copy is called *sanción definitiva* and in the United States it is known as the “enrolled bill”. This copy is sent to the Executive for its signature (*promulgación*). The President, then, may

¹⁵¹ Bidart Campos, Germán J.: *Manual de Derecho Constitucional Argentino*, Buenos Aires, EDIAR, 1^a edición, 1986, p. 677.

¹⁵² Kravitz, Walter: *Congressional Quarterly's American Congressional Dictionary*, 2nd edition, Washington, D.C., Congressional Quarterly Inc., 1997.

object it. If such were the case, while in Argentina the President returns the bill to the house of origin together with the so-called *decreto de veto* (*veto proclamation*), in the United States, the President returns the objected bill together with a “message” (*mensaje*). In both presidential documents, the objections (*observaciones*) to the bill and the corresponding veto are detailed.

The Argentine Constitution determines that the Executive may wholly or partially reject a bill. Hence, the doctrine understands that there are two types of veto: *veto total* (*absolute veto*) and *veto parcial* (*partial veto*)

*“según afecte a todo el proyecto o sólo una o más partes o cláusulas de él (...) En los Estados Unidos muchas veces el presidente objeta sólo determinadas cláusulas de un proyecto, lo cual no impide que éste caduque en su totalidad cuando las Cámaras no insisten en su sanción; y la razón fundamental está en que la ley fundamental de ese país sólo admite el veto total. Para que exista veto parcial es necesario que la Constitución admita la posibilidad de que el proyecto sea ley en la parte no objetada, no obstante la caducidad de la parte objetada”.*¹⁵³

Translation:

“depending on whether it affects the whole bill or one or more parts or clauses thereof (...) In the United States, the President often objects to only certain clauses of a bill, which does not prevent this bill from becoming invalid as a whole when the chambers do not override it; and the fundamental reason for this is that the Constitution of that country only allows the absolute veto. Partial veto demands that the Constitution allow the possibility that the non objected clauses or sections of a bill be enacted, notwithstanding the invalidity of the objected clauses or sections.”

¹⁵³ *Enciclopedia Jurídica Ameba*, Tomo XVII, Buenos Aires, Editorial Bibliográfica Argentina S.R.L., 1968.

Regarding this question, Quiroga Lavié – PhD in law, jurisconsult and well-known specialist in Argentine Constitutional Law - states that according to the interpretation of Section 80 of the Argentine Constitution,

“La parte no vetada de un texto legislativo puede ser promulgada por el Ejecutivo si se cumplen dos condiciones:

- a) Si lo promulgado tiene autonomía normativa, vale decir si las normas que se convierten en ley no están vinculadas ni sometidas a la vigencia de las normas vetadas (...).*
- b) La aprobación parcial no debe alterar el espíritu ni la unidad del proyecto sancionado por el Congreso (...).¹⁵⁴*

Translation:

The part of a legislative text which has not been vetoed may be signed by the President as long as two conditions are met:

- a) As long as the vetoed part of a bill has normative autonomy, that is to say, as long as the measures that have become laws are neither connected with nor subdued to the effect of the vetoed legislation (...).
- b) The partial approval of a bill passed by the Congress must not alter either the spirit or the unity thereof (...).

Pocket veto *(Veto indirecto o por omisión)*

In the United States there is a practice known as the “pocket veto” which is exercised by the President when, within the ten days prior to the end of a Congress, he decides to prevent a bill passed by both houses of Congress from becoming law. Accordingly, he does not return the bill until after *sine die* adjournment of the houses. Contrary to what happens with the normal veto, there exists no chance that a pocket

¹⁵⁴ Quiroga Lavié, Humberto: *Constitución de la Nación Argentina Comentada*, Buenos Aires, Víctor P. de Zavalía S.A., 3ª edición, 2000, p. 557.

veto may be overridden by the chambers. Thus, a certain unpleasantness arises between the Congress and the Executive when the latter tries to pocket veto measures, that is, when the President takes advantage of this kind of veto while Congress is in recess.

Considering the meaning of “pocket veto”, I must move away from the generalized translation *veto de bolsillo*, since I consider that this Spanish expression induces to consider that it is a “small veto”, while in fact, in this case, “pocket” does not have any connection with the size of the veto, such as in the example “a pocket edition of a book”, but with the action of retaining, that is to say, preventing a bill which has not been signed by the President from automatically becoming law.

The *Webster’s Third New International Dictionary* defines “pocket veto” as:

“Indirect veto of a legislative bill by an executive (as by the president or a state governor) through retention of the bill unsigned until after adjournment of the legislature.”

Traducción:

“Veto indirecto de un proyecto de ley por parte del ejecutivo (presidente o gobernador de un estado) mediante la retención del proyecto no firmado hasta la finalización del período de sesiones.”

The substantial difference between pocket veto and the conventional veto is that a two-thirds majority of both houses of Congress cannot override a pocket veto (*el primero no admite insistencia por parte de ambas cámaras del Congreso con mayoría calificada*).

According to what I have stated, I consider that the Spanish expression *veto de bolsillo*, so frequently used in a large number of books, is an inaccurate translation that has nothing to do with the actual meaning of the pocket veto procedure. “Pocket veto”, then, must be interpreted as *veto indirecto o por omisión*.

SECTION XLII

COMMITTEE STAFF – U.S. CONGRESS

(Personal de las comisiones – Congreso norteamericano)

Congressional committees generally have two kinds of staff: clerical and professional (*personal administrativo y profesional*). Even though in most committees the duties of these two kinds of staff overlap as regards certain areas of work, clerical staff generally “is responsible for the day-to-day running of the committee and assisting the members and professional staff. Some of its routine tasks include: keeping the committee calendar up to date, processing committee publications, referring bills that have been introduced to the appropriate departments and administration officials for comment, preparing the bill dockets, maintaining files, performing stenographic work, announcing hearings and contacting witnesses, and opening and sorting mail”.¹⁵⁵ With respect to the professional staff members, they “handle policy and legislative matters generally, including legal and other types of research, public relations, statistical and other technical work, and drafting and redrafting legislative language and amendments”.¹⁵⁶

Committee staff of the U.S. Congress has the characteristic of being “statutory staff” (*personal de planta permanente, cuyas funciones están reguladas por el reglamento de la cámara*).

The duties of personal staff (*personal que trabaja en los despachos de los legisladores*) depend on the needs of each legislator. Personal staff is considered the member’s right arm, since “in modern Congress, no senator or representative tries to ‘go

¹⁵⁵ Congressional Quarterly Inc.: *How Congress works*, Second edition, Washington, D.C., 1991, p. 109.

¹⁵⁶ Ibid.

it alone' (...); in general members depend on staff to handle the nuts-and-bolts work of a congressional office".¹⁵⁷ Among other chores, personal staffers are in charge of the constituent service (*trabajo social para el distrito que representa el legislador*; they may serve as press secretaries and legislative assistants.

The so-called "congressional interns" are another characteristic feature of the U.S. Congress. These young temporary employees (*personal de planta temporaria*) are students who work at clerical tasks. According to their previous experience, they conduct visitors around the Capitol or help committee staffers with the mail and drafting of speeches and reports.

Furthermore, some committees are assisted by professional staffers appointed by each caucus. Their duties are mainly legislative, including counseling connected with the different measures introduced in the chamber. They are the Majority Staff and Minority Staff (*Cuerpo Profesional de la Mayoría y de la Minoría*); each of them is generally led by a "Counsel Chief and Staff Director" (*Jefe de Asesores y Director del Cuerpo Profesional*) who is in charge of a number of "investigators" and "detailees" (*profesionales que tienen a su cargo la investigación minuciosa de puntos específicos de determinado tema*).

As regards the clerk-hire allowance (*cupo de cada legislador para el nombramiento de colaboradores*), some decades ago, the American chambers decided to make open for the public inspection the payroll records. The purpose of this decision was to enable the public in general to verify that legislators had not employed relatives as paid members of his congressional office staff.

¹⁵⁷ Ibid, p. 113.

SECTION XLIII

BLOQUES POLITICOS – CONGRESO ARGENTINO

(Political groups – Argentine Congress)

In each of the Argentine legislative chambers, legislators of the diverse political parties are organized under the so-called *bloques políticos*, comparable to the American political groups or parliamentary groups. They are groups of members of a chamber who gather according to their political stand.

In 1895 the existence of these *grupos políticos*, such as they were called in those years, was officially acknowledged and in 1915 office space was assigned to them in the Argentine *Cámara de Diputados*.¹⁵⁸

The constitution of a *bloque* is feasible from the moment that the pertinent communication with the signature of all its members is sent to the chamber. In this communication the structure of the group and the name of its officers are mentioned. The said officers are: chairman, vice chairman, secretary and treasurer.

The *bloques* are autonomous, that is to say, they are independent entities within the parliamentary organization of a chamber and their group chairmen enjoy a number of procedural powers.

These parliamentary groups are essential in the operation of the legislative chambers and their performance is decisive in the passing of laws. They allow less recognitions in debates, take part in committee assignments and share a decision making power (*permiten que en los debates haya menos cantidad de oradores, participan en la integración de las comisiones y en la toma de decisiones*). In addition, group chairmen

¹⁵⁸ Schinelli, Guillermo Carlos: *Reglamento de la Cámara de Diputados Comentado*, Dirección de Información Parlamentaria, Congreso de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1996, p. 191.

form part of the House's *Comisión de Labor Parlamentaria* and the Senate's *Plenario de Labor Parlamentaria* and may also disqualify members-elect (*también pueden impugnar los diplomas de los electos*).

According to the Argentine Constitution, the opposition political group with the largest number of members in Congress nominates the individual to preside over the General Accounting Office (*el bloque de la oposición con mayor número de legisladores propone a quien ocupará la presidencia de la Auditoría General de la Nación*). Besides, the political group with the largest membership in each chamber, puts forward two of its members to be part of the *Consejo de la Magistratura del Poder Judicial de la Nación*. As this body does not have a counterpart in the United States, I think this name can be translated into English as “National Judiciary Council of Magistrates”.

The Senate's largest political group puts forward one of its members to become part of the *Jurado de Enjuiciamiento* (*Jury in Impeachment Trials*). In addition, groups representing the first and second minorities in the Lower House are empowered to nominate one member each to serve on the Council and the Senate's first minority group nominates another member to serve on the Jury.

The size of a parliamentary group is vital for committee assignments and appointment of committee chairmen (*la cantidad de miembros que componen un bloque es vital para la integración de las comisiones y para la designación de sus presidentes*).

Group members may decide not to vote as a unit according to party lines because there exists the so-called “free vote” on conscience matters (*los miembros de un bloque pueden decidir no votar en un sentido determinado de acuerdo con los lineamientos partidarios, pues existe la llamada libertad de voto sobre cuestiones de conciencia*).

Constitution of political groups (*Formación de los bloques*)

Political groups form freely and although they are somewhat a sign of the political parties which have taken part in congressional elections (*elecciones legislativas*), their presence in a chamber may be due to several reasons:

- 1) A political group may be formed out of the list of candidates who, according to the outcome of the election, have title to a seat.
- 2) A political group may be the result of a split or breakaway of existing parliamentary groups.
- 3) A political group may arise from the merging or uniting of existing groups.

