Today's Spanish Parliament, the Cortes Generales, is a bicameral body consisting of a lower house, the Congreso de los Diputados, and an upper house, the Senado. Both are large: the Congress of Deputies presently includes 350 directly elected representatives, and the Senate has 256 members. All representatives serve four-year terms. The basis of representation in the Senate is territorial. About four-fifths of senators (208 members) are elected directly, with each province electing four senators. The rest are elected indirectly, selected by the legislative assemblies of the autonomous communities. With this parliamentary configuration as the end product,
the aim of this chapter is to recount the historical development of bica-
 cameralism in Spain. Further, the constitutional standing of the Spanish
 Senate will be analyzed, the processes of electing senators and the nature
 of election outcomes will be described, the structure and dynamics of
 Senate organization will be characterized, and the constitutional and po-
 litical powers of the body will be considered. Finally, efforts to reform the
 Senate will be presented and appraised.

Bicameralism vs. Unicameralism in Spain

Spanish constitutional history is a story of struggle between unicameral
 and bicameral visions of Parliament. The first one-house Parliament, the
 Cortes, was established in the Spanish Constitution of 1812. The consti-
tution makers reacted against precedents dating back to the Middle Ages
 that involved summoning representatives of the nobility, the church, and
 the burgers separately. Closely following the ideological premises of the
 French Revolution, they forged a Parliament whose members were
 intended to represent the entire Spanish nation in a single body (Flores
 Juberias 1990). The old triangular representational system no longer
 suited national needs, and it seemed axiomatic to the founders that only
 a unicameral Parliament would have the strength to enact legislation from
 a more liberal agenda and deal with a king whose loyalty to the new con-
stitutional principles was dubious (see Argüelles 1981, 82–84).

The rather liberal Constitution of 1812, and the fact that it became
 one of the most powerful myths of Spanish liberalism, helped shape the
 conventional wisdom that unicameralism was essentially a liberal inven-
tion (see Martinez Sospedia 1978). Moreover, with the 1812 Constitution
 granting the legislature unprecedented prominence in the Spanish gov-
 erning constellation, unicameralism came to be widely associated in the
 public mind with a strong legislature (Coronas Gonzáles 1989). Therefore,
 as the liberal cause lost its momentum, and more or less conservative
 governments acceded to power, bicameralism came to be preferred in
 Spanish constitutions for the remainder of the nineteenth century. These
 conservative governments turned to upper chambers for ideological rea-
sions, to establish a counterweight to the popularly elected lower chamber,
 and to divide and weaken Parliament as a whole.
The Birth of the Spanish Senate

Following the traumatic experience of absolutist rule in the last years of the reign of King Ferdinand VII, Premier Francisco Martínez de la Rosa reintroduced constitutional government with the Royal Statute of 1834 (see Tomás Villarroya 1968), which created a bicameral legislature. However, the partly hereditary upper house, fittingly called the "Estate of the Grandees," was short-lived, since a new constitution was put in place in 1837. Closely following French precedents from 1830 and Belgian precedents from 1831, it too embraced bicameralism and introduced the names by which the parliamentary houses are known today (Tomás Villarroya 1985). Congress was to be an entirely elected house—its members chosen by direct popular vote, its constituencies formed from the nation's provinces, and its members free to run for reelection. The Senate's composition was more controversial; senators would be chosen by the king from a list of names proposed by the voters of each province, so as to give each province representation roughly in proportion to its population and renewed by thirds every three years. This arrangement satisfied nobody, and senators were not able to win sufficient prestige and political influence to sustain the institution (see Bertelsen 1974, 170ff.).