Origin of the term *bloque* (*Origen del término “bloque”*)

In some European countries, these groups are called “political groups” or “parliamentary groups”. Since their early start, the Argentine legislative bodies assimilated the Spanish version of these terms and have continued using them for nearly a century. However, the chambers also used other equivalent denominations. For example, the words used in 1922 were “diputación” (deputation), “grupo” (group), *sector* (sector) or *agrupación* (group)¹⁵⁹ and their derivatives *grupos de minoría* (*minority groups*),¹⁶⁰ or “grupo parlamentario de oposición” (opposing parliamentary group).¹⁶¹ Although these denominations continued in use during many years, in 1924¹⁶² the word *bloque* started being used and in 1940¹⁶³, the expression *presidente de bloque*

¹⁵⁹ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1922, Tomo VII, pp. 45, 225, 352, 474.

¹⁶⁰ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1929, Tomo IV, p. 140.

¹⁶¹ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1922, Tomo VII, p. 787.

¹⁶² Diario de Sesiones H. Cámara de Diputados de la Nación, año 1924, Tomo V, p. 364.

¹⁶³ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1940, Tomo V, p. 128.

(group chairman) was included in the parliamentary terminology, in place of the expressions *presidente del grupo* and *presidente de la agrupación*.

The research done with the purpose of determining the origin of the term *bloque* has evidenced that the first time it was used in the Argentine House of Representatives was during the session of September 11, 1924.¹⁶⁴ However, the internal organization of these groups was not immediate. It took place forty years later, during the session held on January 16 and 17, 1964, in which the amendment of the Rules of the House was adopted.¹⁶⁵ The Senate, on its part, included *Bloques Parlamentarios* as an Article in its Rules in the session of August 12, 1992,¹⁶⁶ during which several amendments to the Rules were adopted.

Neither the bibliography on this subject nor the Journals of the houses make reference to the origin of the term *bloque* as used in parliamentary procedure. This fact and the originality of the word chosen by our legislators have encouraged me to research on similar terminology used by other legislative bodies. In the following table I include words and expressions used in different countries of America and Europe, which are synonyms of the Argentine word *bloque*.

¹⁶⁴ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1924, Tomo V, p. 364.

¹⁶⁵ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1963, Tomo II, p. 1579.

¹⁶⁶ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1992, Tomo IV. p. 1859.

Table 18: The word *bloque* and other equivalent terminology used in American and European countries
(La palabra “bloque” y otra terminología equivalente usada en países de América y Europa)

American countries	
Argentina	Bloques; bloques políticos
Dominican	Bloques partidistas
Guatemala	Bloques
Nicaragua	Grupos parlamentarios
Paraguay	Bloques parlamentarios; bancadas
Peru	Grupos políticos; grupos parlamentarios
United States of America	Party organizations: caucus; conference
European countries	
France	Groups politiques
Germany	Fraktionen (sing. Fraktion)
Italy	Gruppi parlamentari
Portugal	Grupos parlamentares
United Kingdom of Great Britain	Political organizations; party organizations

I find it important to mention that only a few dictionaries include the word *bloque* with the connotation given in the Argentine Congress. For this reason, it may be considered that only Argentina and few Latin American countries use this terminology.

Besides, the exhaustive research carried out with the purpose of finding out both the actual origin of such a meaning and the reason why the Argentine legislators of the second decade of the twentieth century included it in the parliamentary terminology instead of continuing using the old denominations (such as many countries have done), makes me take into consideration the date of adoption of the said term. As I said before,

the first time the Argentine *Cámara de Diputados* used the word *bloque* was during the session of September 11, 1924. According to the Journal of that date, the House used this term to make reference to the *Bloque de la U.C.R.*¹⁶⁷ while the House Socialist Group continued being called *sector*, *grupo*, *diputación*, or *agrupación socialista*. Taking into consideration that the term *bloque* started being used in 1924, I may suggest that it is likely that this word could have been inspired in the 1919-1924 French *Bloc National*, which in November 1919 had covered three-fourths of the seats in the French Lower House.¹⁶⁸

The coincidence of the date on which the French *Bloc* operated and the date on which the word *bloque* started being used in the Argentine Congress leads me to presume that the strong admiration our legislators had for some countries' parliamentary procedure could give way to the definite replacement of the term *grupo parlamentario* for the new denomination *bloque*. Besides, it is very interesting to be pointed out that the French *Bloc* was created to prevent the Socialist opposition from becoming a majority in the House and that, coincidentally, between 1919 and 1924, the Argentine chambers were formed by a Radical majority and a significant Socialist minority.¹⁶⁹

At present, the term *bloque* is commonly used by Argentine parliamentary procedure and its meaning does not induce to any doubt whatsoever within Congress. However, at a certain time in history, this term definitely replaced *grupo parlamentario* and *grupo político* which still continue being broadly used in other countries. This was an infrequent circumstance in the history of Argentine parliamentary terminology, since, such as I support throughout this Thesis, this terminology has mainly developed after

¹⁶⁷ Unión Cívica Radical Political Group.

¹⁶⁸ Encyclopaedia Britannica's web site: www.britannica.com

¹⁶⁹ *Nómina Alfabética de Diputados de la Nación (período 1854-1991)*, Subdirección de Publicaciones e Investigaciones Históricas, Dirección de Archivo, Publicaciones y Museo, Secretaría Parlamentaria, H. Cámara de Diputados de la Nación, (s/f).

the terminology already used in the United States, the United Kingdom, France and Spain.

SECTION XLIV

PARTY ORGANIZATIONS IN THE U.S. CONGRESS

(Agrupaciones políticas en el Congreso de los Estados Unidos)

The U.S. Congress's political system is organized on the basis of two main political parties grouped under the generic denomination of "political organizations" or "party organizations". They are the "Democratic Caucus" and the "Republican Conference". In spite of the fact that only the House Democratic group is officially named "caucus", and that Republican groups of both houses and the Senate Democratic group are called "conference", the expression "party caucus" - or simply "caucus"- is regularly used to make reference to any of the political groups of either house.

Table 19: Official names of party organizations
(Denominación oficial de las agrupaciones políticas del Congreso)

House	House Democratic Caucus
	House Republican Conference
Senate	Senate Democratic Conference
	Senate Republican Conference

Each party caucus has its own caucus rules (*reglamento*), elects its officers, holds caucus meetings (*celebra reuniones*) and takes part in committee assignments of its house (*interviene en la integración de las comisiones de su cámara*). Besides, it forms study groups, analyzes legislative policies and decides its party position.

The word “caucus” has a truly American origin and was first used during the eighteenth century. Some specialists in native languages consider that it derives from *cau-cau-as-u* or *caw-cawsseough*, which in the language spoken by the Algonquins¹⁷⁰ means “who advises” and was connected with the tribal council. However, other lexicographers think its origin was the “caulkers meeting” (*reunión de calafates*), which was a seamen association whose purpose was to defend shipping interests. It is believed that the first caulkers’ shop of Boston was the seat of these political meetings. Later, the word “caulkers” developed into “caucus”.

This word first appeared in print in John Adams’s diary for 1763, in the context of a “caucus club”.¹⁷¹ The political jargon included it in 1870, but it was accepted by formal terminology twenty years later. However, it was included by The Concise Oxford Dictionary in 1914 and by the Cassell’s New English Dictionary in 1919.

The first caucuses of the American chambers enjoyed more powers than they do nowadays. According to Bidegain,

“En los primeros tiempos de la república, cuando la acción del Congreso estaba imbuida de la idea originaria acerca del papel primordial que le tocaba desempeñar en el gobierno, el caucus congresista del partido oficialista dominaba el escenario político. De él surgían los candidatos presidenciales, la gravitación que tenía la autoridad del Congreso dentro de la denominada ‘la dinastía de Virgina’ imponía la sucesión presidencial de Jefferson a Madison y de Madison a Monroe, pero cuando la generación posrevolucionaria empezó a ocupar las primeras jerarquías políticas, se hizo visible la reacción contra ese sistema

¹⁷⁰ Any of various Native American peoples inhabiting the Ottawa River valley of Quebec and Ontario. <http://www.dictionary.com>

¹⁷¹ Dickson, Paul and Clancy, Paul: *The Congress Dictionary – The ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc., 1993.

*aristocrático y la revolución democrática de Jackson cumplió en uno de sus capítulos la substitución del caucus por la convención nacional, como órgano encargado de designar a los candidatos presidenciales”.*¹⁷²

Translation:

In the early years of the republic, when the action of the Congress was imbued with the original idea of the fundamental role it had to perform in government, the political caucus of the majority party towered the political scenario. Presidential candidates were picked out; the gravitation that the authority of Congress had into the so-called ‘dynasty of Virginia’ demanded the presidential succession from Jefferson to Madison and from Madison to Monroe. However, when the post revolutionary generation started serving the most important political offices, the reaction against that aristocratic system was evident. Thus, in one of its stages, Jackson’s democratic revolution accomplished the substitution of the caucus for the national convention, as the body responsible for the appointment of presidential candidates.

At present, through the House Democratic Caucus, the Senate Democratic Conference and the Republican Conference of both houses, political parties distribute information to the members of those bodies, achieve the legislative research necessary for the consideration of measures and discuss legislative strategies to accomplish different questions. To this end, these groups hold weekly meetings to discuss matters of pending business and vote to adopt the official caucus position (*celebran reuniones semanales para considerar los temas pendientes de tratamiento en la cámara y votar para aprobar la postura oficial del “caucus”*).

In a way, the purpose and characteristics of these political caucuses are similar to those of the Argentine *bloques*. For this reason, I think it is suitable to translate the word “caucus” as *bancada* or *bloque*, as long as such a translation is destined to either the Argentine reader or the reader of any other Spanish speaking country whose parliamentary terminology includes these words.

¹⁷² Bidegain, Carlos María: *El Congreso de Estados Unidos de América – Derecho y Prácticas Legislativas*, Buenos Aires, Editorial Depalma, 1950, pp. 447-448.

Caucuses' officers¹⁷³
(*Autoridades de los bloques*)

Caucuses' officers are elected at the commencement of each Congress, according to the following general structure, which varies under the rules of each caucus: floor leader, assistant floor leader, caucus chairman and caucus vice chairman.

Floor leader (*líder del bloque*): Depending on whether this officer belongs to the majority or minority party, he (or she) is called “majority leader” (*líder de la mayoría*) or “minority leader” (*líder de la minoría*). The duties of this caucus officer are to achieve his party legislative program and to assist and advise members of his caucus when sitting on the floor. He also plans political and legislative strategy for his party and negotiates agreements with the other group. Besides, he is the floor manager of his caucus and the fact that he has right of first recognition, allows him to be the first to offer amendments and motions of reconsideration (*es el vocero de la bancada en el recinto y su derecho a ser el primero en hacer uso de la palabra le permite ser el primero en ofrecer modificaciones y mociones de reconsideración*).¹⁷⁴

Assistant floor leader (*segundo líder*): This officer is also known as “assistant majority leader” (*segundo líder de la mayoría*) or “assistant minority leader” (*segundo líder de la minoría*), as the case may be. However, these are alternative denominations for the majority whip and minority whip.¹⁷⁵

¹⁷³ Also, “caucus officials”.

¹⁷⁴ U.S. Senate's web site:

http://www.senate.gov/learning/learn_leaders_leadership_responsible.html

¹⁷⁵ Term developed in Section XXXVIII “Whips”

Caucus chairman (*presidente de bloque*): This officer presides over the caucus's meetings.

Caucus vice chairman (*vicepresidente de bloque*): He keeps the minutes of the caucus's proceedings and caucus's meetings. Besides, he is in charge of notifying members of caucus and committee meetings. Depending on which caucus he belongs to, he is called the "Vice chairman for the Majority" or the "Vice chairman for the Minority".