Yet another bicameral constitution followed in 1845. Persistent negative perceptions about the regulation of the Senate in the previous constitution led the new constitution makers to focus on this issue. Senators were now to be appointed for life and without restriction by the Crown from a pool of aristocrats—those with substantial wealth and qualified by previous service in the government, the church, the military, or the upper echelons of judicial service (see Sánchez Agesta 1964, 249; Tomás Villarroya 1982, 69). These arrangements were intended to reinforce the political position of Queen Isabel. Appointment of senators for life would provide stability, the open-ended size of the Senate would allow for changing the ideological leanings of the house, and limits on recruiting senators would serve as a safety valve, permitting a conservative membership whatever the partisan composition of the house.

Formally, the 1845 Constitution was in force for almost twenty-five years, until the eruption of the so-called Glorious Revolution of 1868 and the subsequent Revolutionary Sexenium of 1868–74, when politics was taken to the streets. Queen Isabel II was overthrown, free democratic elections took place, a new dynasty was enthroned, and a republic existed
briefly when the new, and foreign, king abdicated. The Constitution of 1869 was by far the most radically liberal—and even democratic—constitution of the century, proclaiming the principles of national sovereignty and universal suffrage, and recognizing citizens' rights more pervasively than ever before (see Carro Martínez 1952). The question of a unicameral versus bicameral structure for the Cortes was part of the constitutional debate. But deputies were interested in much more sensitive issues, and the question was resolved quickly in favor of maintaining the upper chamber (Bertelsen 1974, 393).

The 1869 constitution makers sought to create a federal senate in lieu of the now unacceptable aristocratic chamber, based loosely on practices developed from the example of the United States (see Oltra Pons 1972). That Spain remained a unitary state largely frustrated the attempt, providing a Senate with an eclectic and even contradictory membership. Although each province was awarded four senators regardless of their disparate population sizes, the Constitution required that senators would represent "the entire Nation, and not exclusively the voters who named them," thus breaking one of the basic principles of a federal chamber. Its democratic nature was limited in addition by suffrage and eligibility restrictions. To be sure, suffrage was universal, but senatorial election was indirect. Ordinary voters chose delegates in each municipality who, along with provincial assemblymen, elected the senators. To be eligible for election to the Senate, individuals had to belong to exclusive categories—deputies, mayors, generals, ambassadors, magistrates, clergy, professors, or major taxpayers. Obviously, although liberalized, the Senate continued to be an elitist body.

Many of the ideas anticipated by the 1869 Constitution resurfaced in the draft republican federal Constitution of 1873 (see Ferrando Badía 1973, 250ff.). Although its enforcement was interdicted by military intervention, this document stands as the sole example of a federal and republican arrangement for Spain, and it introduced an unprecedented structure for the upper chamber. It provided for semisovereign states and a Senate whose members would be elected by state legislatures, along with a popularly elected lower house. As practiced in many other federal systems, the new Cortes would have a lower house representing the nation as a whole and an upper house representing the specific territories. This federal senate would have possessed rather peculiar powers of control—not over the government but over the lower house. The Senate had no legislative
initiative; its role lay in its constitutional power "to examine whether bills passed by Congress ignore the rights of human personality, the powers of political bodies, or the attributions of the federation or the fundamental code" (Trujillo 1967, 194).

*From Bicameralism to Unicameralism*

In the remarkable family of Spanish constitutions, the record for longevity was won by the Constitution of 1876, which survived until the dictatorship of General Miguel Primo de Rivera began in 1923. Its longevity was largely due to the ways in which it took advantage of previous experience to embrace effective constitutional principles, institutions, and mechanisms and to eschew problematic or ineffective ones. In sum, the new constitutional architecture married provisions from the 1845 Constitution, admired by the moderates, with those of the 1869 Constitution, favored by progressives (see Sánchez Ferriz 1984, 438).

In the 1876 Constitution, the Senate included three kinds of senators: senators in their own right, senators appointed for life by the Crown, and senators elected by the corporations and the major taxpayers of the State. The third group consisted of 180 elected senators, and the first two groups of members were not to exceed 180 in number. As a consequence, during the almost fifty years of the Restoration, the Senate provided an essential constitutional guarantee of control of the legislative branch by privileged minorities who used it to immobilize the political revolution initiated in 1868 (see Martínez Cuadrado 1973, 37). This conservatism, along with the Senate's lackluster political performance, lay at the root of the political decision to suppress the Senate in the Republican Constitution of 1931.