Chairman of the Policy Committee (*presidente de la comisión de política del bloque*): A caucus's Policy Committee is formed by the officers of that caucus. The duty of its chairman is to analyze the legislative proposals and make recommendations on party positions (*estudiar las propuestas legislativas y hacer recomendaciones sobre lineamientos partidarios*). Besides, the chairman of the Majority's Policy Committee may also advise his leader on the scheduling of measures for floor action (*El presidente de la Comisión de Política de la Mayoría también puede aconsejar a su líder con respecto a la confección del plan de labor de la cámara*).

In the political structure of the American chambers there are certain idioms connected with the member's condition of belonging to either the Majority or Minority party. Such is the case of the terms "leadership", "rank", "ranking member" and "ranking minority member", the meaning of which I hereinafter detail:

Leadership: The correct interpretation of this term, which obviously refers to the condition of a leader to lead his party in a chamber, shows certain difficulties. It is

important to mention that although this word is widely used in the U.S. Congress, it is somewhat ambiguous. In general, it is used to name officers of the houses and ranking committee members (*se la usa para denominar a las autoridades de las cámaras y a los legisladores de la mayoría, que son los miembros más antiguos de las comisiones donde actúan*). In addition, this word refers to both the Speaker and to the duo formed by the Speaker and Majority Leader. Yet, this word is also used to name these officers together with the senior members of a chamber. For this reason, when no mention is made as to whom this word is addressed, I consider that the accurate translation is *autoridades de cámara*, since they obviously belong to the Majority Party.

Ranking member: This denomination is given to the member who ranks first in seniority after the committee chairman (*miembro con mayor antigüedad en una comisión, luego del presidente*).

Ranking minority member: This expression makes reference to the senior minority party member on a committee (*miembro de la minoría con mayor antigüedad dentro de una misma comisión*). His name is the first on the list of minority members on a committee. His office has ample powers within his caucus. He acts as minority floor manager¹⁷⁶ during consideration of committee measures and also recommends minority members to act as conferees¹⁷⁷ on such measures (*actúa como vocero por la minoría durante el tratamiento de asuntos de competencia de la comisión a la que pertenece y también formula recomendaciones para la designación de miembros de la Comisión Bicameral de Conferencia para tratar dichos asuntos*).

¹⁷⁶ Term developed in Section XXI “Committee report”.

¹⁷⁷ Term developed in Section XX “Conference Committee”.

Rank (*jerarquía*): This idiom is synonym of “ranking”. It refers to the hierarchical position of a committee or subcommittee member. This rank or hierarchical order determines the order of recognition during committee meetings (*es determinante en el orden de la palabra durante las reuniones de comisión*).

“When first assigned to a committee, a member is usually placed at the bottom of the list, then moves up as those above leave the committee”.¹⁷⁸

Informal caucuses and blocs

(Agrupaciones informales de legisladores y agrupaciones interpartidarias de acción común)

At present, the word “caucus” does not only refer to the group of legislators of one party. It is also applied to all meeting of members of a deliberative body whose object is to unify criteria on a certain question. For this reason, apart from those known as “party caucuses”, there are also informal groups known as “informal caucuses”, whose members share legislative interests. Their official name is “Legislative Service Organizations”. In fact, there are many groups of this kind which have an interest in several topics, such as for instance, art, automobiles, tourism, space, steel, exports and health. Some of these organizations are: the Black Caucus, the Hispanic Caucus, the Children’s Caucus and the Crime Caucus.

Besides these informal caucuses, in the U.S. Congress there exist the so-called “blocs”, which are groups of legislators joined by a common interest that may go beyond their political party. The nature of this common interest is diverse and legislators may even belong to different parties.

¹⁷⁸ Kravitz, Walter: *American Congressional Dictionary*, 2nd Edition, Washington, D.C., Congressional Quarterly Press, 1997.

They join in a bloc to jointly support a certain question. In addition, they may even vote as a unit (*pueden pronunciar su voto vinculante en cierto sentido*). The “Farm Bloc” is an example of this kind of informal groups. It is formed by lawmakers who belong to rural areas who tend to vote as a unit whenever the chamber discusses a measure related to their common interest.

As regards to this subject, I consider it important to point out that I have translated the word “bloc” as *grupo interpartidario de acción común* because its principal characteristic is that its members, who generally belong to different political groups, pursue a common purpose, without taking into consideration their political points of view.

SECTION XLV

LOBBYING – U.S. CONGRESS (*Cabildeo – Congreso norteamericano*)

The English word “lobby”, which derives from the Medieval Latin *lobium* meaning “gallery”, started being used in the sixteenth century in connection with the corridor or lobby used as anteroom of a legislative chamber.

Since its creation in 1789, the U.S. Congress has been using this term. At first, it was used when farmers, businessmen and a number of representatives of different activities with an interest in the passage of certain legislation, were compelled to wait in the lobby while the house was in session. These individuals generally made themselves present in the Congress building to obtain personal favors, such as contracts, employments or patents.¹⁷⁹

In the nineteenth century, the verb “to lobby” was given its present meaning. It refers to those activities which tend to persuade legislators to propose, pass, amend or reject a legislative initiative.

In the United States, the right to lobby is constitutionally protected. The First Amendment of the Constitution forbids the passage of such legislation which might in any way ban the right of people to petition the government. However, the American legislation regulates lobbyists activity in the houses via their registration in the Secretary of the corresponding house. Lobbying registrations and reports of income and expenses are filed with the Clerk of the House or Secretary of the Senate (as the case

¹⁷⁹ Dickson, Paul and Clancy, Paul: *The Congress Dictionary – The ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc., 1993.

may be) pursuant to the Lobbying Disclosure Act of 1995 and its predecessor, the Federal Regulation of Lobbying Act (1946).¹⁸⁰

According to the definition of the verb *cabildear* given by the *Diccionario de la Real Academia Española*, it becomes obvious that this verb corresponds to the English “to lobby”. However, and such as it often happens with a number of other words - especially those belonging to the technical field - which by frequent use have been replaced by their foreign equivalent word - I suggest to continue using the English word “lobby”, since it has been used and accepted in Argentina for years. Besides, the word “lobbying” is being more generalized among us than the Spanish *cabildeo* and its meaning is undoubtedly more clearly understood than the Spanish term.

In spite of the fact that the terms *cabildear*, *cabildeo* and *cabildero* have been authorized by the *Real Academia Española*, they are seldom used in Argentina. In this case, there exists the so-called “borrowing”, which takes place when the target language adopts a word from a foreign language in its original or assimilated form.¹⁸¹ Taking into account that in Argentina and also in the rest of the world, many technical words have been adopted as borrowings, I consider it is sensible to use the word “lobbying” and its derivatives as borrowings from the English. As regards to this topic, Edward Sapir¹⁸² affirms that “Languages, like cultures, are rarely sufficient unto themselves. The necessities of intercourse bring the speakers of one language into direct or indirect contact with those of neighboring or culturally dominant languages.”

¹⁸⁰ <http://clerkweb.house.gov/pd/lobby.htm>

¹⁸¹ Pucciarelli, Elsa T. de: *Qué es la traducción*, Colección Esquemas N° 106, Buenos Aires, Editorial Columbia, 1970, p. 53.

¹⁸² Sapir, Edward (1884–1939): *Language: An Introduction to the Study of Speech*, IX. *How Languages Influence Each Other*, 1921 <http://www.bartleby.com/186/9.html>

In the United States there are lobbyists who have diverse areas of expertise: those who carry on their activities in Congress, in the Executive and in the different government agencies. They are individuals or lobby groups and use their political influence for the benefit of a wide variety of areas of the private sector: commercial, industrial, professional and ideological, among others.

Lobbyists are real pressure groups which not only influence on members of Congress, but also team up with them for drafting legislation, designing political strategies, supplying technical information and holding meetings with the purpose of uniting criteria to achieve their objectives.

Over the years, lobbyists of the United States have become part of the political system. Now most of this activity is in the hands of highly sophisticated enterprises, which offer a wide variety and levels of services which cover all facets of political and administrative life, for example, timely and comprehensive solutions to political information needs, daily information and analysis service, contacts with the private sector and with different agencies of federal or state governments.

Probably, experience is the best training to develop into a good lobbyist. In general, lobbyists are lawyers or other kind of professionals with university degrees who also own an important background in communication, public relations and journalism. They do not name themselves “lobbyists” but rather, “advisors” or “consultants”.

SECTION XLVI

CONGRESSIONAL BUDGET PROCESS

(El procedimiento legislativo del Presupuesto)

“Budget” is the name given to the nation’s spending and revenue plans (*plan de gastos y recursos de la nación*). Both the Argentine and the American congresses are constitutionally empowered to fix it yearly.

*El Presupuesto “constituye una herramienta básica de la política económica, tanto desde el punto de vista del control republicano de la gestión que el Gobierno Nacional prevé desarrollar, como de su empleo como instrumento de política”.*¹⁸³

Translation:

The budget is a basic tool of the economic policy, from the point of view of the republican control over the measures the National Government expects to develop, as well as of its use as an instrument of policy.

Consideration of the budget starts with the submission to Congress of the President’s budget (*la consideración del Presupuesto se inicia con la presentación que hace el Ejecutivo al Congreso*). In spite of the fact that the Congress is not compelled to adopt the Executive’s recommendations, presidential proposals are a guide for congressional revenue and spending decisions (*las propuestas presidenciales constituyen una guía para la decisión legislativa sobre temas de impuestos y gastos*).

In Argentina the budget is passed as a law (*el presupuesto se sanciona como ley*) and the reporting committees are the *Comisión de Presupuesto y Hacienda* of each house. While its consideration is subject to the procedure of general legislation, in the U.S. Congress its legislative consideration is under a special procedure.

¹⁸³ Ley de Presupuesto Nacional – Decisión Administrativa N° 25.401, Tomo I, 9 de enero de 2001, p. 59.

In the United States, the budget is adopted by means of a concurrent resolution¹⁸⁴ known as “Concurrent Budget Resolution” (*resolución conjunta del presupuesto*). As it is a concurrent resolution, it cannot be signed or vetoed by the president and therefore, has no statutory effect (*como se trata de una resolución conjunta, no es susceptible de aprobación o veto por parte del presidente y, por lo tanto, no tiene efecto de ley*). It just represents the expression of congressional policy. Its main purpose is to establish a structure or guide on which further budget laws will be considered. Thus, the allowances set in the Concurrent Budget Resolution fix a basis for the enforcement of congressional budget policies which operate through the enactment of the Annual Appropriation Bill and other spending and revenue measures.

During the complex budget process in the U.S. Congress, the House Budget Committee and the Senate Budget Committee adopt a “First Concurrent Resolution on the Budget” (*Primera Resolución Conjunta sobre el Presupuesto*) and later, they draft a “Second Concurrent Resolution” (*Segunda Resolución Conjunta*). Should the chambers not agree as to the definite concurrent resolution at the commencement of the fiscal year, they start the so-called “reconciliation process”. The purpose of this procedure is that the existing tax and spending laws be adjusted to the limits established by the Budget Resolution. To this end, the chambers adopt a concurrent resolution whereby they instruct one or several committees to report bills or recommend changes in laws in order that they achieve levels of spending and revenues set by the Budget Resolution. “First used in 1980, this process was used at the end of a fiscal year to enact legislation to fine tune revenue and spending levels through legislation that could not be filibustered in the Senate”.¹⁸⁵

¹⁸⁴ Term developed in Section XV “Legislative Proposals”.

¹⁸⁵ Parliamentary Outreach Program: *The Budget Reconciliation Process*, U.S. House of Representatives, Committee on Rules – Majority Office http://www.house.gov/rules/bud_rec_proc.htm

Since this procedure does not exist in the Argentine chambers, I find no suitable translation for it. For this reason, I once more believe that translating the concept of an idiom is the best way of conveying its accurate meaning. Thus, the Spanish for “reconciliation process” is *procedimiento que tiene como propósito ajustar los totales de recaudación y gastos de la nación a los límites establecidos en la resolución conjunta del presupuesto*.

“Once a reconciliation bill is passed in the House and Senate, members of each body meet to work out their differences. A majority of the conferees on each panel must agree on a single version of the bill before it can be brought back to the full House and Senate for a vote on final passage. Approval of the conference agreement on the reconciliation legislation must be by a majority vote of both Houses. In the House, the conference report is usually given a special rule from the Rules Committee to govern floor consideration. In the Senate, the floor debate is governed by Senate rules and specific provisions of the Budget Act. In contrast to the concurrent budget resolution, a reconciliation bill is sent to the President for approval or disapproval”.¹⁸⁶

Every step required for the adoption of the houses concurrent resolution follows a strict calendar which starts in February and ends before October 1, since this is the date of commencement of the fiscal year. However, if the budget or the pertinent laws are not passed at the commencement of the fiscal year, the houses will then adopt a “continuing resolution” by which funds will become available so that different government agencies may meet their financial obligations when the annual appropriation bills have not yet been enacted (*cuando las leyes de asignaciones anuales aún se encuentran pendientes de sanción*).

¹⁸⁶ Ibid.

The budget process has multiple and intricate stages. For this reason and with the purpose of making its ample and specific terminology easy to be understood, the General Accounting Office—equivalent to the Argentine *Auditoría General de la Nación*—is in charge of developing, keeping and periodically publishing a glossary of terms on this subject, which not only contains fundamental principles on the matter but also includes other terms connected with several subjects, such as for example, timing of budgetary actions (*plazos de las diversas instancias del procedimiento del presupuesto*).

SECTION XLVII

CONGRESSIONAL OVERSIGHT – U.S. CONGRESS

(Seguimiento legislativo de la aplicación de las leyes sancionadas por el Congreso – Congreso norteamericano)

The idioms “congressional oversight” or “legislative oversight” refer to the supervision exercised by standing committees on the implementation of laws enacted by Congress (*leyes sancionadas por el Congreso*).

The increase of Executive activities, through many administrative agencies, has given rise to a strong supervision of the way laws passed by Congress are put into practice. A well drafted law is not enough to guarantee that the intent of Congress will be respected. Therefore, “each standing committee (other than the Committees on Appropriations and on the Budget) is required to review and study, on a continuing basis, the application, administration, execution, and effectiveness of the laws dealing with the subject matter over which the committee has jurisdiction and the organization and operation of Federal agencies and entities having responsibility for the administration and evaluation of those laws”.¹⁸⁷

In spite of the fact that this committee activity is not widely known by the general public, the U.S. Congress recognized its responsibility of oversight in 1946 through its “Legislative Reorganization Act”, which “defined oversight as the function of exercising continuous watchfulness over the execution of the laws by the executive branch”.¹⁸⁸

¹⁸⁷ Johnson, Charles W. (House Parliamentarian): *Guide to Legislative Process in the House*, U.S: House of Representatives <http://www.house.gov/rules/lph-legover.htm>

¹⁸⁸ Kravits, Walter: *American Congressional Dictionary*, 2nd edition, Washington, D.C., Congressional Quarterly Inc., 1997.

Although there is no formal oversight procedure, upon the basis of periodical reviews, committees of each house may determine the need that a law within their respective jurisdiction be amended or even replaced. Likewise, committees which have been in charge of the consideration of a bill may hold hearings with the purpose of supervising whether it is being implemented and carried out in accordance with its legislative intent. According to their oversight responsibilities, committees are also required to analyze the need of enacting new or additional legislation within their jurisdiction.

Unfortunately, there is no similar activity in the Argentine Congress because standing committees do not go beyond their reporting responsibility. When it was necessary to supervise something of paramount importance such as the privatizations, a “Joint Committee on Privatizations Oversight” was to be created. At present, some other joint committees have been created to specifically fulfill this responsibility in particular areas: Employment and Powers delegated to the Executive, for instance. It cannot be denied that the fact that committees are not responsible for any type of oversight has indirectly contributed to institutional inefficiency in the country.

SECTION XLVIII

IMPEACHMENT

(*Juicio político*)

The English word “impeachment” has Latin roots which mean “impediment”. In modern practice, this word is applied to the accusation or charge brought against a public officer for maladministration in his office.

While Argentina and other Spanish speaking countries use the expression *juicio político*, the Argentine Constitution does not mention it. Instead, it refers to it as *juicio público*.

“The first impeachment trial was in England in 1376, but the practice did not become regular until de seventeenth century”.¹⁸⁹ However, this procedure has been present in the Argentine and American constitutions since their very enactment.

While in England the last impeachment took place in 1805, Argentina and the United States, as well as a large number of countries, have continued using it with many of the characteristics of the English procedure which have been preserved in the British houses as precedents.

Under their pertinent constitutional provisions, the *Cámara de Diputados* of Argentina and its American counterpart, the House of Representatives, have the sole power to bring impeachment process against a government official (*gozan de la facultad absoluta de llevar a cabo la acusación en el juicio político contra un funcionario público*). On its part, the Senate has the unique power to try an impeachment (*tiene el poder absoluto de llevar a cabo el juzgamiento*).

¹⁸⁹ University of Illinois at Chicago, University Library: *Impeachment process*
<http://www.uic.edu/depts/lib/documents/resources/whatis.shtml>

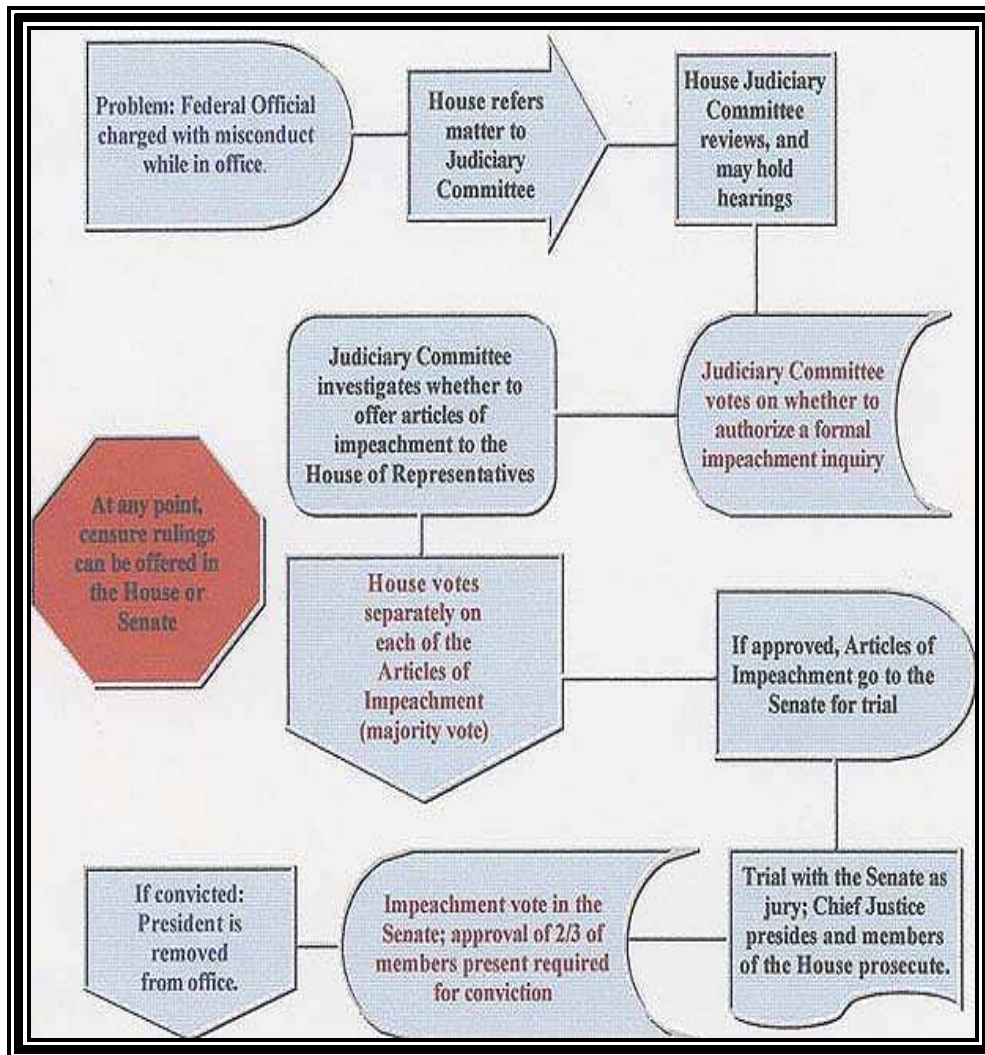
In Argentina, impeachment charges against a public official are first considered by the “Comisión de Juicio Político” (*House Committee on Impeachment*); in the United States, they are first considered by the House Committee on the Judiciary (*Comisión de Justicia*), also called “Judiciary Committee”. These committees hold impeachment hearings and report their findings. This report contains formal charges, which in the United States are known as “Articles of Impeachment” (*causales de remoción o destitución del funcionario público*). Should they get a favorable vote of the House, the matter goes to the Senate for trial (*el asunto pasa al Senado para su juzgamiento*).

Such as it happens in the Lower House, the Senate needs a two-thirds vote to convict (*el Senado necesita el voto de los dos tercios para declarar la culpabilidad del funcionario*). If convicted, the public officer shall be removed from office (*si el funcionario es hallado culpable, se lo removerá del cargo*).

Table 20: Constitutional provisions
(Disposiciones constitucionales)

Constitución de la Nación Argentina <i>(Argentine Constitution)</i>	U.S. Constitution <i>(Constitución de los Estados Unidos de América)</i>
<p>Artículo 53: Sólo ella ejerce el derecho de acusar ante el Senado al Presidente, vicepresidente, al jefe de gabinete de ministros, a los ministros y a los miembros de la Corte Suprema, en las causas de responsabilidad que se intenten contra ellos, por mal desempeño o por delito en el ejercicio de sus funciones; o por crímenes comunes, después de haber conocido de ellos y declarado haber lugar a la formación de causa por la mayoría de dos terceras partes de sus miembros presentes.</p> <p>Artículo 59: Al Senado corresponde juzgar en juicio público a los acusados por la Cámara de Diputados, debiendo sus miembros prestar juramento para este acto. Cuando el acusado sea el presidente de la Nación, el Senado será presidido por el presidente de la Corte Suprema. Ninguno será declarado culpable sino a mayoría de los dos tercios de los miembros presentes.</p> <p>Artículo 60: Su fallo no tendrá más efecto que destituir al acusado, y aun declararle incapaz de ocupar ningún empleo de honor, de confianza o a sueldo en la Nación. Pero la parte condenada quedará, no obstante, sujeta a acusación, juicio y castigo conforme a las leyes ante los tribunales ordinarios.</p>	<p>Article I, Section 2, 5): The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.</p> <p>Article I, Section 3, 6): The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United State is tried, the Chief Justice shall preside: and no Person shall be convicted without the Concurrence of two thirds of the Members present.</p> <p>Article I, Section 3, 7): Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to law.</p>

Table 21: The impeachment process – U.S. Congress¹⁹⁰
(Procedimiento del juicio político – Congreso norteamericano)



¹⁹⁰ University of Illinois at Chicago - University Library
<http://www.uic.edu/depts/lib/documents/resources/process.shtml>

SECTION XLIX

OFFICERS AND ASSISTANTS – U.S. CONGRESS

(Autoridades, funcionarios y asistentes presentes en el recinto durante la sesión – Congreso norteamericano)

At the commencement of each Congress, the houses of the U.S. Congress appoint their corresponding officers: Speaker of the House of Representatives, Clerk of the House of Representatives, Secretary of the Senate, Sergeant-at-Arms, Chaplain. The said officers are present on the floor when their house is in session. They are assisted by a number of other officers and caucuses officers in the different stages of debate.