This decision was neither immediately apparent nor unanimously supported during the debates leading to the formulation of the 1931 Constitution (see García Valdecasas 1983). In fact, in early constitutional drafts, a bicameral solution was proposed that envisioned a corporatist upper chamber under the influence of the leading intellectuals of the day (like De los Ríos or Posada). But the agenda of the leftist republican majority in the constituent Parliament did not include bicameralism, and proposals for a corporatist Senate were thrown out at the committee stage. The argument was that the Senate was an old-fashioned institution, a device for weakening Parliament, an obstacle to progressive legislation, a denial of the essential unity and equality of the people, and an incentive for the
resurrection of antiegalitarian positions (see Tomás Villarroya 1982, 127–28). Even President-elect Niceto Alcalá Zamora’s defense of a territorial chamber could not counterbalance this argument. The unicameral alternative was finally imposed at the plenary session of Parliament.

This institutional arrangement persisted until republicanism was overthrown in 1936 by Franco. Just as his predecessor, General Primo de Rivera, had attempted to do in 1929 (see García Canales 1980, 141), in 1942 General Francisco Franco created a kind of corporatist assembly, with representatives elected by the official trade union, local governments, married men and women, and an endless number of cultural and professional entities (Zafra Valverde 1973, 274–80). In a strongly centralized regime in which party pluralism was strictly forbidden, this sort of assembly provided as much pluralism as the regime could accept, and it effectively rendered bicameralism a meaningless device. If parliamentary representation of regional interests was deemed unnecessary, so too was improvement in the quality of legislative outputs. After all, the head of state was the main legislative source, and social pluralism was said to be reflected sufficiently in the existing house. Thus, an upper chamber appeared outdated and entirely useless.

Emergence of the Modern Spanish Senate

Nearly half a century of unicameralism, embedded in an authoritarian regime, foretold little about parliamentary development in post-Franco Spain. Calls for the restoration of the Senate did not take long to emerge, however. In May 1976, Francoist Prime Minister Carlos Arias announced his plan for reforming the Cortes, which entailed the creation of a popularly elected Congress and a Senate with limited democratic characteristics. This second chamber would comprise forty senators for life, twenty-five appointed by the king for each legislature, twenty designated by various corporations and public institutions, and two hundred—four per province—elected by universal suffrage from among candidates nominated by local governments and by workers’ and employers’ associations (see Fernández Segado 1986, 738–39). The Arias proposal was soon forgotten in the national preoccupation with deeper democratization, but the notion of restoring the bicameral principle to Spanish constitutional practice remained very much alive.
Late in 1976, the new centrist prime minister, Adolfo Suárez, proposed a bill for political reform that included restoration of the Senate. Quickly approved by the Francoist Cortes and ratified by a national referendum, this basic legislation served as the schematic for transition from an authoritarian to a democratic regime (see Lucas Verdú 1976; Fernández Segado 1986, 743). Very succinctly, the law set forth six basic traits of the new democratic Senate: (1) it was to be composed of 207 elected members, 4 from each of the forty-eight peninsular provinces, 5 from each of the three insular provinces, and 2 from the African cities of Ceuta and Melilla; (2) the king was authorized to appoint additional senators for each legislature, up to a fifth of the overall number; (3) Senate elections would be based on a majoritarian electoral system and held every four years by universal, direct, and secret suffrage; (4) representation in the Senate was declared to be territorial in nature; (5) in lawmaking, the Senate would be inferior to the Congress of Deputies, lacking both a role in parliamentary control of the government and any initiative on constitutional reform bills; and (6) senators were empowered to govern their own house, electing a presiding officer and adopting their own operating rules.