Clerk of the House – Secretary of the Senate (*Secretario de la Cámara de Diputados – Secretario del Senado*): This officer is elected by the pertinent chamber, of which he is the chief administrative officer. He has wide responsibilities related to the legislative process: he supervises the Journal, the Calendars,¹⁹¹ the recording of votes and other parliamentary proceedings. Besides, in the absence of the Vice president and pending the election of a president pro tempore, the Secretary of the Senate presides over the Senate. Likewise, when the election of the Speaker has not yet been carried out, the Clerk of the House presides over the House.

As these positions do not exist in the houses of the Argentine Congress, I find it suitable to translate them as *Secretario General de la Cámara de Diputados* and *Secretario General del Senado* in order to differentiate them from the *Secretario Parlamentario*, the *Secretario Administrativo* and the *Secretario de Coordinación Operativa*.

¹⁹¹ Term developed in Section XXIII “Calendars – U.S. Congress”.

Deputy Clerk of the House - Assistant Secretary of the Senate (*Prosecretario*): This officer replaces the Clerk or the Secretary, as the case may be, in case of absence, death or resignation.

Sergeant-at-Arms: At present, the Argentine chambers do not have any counterpart to the American Sergeant-at-Arms. In fact, his duties are distributed among several offices of the chambers, such as for example, the *Dirección de Seguridad* (Security Office). However, the first sets of legislative rules included the *oficiales interiores de la sala*, who *harán su servicio en traje negro, con faja blanca*¹⁹² (interior officers of the house who shall perform their duties wearing a black suit with a white cummerbund).

The office of Sergeant-at-Arms is an ancient English position that goes back to 1415, when the Sergeant was responsible for carrying out the orders of the House of Commons, even making arrests. Today, the English *Serjeant at Arms*, such as it is spelled in the British Parliament, still performs several ceremonial duties that date back to the early days of the office.¹⁹³

In the U.S. Congress, each house elects its own Sergeant-at-Arms at the commencement of each Congress. This officer's duty is to keep order, security and decorum in the chamber, lobbies and precincts of the house, and to control the access of strangers to the galleries. He also has housekeeping duties.

The American chambers inherited the office of Sergeant-at-Arms from the British Parliament. According to *Abraham and Hawtrey's Parliamentary Dictionary*,

¹⁹² *Reglamento de Debates y Policía de la Sala del Congreso General Constituyente de las Provincias Unidas del Río de la Plata*, sancionado el 28 de enero de 1825, Título 12, art. 93. [Pitt Villegas, Julio César: *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación (Años 1822-1861)*, Buenos Aires, Editorial Centro de Estudios Unión para la Nueva Mayoría, 1991, p. 104].

¹⁹³ British Parliament web site <http://www.explore.parliament.uk/search/data.asp?r=73>

“The Serjeant at Arms in both Houses wear a court suit of black cloth with a sword”, which very much resembles the description of the *oficiales interiores de la sala* mentioned in the first rules of the Argentine chambers. In England, the Serjeant at Arms is the keeper of the Great Seal of the Realm and such as it happens in the American Capitol, he carries the mace¹⁹⁴ as a symbol of parliamentary authority.

Journal Clerk (*Secretario encargado del Diario de Sesiones*): This officer puts into practice the constitutional provision that establishes that “Each House shall keep a Journal of its Proceedings, and from time to time publish the same”.¹⁹⁵ The Journal Secretary is therefore responsible for maintaining the Senate Journal, or House Journal, as the case may be, under the direction of the Secretary of the Senate or Clerk of the House.

Although, at present, this office does not exist in the Argentine Congress, it did exist during the nineteenth century, as it appears in its first sets of rules, under the name *Secretario encargado del Diario*.¹⁹⁶

Legislative Clerk (*Secretario Legislativo*): He is in charge of reporting all bills, messages from the other chamber, conference reports and amendments to his house.

In the Argentine chambers this officer does not exist. However, his duties are carried out by other offices. For this reason, I think it is important to make notice that I have translated the name of this officer as *Secretario Legislativo* in order to differentiate him from the *Secretario Parlamentario*. While in the United States the Legislative

¹⁹⁴ Term developed in Section XXIV “Committee of the Whole”.

¹⁹⁵ Constitution of the United States of America, Article I, Section 5, 3).

¹⁹⁶ Reglamento de Debates, Procederes y Policía del Senado del Estado de Buenos Aires, 1854, Sección 3ª [Pitt Villegas, Julio César: *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación (Años 1822-1861)*, Buenos Aires, Editorial Centro de Estudios Unión para la Nueva Mayoría, 1991, p. 58].

Clerk depends on the Clerk of the House or Secretary of the Senate, in Argentina the so-called *Secretario Parlamentario* is an officer directly elected by the pertinent chamber.

Parliamentarian (*Asesor Parlamentario*): In the House, this officer is appointed by the Speaker and in the Senate, by the Secretary of the Senate. These appointments need the approval of the majority leader. His principal responsibility is advising the presiding officer, committee staffs, government agencies, private enterprises and the public on parliamentary procedure of the houses. He also reviews special rules before they are reported by the Rules Committee and revises the House Manual (Jefferson's Manual) at the commencement of each Congress.

Official Reporter of Debates (*Encargado de la transcripción de los debates*): They are charged with the preparation and processing of material connected with the business of their pertinent house to be included in the "Congressional Record".

Secretary of the Majority (*Secretario de la Mayoría*): This officer is appointed by his caucus to assist and advise its members. When on the floor, he briefly informs members on the subject under consideration; he also obtains pairs (*acuerdo entre dos legisladores para compensar el voto de uno de ellos, que está ausente durante la votación*),¹⁹⁷ assigns floor seats to the Majority members, present recommendations to his leader for appointment of caucus members to boards or international conferences.

Secretary of the Minority (*Secretario de la Minoría*): His responsibilities are similar to those of the Secretary of the Majority.

¹⁹⁷ Term developed in Section XXXIX "Voting".

Republican Legislative Scheduling Office (*Oficina Republicana de Planificación Legislativa*): Its staff assists its caucus members as regards floor procedure.

Democratic Policy Committee (*Comisión Demócrata de Política*): It gives floor advice and assistance on floor procedure to its caucus members. Besides, its services are multiple: it provides a detailed voting record and a briefing on major bills and amendments for each caucus member (*ofrece a los miembros de su bancada un registro detallado de las votaciones y una síntesis de los proyectos de ley de gran importancia y de las modificaciones introducidas*). In addition, this committee is in charge of an annual publication known as “End-of-Year Report”,¹⁹⁸ which renders the caucus’s most important legislative achievements.

Page Service (*Servicio de Cadetes y Asistentes*): This is a group of about one hundred school juniors who serve as pages for the U.S. Congress. They run errands, answer phones and deliver messages. The U.S. Congress has employed pages since its early years.¹⁹⁹

¹⁹⁸ Dove, Robert - Parliamentarian Emeritus, U. S. Senate: *Enactment of a Law – Senate Officials on the Floor*. <http://thomas.loc.gov/home/enactment>

¹⁹⁹ <http://www.house.gov/petri/pageprog.htm>

CONCLUSIONS

(Conclusiones)

Terminology of parliamentary procedure in legislative bodies is highly specific. The words and expressions which build it up are more numerous than it may be predicted. Most of them are words used in everyday language, which acquire a particular meaning when incorporated to this specialty.

Throughout the development of this Thesis, it may be observed the existence of a deep gap which separates the technical nature of parliamentary procedure and terminology of the Argentine Congress from that of the U.S. Congress. This fact strengthens the hermeneutical problem, which is emphasized in the translation into Spanish of a great deal of American literature on this field, which, in general, due to the lack of a thorough knowledge of the subject, has redounded to some jumbled and inaccurate texts. It has been affirmed that “in hermeneutics, the ‘conversation’ should continue until an interpretation is found to be meaningful and misunderstandings have been uncovered and dealt with”.²⁰⁰ Unfortunately, I find this principle has not been sustained by the translators of the said texts. On the contrary, it may be clearly observed that almost none of them has carried out the corresponding terminological and procedural research demanded by this specific field.

The rules of procedure adopted in the early days of the Argentine Congress were an adaptation or copy of those operating in the United States and some European

²⁰⁰ Peterson, Shari and Cooper, Mary K: Themes of Adult Learning and Development in Human Resource Development, University of Minnesota, 1999. <http://www.edst.educ.ubc.ca/aerc/1999/99peterson.htm>

countries, especially, the United Kingdom. Being aware of their lack of experience in parliamentary procedure, the drafters of the rules of our chambers limited themselves to adopt literally translated rules of procedure which gave rise to frequent states of uncertainty in the different steps of debate. For that reason and with the purpose of getting more information on the subject, in 1863,²⁰¹ the Argentine *Cámara de Diputados de la Nación* decided the purchase of five hundred copies of Joseph Story's "Commentaries on the Constitution of the United States" in its Spanish version by José María Cantilo,²⁰² to be distributed among its members. Besides, Nicolás Antonio Calvo also noticed a certain imprecision in the expressions used in Argentine Constitutional Law and this fact gave rise to the publication of his *Comentario sobre la Constitución Federal de los Estados Unidos* - the Spanish version of Story's book - annotated and concordant with the Argentine Constitution.²⁰³

In the same way, the Argentine Senate, which did not ignore the difficulties arising from the interpretation of its rules of procedure, applied for the translation into Spanish of O.M. Wilson's "A Digest of Parliamentary Law", which had been published in 1869. The said Spanish version was published in 1877²⁰⁴ and in its Preface, Domingo Faustino Sarmiento, who was then a member of the *Comisión de Revisión del Reglamento del Senado* (Senate's Committee on the Rules' Revision), states the following considerations which I literally transcribe:

"A estas consideraciones debemos añadir las que aconsejaron al Senado argentino, ordenar su traducción.

²⁰¹ Diario de Sesiones H. Cámara de Diputados de la Nación, año 1863, Tomo II, p. 219.

²⁰² Story, Joseph: *Breve exposición de la Constitución de los Estados Unidos*, traducción de José María Cantilo, Buenos Aires, Imprenta del Siglo, 1863 (Biblioteca Reservada del Congreso de la Nación, Colección Gutiérrez, Signatura BG 590).

²⁰³ Calvo, Nicolás Antonio: *Comentario sobre la Constitución Federal de los Estados Unidos, traducida del Comentario Abreviado de J. Story*, Tomos I y II, 4ª edición, Buenos Aires, Imprenta La Universidad de J.N. Klingelfuss, 1888. (Biblioteca del Congreso de la Nación, Signatura N° 13.151).