This framework law was soon followed by additional legislation that provided implementation guidelines, specifying particularly the electoral system to be employed for the election of deputies to the constituent assembly to be held in June 1977. For Senate elections, the electoral procedure entailed a one-round plurality system with limited vote in mostly multimember districts. Individual candidates could run as independents or be nominated by parties, coalitions, or voters' collectives. The plan allowed voters to cast multiple ballots, depending on where they lived. They could cast three votes in the peninsular provinces, where four senators were to be elected; two votes in the larger islands, where three seats were at stake; and just one in Ceuta and Melilla (which elected two senators each) and the smaller islands, which each elected one senator.

Although the framework Law for Political Reform and its implementation were intended to apply only to the constituent assembly and its election, many of its initial provisions, particularly bicameralism and the specific configuration of the Senate, were carried over into the 1978 Constitution. But this transition did not occur easily. Because of a lack of consensus on the nature and political role of the Senate, the new constitutional provisions emerged only after protracted discussion in both houses in which many proposals, some quite unrealistic, were debated.
The debate moved "from a Senate characterized as the house of the autonomous communities . . . through an intermediate stage . . . to an upper house devoted to the representation of the provinces in which only subsidiarily is the representation of those communities having attained autonomous status attended. Throughout this complex evolution, we have finally and quite exactly arrived at a point rather close to the departure point . . ., a Senate practically identical to the one featured by the Law for Political Reform" (Fernández Segado 1984, 90). The only substantial difference was that senators would be appointed by autonomous communities rather than by the king.

Understandably, the Senate's structure was linked to the autonomous system intended to transform Spain from a fiercely unitary state into a fairly decentralized one (Aja and Arbós 1980, 38). Debate over the future territorial arrangement of Spain had a very direct impact on deliberation about the structure of the upper chamber. Fernández Segado (1985, 64) summarized the winding road leading to the constitutional outcome for the Senate in four stages. At the outset, the Senate was conceived as a house for the representation of "the different autonomous territories integrating Spain." In a second stage, debate shifted toward a Senate for the representation of territorial entities, but leaving undefined the specific territorial units—provinces, autonomous communities, municipalities, islands—to be represented and to what extent. This line of thinking jelled at the third stage of debate, when the Senate was envisioned as exclusively representing the provinces, a striking departure from the initial conception of Senate representation (Sánchez Fèrriz and Sevilla Merino 1980, 432). At the fourth stage, during which many amendments to the draft constitution were proposed and discussed, a hybrid model for the Senate was agreed to in which provinces would be equally represented by four senators (three senators for each major island province, and two each for Ceuta and Melilla), and regional communities—the newly created "autonomous communities"—would be represented roughly in accord with the size of their populations (Fernández Segado 1984, 94–120).

The compromise Senate was ultimately accepted as part of the new constitution, partly because of pervasive uncertainty about the ultimate establishment of autonomous communities and partly because the two major political parties of the day—the Union of the Democratic Center (UCD) and the Socialists (PSOE)—found the compromise solution acceptable. To a large extent, the conflicting goals of the various forces in
dispute canceled each other out. Therefore, the existing structure of the upper house provided for in the Law for Political Reform appeared to everyone to be a safe, acceptable solution, confirming the classic assumption that inertia is a powerful force for the perpetuation of political institutions and electoral systems (Fernández Segado 1984, 124).

Election of the Senate

As anticipated, the formation of the Senate follows two very different sets of procedures, since roughly four-fifths of the senators are directly elected and the rest are designated by the legislative assemblies of the autonomous communities (see Sevilla Merino 1987). Provincial senators are elected every four years by all Spanish citizens who are eighteen or older and who retain their full political rights. The suffrage is universal, free, equal, direct, and secret and is to be expressed as prescribed by an organic law (Article 69.2 CE). The eligible voting population, qualifications for office, and the duration of the legislature are identical for both houses of Parliament, which helps to explain why, despite the fact that the Constitution allows for the dissolution of only one house of Parliament, in actual practice elections have been called for both houses simultaneously. And, to a large extent, this practice has prevented the upper house from acquiring a partisan profile different from that of the Congress. In all seven parliamentary elections conducted since democracy was established, the majorities in both houses have shown the same political orientation.

Following constitutional rules, the boundaries of Senate election districts coincide with those of the existing provinces except for the two island provinces. Each island or grouping of islands with a cabildo (municipal council) becomes a voting district, while the African cities of Ceuta and Melilla each form a district. As far as district magnitude is concerned, each province elects four senators, regardless of its population, while each major island—Grand Canary, Majorca, and Tenerife—elects three, Ceuta and Melilla are awarded two senators each, and the smaller islands or groupings of islands—Ibiza and Formentera, Menorca, Fuerteventura, Gomera, Hierro, Lanzarote, and La Palma—elect just one each (see table 9.1).

Unlike the Congress of Deputies, the basic formula for Senate elections is not embedded in the Constitution. But the fact that the constitutional text remained intentionally silent on such a key issue did not mean that
Table 9.1. Composition of the Spanish Senate, by Autonomous Communities

<table>
<thead>
<tr>
<th>Autonomous Community</th>
<th>No. of Provincial Senators</th>
<th>Senators Designated by Autonomous Parliaments</th>
<th>Total No. of Senators</th>
<th>% of All Senators</th>
<th>Population</th>
<th>% of Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andalusia</td>
<td>32</td>
<td>7</td>
<td>39</td>
<td>15.2</td>
<td>6,940,522</td>
<td>17.9</td>
</tr>
<tr>
<td>Catalonia</td>
<td>16</td>
<td>7</td>
<td>23</td>
<td>9.0</td>
<td>6,059,494</td>
<td>15.6</td>
</tr>
<tr>
<td>Community of Madrid</td>
<td>4</td>
<td>5</td>
<td>9</td>
<td>3.5</td>
<td>4,947,555</td>
<td>12.7</td>
</tr>
<tr>
<td>Valencian Community</td>
<td>12</td>
<td>4</td>
<td>16</td>
<td>6.3</td>
<td>3,857,234</td>
<td>9.9</td>
</tr>
<tr>
<td>Galicia</td>
<td>16</td>
<td>3</td>
<td>19</td>
<td>7.4</td>
<td>2,731,669</td>
<td>7.0</td>
</tr>
<tr>
<td>Castilla-León</td>
<td>36</td>
<td>3</td>
<td>39</td>
<td>15.2</td>
<td>2,545,926</td>
<td>6.5</td>
</tr>
<tr>
<td>Basque Country</td>
<td>12</td>
<td>3</td>
<td>15</td>
<td>5.9</td>
<td>2,104,041</td>
<td>5.4</td>
</tr>
<tr>
<td>Castilla-La Mancha</td>
<td>20</td>
<td>2</td>
<td>22</td>
<td>8.6</td>
<td>1,658,466</td>
<td>4.3</td>
</tr>
<tr>
<td>Canary Islands</td>
<td>11</td>
<td>2</td>
<td>13</td>
<td>5.1</td>
<td>1,493,784</td>
<td>3.8</td>
</tr>
<tr>
<td>Aragón</td>
<td>12</td>
<td>2</td>
<td>14</td>
<td>5.5</td>
<td>1,188,817</td>
<td>3.1</td>
</tr>
<tr>
<td>Principality of Asturias</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>2.3</td>
<td>1,093,937</td>
<td>2.8</td>
</tr>
<tr>
<td>Extremadura</td>
<td>8</td>
<td>2</td>
<td>10</td>
<td>3.9</td>
<td>1,061,852</td>
<td>2.7</td>
</tr>
<tr>
<td>Region of Murcia</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>2.3</td>
<td>1,045,601</td>
<td>2.7</td>
</tr>
<tr>
<td>Balearic Islands</td>
<td>5</td>
<td>1</td>
<td>6</td>
<td>2.3</td>
<td>709,146</td>
<td>1.8</td>
</tr>
<tr>
<td>Cantabria</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>2.0</td>
<td>527,326</td>
<td>1.4</td>
</tr>
<tr>
<td>Navarre</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>2.0</td>
<td>519,277</td>
<td>1.3</td>
</tr>
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<td>La Rioja</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>2.0</td>
<td>263,434</td>
<td>.7</td>
</tr>
<tr>
<td>Ceuta</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>.8</td>
<td>68,867</td>
<td>.2</td>
</tr>
<tr>
<td>Melilla</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>.8</td>
<td>58,052</td>
<td>.1</td>
</tr>
<tr>
<td>Total</td>
<td>208</td>
<td>48</td>
<td>256</td>
<td>100.1</td>
<td>38,874,980</td>
<td>99.9</td>
</tr>
</tbody>
</table>
the options available to the legislators were unlimited. Rather, the simple and uncontroversial thing for lawmakers to do was to maintain the limited vote system in use since the first multiparty elections of 1977. It was widely viewed as a plurality system not entirely hostile to minorities (Lijphart, López Pintor, and Sone 1986, 163). What has changed in the last two decades is the way candidates’ names appear on the ballot. Initially, they were listed alphabetically and accompanied by their party label and logo. This meant that loyal party voters had to search through the ballot to find the candidates of their party, which translated in turn into both a clear alphabetical bias in voting patterns and a considerable degree of cross-party voting. Because both these outcomes were unacceptable to the larger parties, the ballot structure was changed to a party column arrangement in which candidates are listed alphabetically below the name and the logo of their party, with party location on the ballot being randomized. This system may not prevent voters from casting their votes across party lines, but it does incline them toward straight-ticket party voting.