²⁰⁴ Wilson, O.M.: *A Digest of Parliamentary Law*, 1869; traducción de Augusto Belín Sarmiento *Digesto de la Ley Parlamentaria*, Buenos Aires, Imprenta de la Tribuna, 1877 (Biblioteca del Congreso de la Nación, Signatura N° 08895).

Poseemos Reglamentos de los debates y órden de procedimiento en las Cámaras, adoptados muy á comienzos de la introduccion del sistema representativo entre nosotros; pero sin una guía ó un tratado que nos tramita el espíritu y el origen de esas reglas, que no siempre resuelven, por lo sucintas, las mil cuestiones que la practica suscita.

(...) la práctica Norte Americana, como la estableció Jefferson, la entendió Cushing, y la codifica Wilson debe ser tenida en cuenta, y consultada, a fin de que nuestras Asambleas no degeneren, apartándose por resoluciones insólitas, de la práctica constante de las Asambleas Legislativas. Esta idea al ménos, prevaleció en el Senado al autorizar la traducción del Digesto de Wilson, á fin de que cuando hubiere de corregirse o completarse el Reglamento, la opinión del Senado estuviese suficientemente edificada para evitar estravíos ó errores.

Grande falta hacía en efecto un tratado en castellano sobre materia tan especial; (...)” (sic).

Translation:

To these considerations, we must add those related to the advice given to the Argentine Senate to order the translation of this book.

We have Rules of Debate and an established order of business in the chambers, which were adopted at the very beginning of the introduction of our representative system. However, we do not have either a guide or a treatise which conveys us the spirit and origin of those rules, which on account of their briefness, not always solve the one thousand questions arising from their operation.

(...) procedure in the United States, as it was established by Jefferson, understood by Cushing and codified by Wilson, must be borne in mind and used as a guide so that our legislative bodies do not degenerate by straying, with atypical resolutions, from the established procedure of deliberative bodies. This idea, at least, prevailed in the Senate when it authorized the translation of Wilson’s *Digest*, so that in the event of a need to amend or supplement the Rules of Procedure, the Senate’s opinion was sufficiently informed to enable it to avoid irregularity or mistake.

A treatise written in Spanish on such a special matter was greatly needed; (...)”

The purpose pursued by our early chambers of consulting the Spanish version of such works which had for ages been a landmark in constitutional and parliamentary

literature, was undoubtedly valuable. To fill a big gap of knowledge prevailing in those years was urgent. However, in spite of the fact that the translator did an irreproachable job which shows an undeniable professional seriousness, some sections of the *Digest's* translation show the translator's superficial knowledge of parliamentary procedure. Probably, the first inconsistency of this Spanish version was produced by the interpretation of *Lex parlamentaria* as *Ley del Parlamento*, when, in fact, in this particular case, *lex*²⁰⁵ makes reference to *ordenamiento, reglamento*, in the same way as *lex gramática*²⁰⁶ makes reference to *reglas de la gramática*, that is to say, "grammar rules". With respect to the translation of English term "law" as *ley* when used in the title of Wilson's "A Digest of Parliamentary Law", I must say that it is not an accurate translation either. In this case, "law" does not refer to an "act of Parliament" (*ley sancionada por el Parlamento*), but to the rules governing parliamentary procedure. The meaning of "law" provided by the Webster's 1828 Dictionary is "a rule of direction".²⁰⁷ This is exactly the meaning given by G. Petyt to his *Lex parlamentaria*,²⁰⁸ published in 1689 in the form of a pocket book for reference of the Members of Parliament. With the passing of time, this work, which included a number of rules of procedure taken out of the entries of the Journals of the House of Commons, became the first English text aimed towards the understanding of the Rules.

Uncertainty in the handling of rules of parliamentary procedure is clearly seen in most versions translated into Spanish. After reading a number of books on transaction of business in the American houses, I find it important to mention that the said

²⁰⁵ De Miguel, Raimundo: *Nuevo Diccionario Latino-Español Etimológico*, 17ª edición, Madrid, Sáenz de Jubera, Hermanos, 1924.

²⁰⁶ Ibid.

²⁰⁷ Webster's 1828 American Dictionary of the English Language: *Law*: entry No. 15 http://65.66.134.201/cgi-bin/webster/webster.exe?search_for_d:/inetpub/wwwroot/cgi-bin/webster/web1828=law

²⁰⁸ Robert, Henry M.: *Robert's Rules of Order Newly Revised*, 9th edition, Edited by Henry M. Robert III and William J. Evans, Massachusetts, Perseus Books, 1991, p. xxxix.

translations into Spanish have most often been somewhat inaccurate, since translators have included and adapted specific parliamentary terminology without being closely acquainted with the subject.

All through a detailed research of the terminology used in the Argentine and American congresses, I have been able to find the origin of certain idioms of everyday use in this field. A few examples of them are “Committee of the Whole” (*Cámara en Comisión*), “Speaker” (*Presidente de la Cámara de Diputados*), “Orders of the day” (*puntos del temario del día*), “Whip” (*Segundo Líder o legislador que colabora con el líder de su bancada para procurar el quórum en el recinto y el consenso político sobre determinada cuestión*), “filibuster” (*prácticas dilatorias*).

However, the differences existing between Argentine and American parliamentary procedure made me resort to the explanation of certain terms and expressions. This is the case of “Congress” (*período bienal de sesiones ordinarias*), “Conference Committee” (*comisión bicameral de conferencia*), “pairing” (*acuerdo entre dos legisladores para compensar el voto de uno de ellos que está ausente durante la votación*), “Rules Committee” (*Comisión de Reglamento y elaboración del Plan de Labor*).

Language used in the legislative bodies turns incomprehensible when a true understanding of parliamentary procedure has not been attained. As I have already stated, rules of procedure include ordinary words to which procedure gives a different connotation. These words are not fully interpreted by those who do not handle them regularly. This fact makes the action of translating a text on procedure a very difficult task because although Congress proceedings basically follow a method which is common to most countries, it is important to point out that according to parliamentary rules, practices and customs of the different legislative bodies of the world, many of the

intricate details supporting them substantially vary. As in any scientific field, full command of the languages involved is not enough. It is also necessary a good handling of the area of expertise.

Undertaking the research of parliamentary terminology has meant to me a slow interwoven trip to the sixteenth century. That was the time of appearance of the first written rules of parliamentary procedure of the British Parliament. It is remarkable that some of them continue being the support of the rules of procedure of many legislative bodies round the world. In fact, consideration of one subject at a time dates back to 1581, enforcement of decorum on the floor belongs to 1604 and division of a question was first written in 1640.²⁰⁹

Many of the English rules of parliamentary procedure which began being written in the late 1500's already had several centuries of observance through oral tradition. In effect, the very word *parlement* or “parliament” had started being used in the Middle Ages to refer to any important meeting, whose main purpose was discussion or debate on a certain matter.

The creation of the U.S. Congress gave birth to an uninterrupted production of texts for a better understanding of the rules, written by the best authors and experienced officers of the houses. In the Preface to his *A Digest of Parliamentary Law*, O.M. Wilson stated:

²⁰⁹ Robert, Henry M.: *Robert's Rules of Order Newly Revised*, 9th edition, Edited by Henry M. Robert III and William J. Evans, Massachusetts, Perseus Books, 1991, p. xxix.

“Our country is becoming one great field of debate, and an understanding of its rules an essential part of the education of its private citizens, as well as its public men”.²¹⁰

Translation:

“Nuestro país se está convirtiendo en un gran escenario de debate y la comprensión de sus reglas se está tornando una parte esencial de la educación de sus ciudadanos y de sus hombres públicos.”

As regards the Argentine Republic, the *Reglamento de la Primera Junta Provisional Gubernativa de las Provincias del Río de la Plata* of 1810 may be considered as the first outline of codified rules. There, some idioms which have continued being used until today are mentioned: *decreto, urgente despacho, diputado, Congreso*. In 1822, the *Reglamento que establece el Orden de las Operaciones y la Policía de la Sala de Representantes de la Provincia de Buenos Aires* was adopted. This corpus of rules of parliamentary procedure embodies the first historical and terminological background of what today are the so-called *Reglamentos* of the Argentine legislative chambers.

In the drafting of their rules, the U.S. Congress found inspiration in many long-standing rules of the British Parliament. Later, the Argentine Congress embraced British and American experience with the purpose of adopting some of their rules for the transaction of business. In addition, the Argentine Congress also adopted some other long-standing French and Spanish procedural rules.

The need of rules to transact legislative business was obvious in the nineteenth century; however, I must insist on the fact that the superficial understanding of Parliamentary Law brought about inaccurate translations into Spanish of procedural rules which, despite the years gone by, still continue giving rise to not few mistakes and

²¹⁰ Wilson, O.M.: *A Digest of Parliamentary Law*; Philadelphia, Kay & Brother, 1869, p. iii (Biblioteca del Congreso de la Nación, Signatura 15886).

misguided statements. Some examples of this fact is the use of the expression “order of business” which, whose Spanish equivalent has always been *orden de la sesión* has often been translated as *orden de las operaciones*. Another example is the expression “rules of order”²¹¹ which, far from meaning *reglas de orden*, refers to rules of procedure. In addition, the translation of “motion in order” has been incorrect from the very start, since it was transferred into Spanish as *moción de orden*, being this version the one still used in our days. Actually, its meaning is *moción que se ajusta a las disposiciones reglamentarias*, that is to say, it refers to that motion offered according to an order of precedence under the Rules of a legislative chamber. This wrong interpretation of this expression has also made it be translated as *cuestión de orden*, although the English “question of order” refers to a question of procedure, being a synonym of “point of order”.

Next, I quote some expressions from Wilson’s original text and their pertinent translation into Spanish, to which I have added my own version, which I consider corresponds to the actual meaning of the original text.

²¹¹ Robert, Henry M.: *Robert’s Rules of Order Newly Revised*, (first edition 1875), 9th edition, Edited by Henry M. Robert III and William J. Evans, Massachusetts, Perseus Books, 1991; Traducción de Carlos Palomar *Reglas de Orden*, Mexico, Unión Tipográfica Editorial Hispano Americana, 1964.

<i>Original text</i> ²¹²	Translation ²¹³	Correct version
Order of business (p.199)	<i>Orden y distribución de los negocios (p. 186).</i>	<i>Orden de la sesión.</i>
When it is in order to proceed to business on the Speaker's table, it is taken up in the following order. (p.199, No. 1442)	<i>Cuando está en el orden proceder al despacho de los negocios que están sobre la mesa del Presidente, son tomados en consideración en el siguiente orden. (p. 186, N° 1437).</i>	<i>Cuando de acuerdo con el reglamento, se procede a la consideración de los asuntos presentados a la presidencia, se seguirá el siguiente orden de tratamiento.</i>
A motion to reconsider is in order before the previous question is seconded. (p. 285, No. 2079)	<i>Una moción de reconsideración está en el orden, antes que se apoye la cuestión previa. (p. 259, N° 2033)</i>	<i>Una moción de reconsideración (del voto) es reglamentaria si se la presenta antes de apoyar la moción de cierre de debate y votación inmediata.</i>
But after the previous question is sustained, a motion to reconsider cannot be voted on until the previous question is exhausted. (p. 285, No. 2080)	<i>Pero después que ha sido sostenida la cuestión previa, una moción de reconsideración no puede ser votada hasta que se acabe la cuestión previa. (p. 259, N° 2034)</i>	<i>Pero luego de que la presidencia admita la moción de cierre de debate y votación inmediata, la cámara no podrá votar una moción de reconsideración hasta que se haya votado dicha moción de cierre de debate y votación inmediata.</i>
By a vote upon a prorogation of Parliament, bills may remain in the same state they were in, and upon the next meeting may be taken up in course. (p. 7, No. 51)	<i>Por su voto sobre una prórroga del parlamento, los proyectos pueden quedar en el mismo estado en que se encontraban y ser tomados en consideración en la próxima reunión. (p. 266, N° 2113)</i>	<i>Ante la clausura de las sesiones del Parlamento por parte de la Corona, se procederá a votar para que los proyectos de ley permanezcan en el mismo estado en que estaban antes de dicha clausura de las sesiones, y para que continúe su consideración cuando éstas se reinicien.</i>

²¹² Wilson, O.M.: *A Digest of Parliamentary Law*, 1869; Traducción de Augusto Belín Sarmiento: *Digesto de Ley Parlamentaria*, Buenos Aires, Imprenta de la Tribuna, 1877. (Biblioteca del Congreso de la Nación, Signatura N° 08895)

²¹³ Wilson, O.M.: *A Digest of Parliamentary Law*, Philadelphia, Key & Brother, 1869. (Biblioteca del Congreso de la Nación, Signatura N° 55348).

As it may be observed, the goals pursued by the Senate when ordering the translation into Spanish of Wilson's "Digest" have been only partially attained. The Congress was already facing a real conflict of words and adopting this translated version as a reference guide did not prevent the chambers from continuing using the rules of parliamentary procedure in a distorted way. What is worse, several foreign idioms which were not concordant with the procedure operating in our houses, had also been included in the *Reglamentos*. An example of this fact is the translation of the English word "order", which has given rise to a fatal linguistic confusion which has impaired the true understanding of parliamentary procedure among our legislators. As a result, this misinterpretation has always been impossible to be mastered. Another example is the distorted meaning of the word *prorrogar*, appearing in our National Constitution, which evidently derives from the English "prorogue". As I have explained in this Thesis, it is applied to the sessions of Congress, although it does not actually mean that they may be "extended" but "brought to an end by a royal prerogative".

The consequences of this terminological disorder can be clearly seen through the reading of the Argentine chambers' *Diarios de Sesiones*, which widely show the hesitation of successive generations of legislators as regards the interpretation of the parliamentary rules of procedure.

However, the terminological conflict is not exclusive of our Congress. It also exists in other Spanish speaking countries. Unfortunately, the translation into Spanish of *Robert's Rules of Order* made in Mexico by Carlos Palomar²¹⁴ did not throw light on the subject. This Spanish version, which was published under the title *Reglas de Orden*,

²¹⁴ Robert, Henry M.: *Robert's Rules of Order Newly Revised*, (first edition 1875), 9th edition, Edited by Henry M. Robert III and William J. Evans, Massachusetts, Perseus Books, 1991; Traducción de Carlos Palomar *Reglas de Orden*, Mexico, Unión Tipográfica Editorial Hispano Americana, 1964.

deals with the so-called “general parliamentary law”, that is to say, the rules governing procedure of non legislative assemblies and other organizations. Nonetheless, many of the idioms appearing in it have been taken out of the terminology largely used in legislative parliamentary law. Farther than the linguistic localism, the said version in Spanish clearly denotes an incompatible relation with the original text and therefore, parliamentary procedure shows to have been altered, within a vague and confusing language which does not convey the significant contribution that Henry M. Robert’s work has always meant to this area of research.

Parliamentary terminology historical research opens a new spectrum of knowledge as the origin of specific idioms gives procedure a true support for its operation. For this reason, I have attached great importance to the sources of many of our present rules. Consequently, I have deeply engaged myself in the ancient rules of procedure of the British Parliament which were later taken by the early inhabitants of the American Colonies in the United States. Over the years, these rules developed into the Rules of the U.S. houses.

Likewise, I have been interested in the study of the Constitution and Rules of Procedure of the nineteenth century’s *Cortes Españolas*, French Constitution and Rules of Procedure of the eighteenth and nineteenth centuries and the 1814 *Règlement pour le Conseil Représentatif de la Ville et République de Genève*, whose terminology was also included in the sets of rules of our first legislative chambers.

With regard to Argentine parliamentary terminology backgrounds, I have referred to the *Primera Junta Gubernativa* of 1810, constitutional records and *Reglamentos* as of 1822, and Journals of our legislative houses.

This Thesis is a pioneer of this line of terminological research in Argentina. Therefore, it will probably become a milestone to improve knowledge regarding sources and use of parliamentary procedural terminology.

The theme of this Thesis is vast and its research becomes inexhaustible. Maybe this work will create a new interest in procedural terminology in Argentina so that this line of research may be continued. If so, it will surely develop into a highly fluent and more accurate communication with other legislative bodies round the world.

Besides, I hope the result of this research work may be helpful for translators and for constitutional and parliamentary history researchers as well. Moreover, I hope this Thesis may be useful to our members of Congress in their genuine, effective, clear and purposeful communication with their pairs in the U.S. Congress, notwithstanding the linguistic barrier.

Through the thorough study of Argentine and American parliamentary tradition, I have been able to trace a line of equivalent terminology never accomplished before in this field. I put my findings at the disposal of my fellow countrymen so that they may find an incentive or starting point for future research on comparative terminology of parliamentary procedure.

I hope that this research work may be considered as an honest and sincere contribution to this slightly explored though exciting field of knowledge and give the Congress a new look in terms of efficiency in the transaction of business.

SELECTED BIBLIOGRAPHY

BOOKS AND OTHER RESOURCES RELEVANT TO PARLIAMENTARY PROCEDURE IN THE ARGENTINE REPUBLIC

- ❑ **Bidart Campos, Germán J.:** *Manual de Derecho Constitucional Argentino*, 1ª edición, Buenos Aires, Ediar, 1986.
- ❑ *Constitución de la Nación Argentina*, 1994.
- ❑ **Crescenzi, Francisco D.:** *La Cámara de Diputados desde sus Comisiones*, Instituto de Capacitación Parlamentaria (ICAP), H. Cámara de Diputados de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1998.
- ❑ *Diarios de Sesiones H. Cámara de Diputados de la Nación*
- ❑ *Diarios de Sesiones H. Senado de la Nación*
- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 1, Buenos Aires, Imprenta del Congreso de la Nación, año 1987.
- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 2, Buenos Aires, Imprenta del Congreso de la Nación, 1989.
- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 3, Buenos Aires, Imprenta del Congreso de la Nación, 1991.
- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 4, Buenos Aires, Imprenta del Congreso de la Nación, 1993.
- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 5, Buenos Aires, Imprenta del Congreso de la Nación, 1994.
- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 6, Buenos Aires, Imprenta del Congreso de la Nación, 1995.

- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 7, Buenos Aires, Imprenta del Congreso de la Nación, 1998.
- ❑ **Dirección de Información Parlamentaria - Congreso de la Nación:** *Revista de Derecho Parlamentario* N° 8, Buenos Aires, Imprenta del Congreso de la Nación, 1998.
- ❑ **Dirección de Información Parlamentaria, Congreso de la Nación,** República Argentina: *Primeras Jornadas de Organismos Parlamentarios de Información y Asesoramiento*, Buenos Aires, Imprenta del Congreso de la Nación, 1998.
- ❑ **Frías, Pedro J.:** *¿Clausura del Congreso?*, La Ley, Buenos Aires, año 1990, pp. 1226-1228.
- ❑ **Grosso, Beatriz Marina; Svetaz, María Alejandra; Estrada, Juan; Pérez Bourbon, Héctor y Ubertone, Fermín Pedro:** *Práctica Parlamentaria*, Instituto de Capacitación Parlamentaria (ICAP), H. Cámara de Diputados de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1999.
- ❑ **Izquierdo, Florentino:** *Funcionamiento y receso del Poder Legislativo*, La Ley, Buenos Aires, año 1991, pp. 943-947.
- ❑ **Pitt Villegas, Julio César:** *Antecedentes Históricos del Reglamento de la Cámara de Diputados de la Nación (Años 1822-1861)*, Buenos Aires, Editorial Centro de Estudios Unión para la Nueva Mayoría, 1991.
- ❑ **Quiroga Lavié, Humberto:** *Constitución de la Nación Argentina Comentada*, 3ª edición, Buenos Aires, Zavallá Editores, 2000.
- ❑ *Reglamento de la Honorable Cámara de Diputados de la Nación*, 1999.
- ❑ *Reglamento del Honorable Senado de la Nación*, 2000.
- ❑ **Schinelli, Guillermo Carlos:** *Reglamento de la Cámara de Diputados de la Nación Comentado*, Dirección de Información Parlamentaria, Congreso de la Nación, Buenos Aires, Imprenta del Congreso de la Nación, 1996.
- ❑ **Silva, Carlos Alberto:** *El Poder Legislativo de la Nación Argentina*, 7 Tomos, Buenos Aires, Imprenta del Congreso de la Nación, 1939-1942.
- ❑ **Ubertone, Fermín Pedro:** *La bandera del recinto de la Cámara de Diputados de la Nación*, Buenos Aires, La Ley Actualidad, 29 de diciembre de 1994, pp. 1-2.
- ❑ **Ubertone, Fermín Pedro y colaboradores:** *Vocabulario Parlamentario Argentino*, Buenos Aires, Instituto Ciencia y Técnica Legislativa, impreso en Vincent Gráfica S.A., 1997.

**BOOKS AND OTHER RESOURCES RELEVANT TO PARLIAMENTARY
PROCEDURE IN THE UNITED STATES**

- ❑ **Bagley, Toni:** *Know what to do and how to do it (Parliamentary procedure simplified)*, Library of Congress Catalog Card No. 84-90955, Third Edition, 1984
- ❑ **Bidegain, Carlos María:** *El Congreso de los Estados Unidos – Derecho y prácticas legislativas*, Buenos Aires, Editorial Depalma, 1950.
- ❑ **Bidegain, Carlos María:** *Instrumentos del Congreso de los Estados Unidos*, Boletín de la Biblioteca del Congreso N° 60-72 (Tomo I), 1947-48, Buenos Aires, pp. 115-143.
- ❑ **Calvo, Nicolás Antonio:** *Comentario sobre la Constitución Federal de los Estados Unidos* (traducción de *Commentaries on the Constitution of the United States* de Joseph Story), anotado y concordado con la Constitución Argentina, 4ª edición, Buenos Aires, Imprenta La Universidad de J.N. Klingelfuss, 1888. (Biblioteca del Congreso Nacional, Signatura N° 13.151).
- ❑ **Cannon, Clarence:** *Cannon's Procedure in the House of Representatives* (86th Congress, 1st Session; House Document No.122), Washington, United States Government Printing Office, D.C., 1959.
- ❑ **Congressional Quarterly Inc.:** *El Congreso de los Estados Unidos: Estructura y Funcionamiento*, Mexico, D.F., Editorial Limusa S.A. de CV Grupo de Editores, 1992.
- ❑ **Congressional Quarterly Inc.:** *Guide to Congress* – Third Edition, Washington, D.C., 1982.
- ❑ **Congressional Quarterly Inc.:** *How Congress works* – Second Edition, Washington, D.C., 1991.
- ❑ *Constitution of the United States of America* with explanatory notes by J.W. Peltason, U.S. Information Agency, 1987.
- ❑ **Cummings, Frank:** *Capitol Hill Manual*, Second Edition, Washington, D.C., The Bureau of National Affairs, Inc., 1984.
- ❑ **Davidson, Roger and Oleszek, Walter J.:** *Congress and its Members*, Second Edition, Washington, D.C., Congressional Quarterly Inc., 1985.
- ❑ **Dickson, Paul and Clancy, Paul:** *The Congress Dictionary – The ways and meanings of Capitol Hill*, U.S.A., John Wiley & Sons, Inc., 1993.
- ❑ **Dove, Robert B.:** *Enactment of a law: procedural steps in the legislative process*.