The result is that candidates belonging to the same party get very similar numbers of votes, a factor which—if combined with a strategy of “prudent nomination” (nominating as many candidates as each voter has votes) and a very low degree of interparty cooperation among minority forces—usually means that the party winning the congressional election in a province gets three of the four senatorial seats at stake as well, while the remaining seat goes to the second most supported party, and the other parties win no seats at all. Only when two or more parties obtain very similar results may another seat distribution take place, but the frequency of this phenomenon certainly is low. After the 1982 elections, in forty-three of the forty-seven four-member districts, the seat distribution followed the 3 to 1 pattern, while only three saw an even distribution of seats between the two major parties, and in only one of them was an independent candidate elected (Lijphart, López Pintor, and Sone 1986, 162–63). Most recently, in the March 1996 election, all forty-seven peninsular districts followed a 3 to 1 pattern in the distribution of seats.

The end product of this system is that, broadly speaking, parties get very similar percentages of votes at congressional and senatorial elections; the ones winning the largest percentage of the popular vote get a significantly larger share of the seats in the Congress of Deputies and then an even larger percentage in the Senate. Parties coming in second still receive bonus seats in the lower house, but they cannot count on it in the Senate.
The remaining national parties suffer heavily at the congressional level and are usually not represented at all in the upper house, with the larger nationalist parties roughly breaking even in both houses.

For example, in the 1996 election the conservative People’s Party (PP) won about 39 percent of the national popular vote (based on votes cast for the parties in the election of members of the lower house, the Congress of Deputies). That proportion of the popular vote for the PP yielded it nearly 45 percent of the seats in the Congress of Deputies and about 53 percent of the directly elected Senate seats. Thus, it may be said that the electoral system magnified the popular vote results in Senate seats by a difference of 14–15 percent. In some cases since 1977 the third-strongest parties in terms of the popular vote for lower house candidates won no Senate seats—witness the Communists (PCE) in 1977 and 1979, or the United Left (IU) in 1993 and 1996 (see table 9.2).

The most interesting feature of this system is how politically biased it is. Whenever a party in the center or to the right of center (UCD, or the People’s Party, PP) has won the most votes, its advantage in seats has been much larger—in absolute terms, but especially in relative terms—than when the winner has been a leftist party (PSOE). This contrast shows up most strikingly when it comes to the results for parties coming in second or third. As the second most supported party, the PP has enjoyed a seats-to-votes bonus of up to 11.7 percent, while the major opposition party, the PSOE, has never exceeded 1.5 percent, and it even suffered serious under-representation in the 1977 and 1979 elections (see tables 9.2 and 9.3). The main explanation is, of course, apportionment; the Right has traditionally fared better in the less populated, rural provinces of the interior, while the Left has been stronger in the more populated, urban, peripheral provinces. With Senate seats being apportioned equally among the districts, the Right thus finds it easier than the Left to transform votes into seats.

The Constitution is somewhat more precise in specifying the conditions governing the designation, or selection, of the so-called autonomous senators (see Garcia-Escudero Marquez 1995). The legislative assembly or higher collective body in each autonomous community is required to designate one senator, plus an additional one for each one million inhabitants in the community, thereby ensuring the communities’ representation in proportion to their population size (see table 9.3). In practice, all autonomous communities except Ceuta and Melilla (the last to be designated autonomous communities, and the only ones not provided
Table 9.2. Directly Elected Senators in Spain, 1977–1996

<table>
<thead>
<tr>
<th></th>
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<th></th>
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<td>AP/CD/CP/PP</td>
<td>2</td>
<td>3</td>
<td>53</td>
<td>62</td>
<td>78</td>
<td>93</td>
<td>111</td>
</tr>
<tr>
<td>PSOE</td>
<td>44</td>
<td>71</td>
<td>135</td>
<td>124</td>
<td>107</td>
<td>96</td>
<td>81</td>
</tr>
<tr>
<td>PDC/ CiU</td>
<td>1</td>
<td>1</td>
<td>7</td>
<td>8</td>
<td>10</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>PNV</td>
<td>0</td>
<td>8</td>
<td>7</td>
<td>7</td>
<td>4</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>AIC/CC</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>HB</td>
<td>—</td>
<td>—</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>PCE-PSUC/IU-IC</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>CDS</td>
<td>—</td>
<td>—</td>
<td>0</td>
<td>3</td>
<td>1</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>UCD</td>
<td>109</td>
<td>118</td>
<td>4</td>
<td>—</td>
<td>—</td>
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<td>—</td>
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<tr>
<td>Democratic Senate</td>
<td>15</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Autonomous Front</td>
<td>7</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
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<td>207</td>
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</tbody>
</table>

Note: The party groups in the Senate include: AP = Popular Alliance; CD = Democratic Coalition; CP = Popular Coalition; PP = People's Party; PSOE = Spanish Socialist Workers' Party; PDC = Democratic Pact for Catalonia; CiU = Convergence and Union; PNV = Basque Nationalist Party; AIC = Canarian Independent Assembly; CC = Canarian Coalition; HB = United People; PCE = Spanish Communist Party; PSUC = Socialists United Party of Catalonia; IU-IC = United Left Initiative for Catalonia; CDS = Democratic and Social Center; UCD = Union of the Democratic Center.
Table 9.3. The Votes-Seats Transformation for Senate Party Groups, 1977–1996