Revised and enlarged edition. Revised under the direction of William F. Hildenbrand, Washington, U.S. Senate document No. 97-20, Government Printing Office, 1982.

- ❑ **Goehlert, Robert U. and Martin, Fenton S.:** *Congress and Law-making - Researching the Legislative Process*, Second Edition, Santa Barbara, California, ABC-Clio Inc., 1989.
- ❑ **Johnson, Charles W.** (House Parliamentarian): *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States*, 106th Congress, Washington, U.S. Government Printing Office, 1999.
- ❑ **Johnson, Charles W.** (House Parliamentarian): *Guide to Legislative Process in the House*, U.S. House of Representatives, 1997. www.house.gov/rules/lph-legover.htm
- ❑ **Koempel, Michael L. and Schneider, Judy:** *Congressional Deskbook 2000*, Alexandria, VA, The Capitol.Net, Inc., 2000.
- ❑ **Kravitz, Walter:** *American Congressional Dictionary*, Washington, D.C., Congressional Quarterly Inc., 1997.
- ❑ **Nickels, Ilona:** *Glossary of Congresssional Terms*, The Center on Congress at Indiana University, USA.
http://congress.indiana.edu/learn_about/glossary.htm
- ❑ **Nickels, Ilona:** *Congress Q and A*, The Center on Congress at Indiana University, USA, http://congress.indiana.edu/learn_about/conggqanda.htm
- ❑ **Nickels, Ilona:** *Committee of the Whole: An Introduction*, Washington, Congressional Research Service Report for Congress (85-943 GOV), September 12, 1985, p. 1.
- ❑ **Nickels, Ilona:** *Who are the leaders of Congress and what do they do?* The Center on Congress at Indiana University, USA.
http://congress.indiana.edu/learn_about/q&a.htm
- ❑ **Oleszek, Walter J.:** *Congressional Procedures and the Policy Process*, Fourth Edition, Washington D.C., Congressional Quarterly Inc., 1996.
- ❑ **Robert, Henry M.:** *Robert's Rules of Order Newly Revised*, 9th Edition, Massachusetts, Edited by Henry M. Robert III and William J. Evans, Perseus Books, 1991.
- ❑ *Standing Rules of the House of Representatives of the United States*, 1999.
- ❑ *Standing Rules of the Senate of the United States*, 1999.
- ❑ **Story, Joseph:** *Commentaries on the Constitution of the United States (Volumes I – II)*, 3rd edition, Boston, Little, Brown and Company, 1858 (Biblioteca Reservada del Congreso Nacional, Colección Reservada, Signatura CR 618).

- ❑ **Story, Joseph:** *Breve exposición de la Constitución de los Estados Unidos*, traducción de José María Cantilo, Buenos Aires, Imprenta del Siglo, 1863. (Biblioteca Reservada del Congreso Nacional, Colección Gutiérrez, Signatura N° BG 590).
- ❑ *Texas on line Legislative Glossary*, Texas Legislature, USA, <http://www.capitol.state.tx.us/capitol/glossary.htm>
- ❑ **The American Society of Legislative Clerks and Secretaries in cooperation with the National Conference of State Legislatures:** *Mason's Manual of Legislative Procedure*, traducción al español de Emilio Bernal Labrada, Washington D.C., Editor Mario Correa Saavedra, El Centro para la Democracia en colaboración con El Banco Interamericano de Desarrollo (Inter-American Development Bank), 1995.
- ❑ **Thomas Legislative Information on the Internet**, Library of Congress, USA, <http://thomas.loc.gov/home/thomas.html>
- ❑ *The Impeachment Process*, University of Illinois at Chicago, University Library, USA. <http://www.uic.edu/depts/lib/documents/resources/whatis.shtml>
- ❑ **Wilson. O.M.:** *A Digest of Parliamentary Law - Also The Rules of the Senate and House of Representatives of Congress: with the Constitution of the United States, the amendments thereto, and their history*, Philadelphia, Kay & Brother, 1869. (Biblioteca del Congreso Nacional, Signatura N° 55.348)
- ❑ **Wilson, O.M.:** *Digesto de la Ley Parlamentaria*, traducido del inglés con autorización del Senado y encargo de la Comisión de Revisión del Reglamento, por A. Belín, Buenos Aires, Imprenta de La Tribuna, 1877 (Biblioteca del Congreso Nacional, Signatura N° 08895).
- ❑ **Zwirn, Jerrold:** *Congressional Publications – A Research Guide to Legislation, Budgets and Treaties*, Littleton, Colorado, Libraries Unlimited, Inc., 1983.

BOOKS AND OTHER RESOURCES RELEVANT TO PARLIAMENTARY PROCEDURE IN THE UNITED KINGDOM

- ❑ **Bond, Maurice** (Clerk of the Records), *The History of Parliament and the Evolution of Parliamentary Procedure*, Parliament of the United Kingdom. <http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldparlac/ondec.htm>
- ❑ **Child, Susan**, *Politico's Guide to Parliament*, London, Politico's Publishing, 1999.
- ❑ **Evans, Paul**, *Handbook of House of Commons Procedure*, 2nd edition, London,

Vacher Dod Publishing Limited, 1999.

- ❑ *Duties of the Speaker*, H.C. Factsheets-M2; House of Commons, Parliament of the United Kingdom <http://www.parliament.uk>
- ❑ **Hawtrey, S.C. and Barclay, H.M.:** *Parliamentary Dictionary*, third edition, London, Butterworths, 1970.
- ❑ *Parliamentary Archives*, Parliament of the United Kingdom.
<http://parliament.the-stationery-office-co.uk/pa/ld199899/ldparlac/bondlec.htm>
- ❑ *The Standing Orders of the House of Commons*, United Kingdom, 1999.
- ❑ *The Standing Orders of the House of Lords*, United Kingdom, 1999.

MISCELLANEOUS BIBLIOGRAPHY

- ❑ **Alonso, Martín:** *Enciclopedia del Idioma*, Aguilar S.A. Ediciones, 1982.
- ❑ **Bentham, Jérôme:** *Tactique des Assemblées Législatives suivie d'un Traité des Sophismes Politiques*, Tome premier, traducción al francés por Ét. Dumont, Bossnge Frères, Paris, Libraires-Éditeurs, seconde édition, 1822 (Gentileza del Dr. Julio César Pitt Villegas).
- ❑ **Black, Henry Campbell:** *Black's Law Dictionary*, Fourth Edition, St. Paul, Minn., West Publishing Co., 1968.
- ❑ **Bonnard, Roger:** *Les Règlaments des Assemblées Legislatives de la France depuis 1789*, Paris, Societé Anonyme du Recueil Sirey, 1926. (Biblioteca del Congreso Nacional, Signatura N° 15.438).
- ❑ **Burke, John:** *Osborn's Concise Law Dictionary*, Sixth Edition, London, Sweet & Maxwell, 1976.
- ❑ **Cabanellas, Guillermo:** *Diccionario Enciclopédico de Derecho Usual*, 16ª edición, Buenos Aires, Editorial Heliasta S.R.L., 1981.
- ❑ *Constitución Política de la Monarquía Española*, promulgada en Cádiz a 19 de marzo de 1812. (Gentileza de la Dirección de Estudios y Documentación del Congreso de los Diputados, Madrid).
- ❑ **Corominas, Joan y Pascual, José A.:** *Diccionario Crítico y Etimológico Castellano e Hispánico*, Madrid, Editorial Gredos, 1983.

- ❑ *Decreto de las Cortes - Reglamento para el Gobierno Interior de las Cortes*, 4 de septiembre de 1813 (Gentileza de la Dirección de Estudios y Documentación del Congreso de los Diputados, Madrid).
- ❑ **De Miguel, Raimundo:** *Nuevo Diccionario Latino-Español Etimológico*, 17ª edición corregida y aumentada, Madrid, Sáenz de Jubera, Hermanos Editores, 1924.
- ❑ **De Santillán A.:** *Gran Enciclopedia Argentina*, Buenos Aires, Ediar Soc. Anon. Editores, 1956.
- ❑ *Diccionario Abreviado Espasa Calpe*, Madrid, Espasa Calpe S.A., 1974
- ❑ *Enciclopedia Jurídica Omeba*, Buenos Aires, Editorial Bibliográfica Argentina S.R.L., 1968.
- ❑ *Enciclopedia Universal Ilustrada Europeo Americana*, Barcelona, Hijos de J. Espasa Editores, 1922.
- ❑ **García-Pelayo y Gros, Ramón:** *Pequeño Larousse Ilustrado*, Buenos Aires, Ediciones Larousse Argentina, 1964.
- ❑ **Linote, Didier:** *Les constitutions françaises*, 2^e édition actualisée et augmentée, Paris, Éditions Litec, 1991.
- ❑ **Moliner, María:** *Diccionario del Uso del Español*, Madrid, Editorial Credos S.A., 1991.
- ❑ *Nueva Enciclopedia Sopena*, Buenos Aires, W.M. Jackson Inc. Editores, 1954.
- ❑ **Osorio, Manuel:** *Diccionario de Ciencias Jurídicas, Políticas y Sociales*, Buenos Aires, Editorial Heliasta, S.R.L., 1981.
- ❑ **Paterson, Shari and Cooper, Mary K.:** *Themes of Adult Learning and Development in Human Resource Development*, university of Minnesota, 1999. <http://www.edst.educ.ubc.ca/aerc/1999/99peterson.htm>
- ❑ **Pucciarelli, Elsa T. de:** *¿Qué es la traducción?* Colección Esquemas N° 106, Buenos Aires, Editorial Columbia, 1970, p. 53.
- ❑ **Real Academia Española:** *Diccionario de la Lengua Española*, 21ª edición, Madrid, Real Academia Española, 1992.
- ❑ *Reglamento para el Gobierno Interior de las Cortes*, del 24 de noviembre de 1810. (Gentileza de la Dirección de Estudios y Documentación del Congreso de los Diputados, Madrid).
- ❑ *Reglamento del Gobierno Interior de Cortes y su Edificio*, 29 de junio de 1821 (Gentileza de la Dirección de Estudios y Documentación del Congreso de los Diputados, Madrid).

- **Sapir, Edward:** *An Introduction to the Study of Speech, IX. How Languages influence each other*, USA, 1921.
<http://www.bartleby.com/186/9.html>
- **Saunders, John B.:** *Mozley and Whiteley's Law Dictionary*, Eighth Edition, London, Butterworths, 1970.
- **Seco, Manuel – Andrés Puente, Olimpia – Olmos, Gabino:** *Diccionario del Español Actual*, Madrid, Aguilar Lexicografía, Grupo Santillana de Ediciones S.A., 1999.
- *Webster's New World Robert's Rules of Order*, New York, Robert McConnell Productions, Webster's New World, 1999.