<table>
<thead>
<tr>
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<td>UCD</td>
<td>PSOE</td>
<td>PSOE</td>
<td>PSOE</td>
<td>PSOE</td>
<td>PP</td>
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<td>48.3</td>
<td>43.4</td>
<td>39.5</td>
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<td>45.4</td>
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<tr>
<td>% Seats Senate</td>
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<td>56.7</td>
<td>64.9</td>
<td>59.6</td>
<td>51.4</td>
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<td>AP</td>
<td>CP</td>
<td>PP</td>
<td>PP</td>
<td>PSOE</td>
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<tr>
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<td>30.4</td>
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<td>25.8</td>
<td>34.8</td>
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<td>% Seats CofD</td>
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<tr>
<td>% Seats Senate</td>
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<td>25.4</td>
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<td>37.5</td>
<td>44.7</td>
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<tr>
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<td>−3.7</td>
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<td>+11.7</td>
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<td>Third party</td>
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<td>PCE</td>
<td>UCD</td>
<td>CDS</td>
<td>IU-IC</td>
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<td>% Seats Senate</td>
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<td>1.9</td>
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<td>Main nationalist party</td>
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<td>CIU</td>
<td>GIU</td>
<td>GIU</td>
<td>GIU</td>
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<tr>
<td>% Seats CofD</td>
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<td>2.5</td>
<td>3.4</td>
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<td>5.1</td>
<td>4.8</td>
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<td>−1.2</td>
<td>−1.1</td>
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</table>

Notes: The party groups in the Senate include: UCD = Union of the Democratic Center; PSOE = Spanish Socialist Workers’ Party; PP = People’s Party; AP = Popular Alliance; CP = Popular Coalition; PCE = Spanish Communist Party; PDC = Democratic Pact for Catalonia; CDS = Democratic and Social Center; IU-IC = United Left-Initiative for Catalonia; CIU = Convergence and Union.

"Difference" refers to the % difference between the proportion of senate seats won by a party and the % of the national vote that party won in the election of members of the lower house.

CofD = Congress of Deputies.

legislative powers) have assumed the legal right to appoint senators and have conferred this responsibility upon their legislative assemblies. A few have passed specific laws governing the designation process, while the rest have made the appropriate provision in the rules of procedure of their assemblies. Most communities require senators to be selected from among the deputies of the autonomous assembly, and many have taken the position that a member who loses his or her seat in the territorial Parliament must resign as senator.

The constitutional requirement of “ensuring in any case an adequate
proportional representation" habitually has been fulfilled through an application of the d'Hondt formula to the number of seats won by each party at the territorial assembly, carried out by the Parliament's board. With this system, parties may know in advance how many Senate seats they can fill, and accordingly they can propose candidates to be presented jointly to and voted on by the plenary. However, when there is only one senator to designate, the process is reduced to a simple vote among the nominated candidates.

Very interesting has been the question of the relationship between the autonomous assembly or, in a broader perspective, the political institutions of an autonomous community and the senators designated by it. Some scholars (like Aja and Arbós 1980, 63–66) have offered a "federalizing" interpretation of the Constitution that would create a special link between the autonomous senators and the chamber that designated them, a link that might even give way to instructions and recall mechanisms and thereby transform these senators into permanent delegates of the autonomous communities within the central institutions of the state. However, most scholars (García-Escudero Márquez and Pendás 1984, 69; Embid Irujo 1987, 192) have understood that the Constitution created two types of selection processes, but not two kinds of senators, and that the rights, duties, and privileges of provincial and autonomous senators are identical. But as Sevilla Merino (1987, 2.257) has underlined, "However reasonable that interpretation might be, practice has not been prone to corroborate it."

Organization of the Senate

Following the requirements of the Constitution (in Article 73), both houses of Parliament meet annually in two ordinary sessions, one running from September to December and the other from February to June. Extraordinary sessions may be requested by the government, the Permanent Deputation, or an absolute majority of the members of either chamber. In principle, the duration of sessions is identical for both houses, following a traditional practice in Spanish parliamentary history forbidding one chamber to meet while the other is not meeting. This does not mean that both houses have to hold their sessions simultaneously. This only means that they should be able to do so (Santaolalla 1990, 100–101).

Most important, this constitutional clause means that Parliament is
virtually always in session. When it is not, special standing committees in each house, the so-called Permanent Deputations, are responsible for running the chambers' affairs. The Senate version of this committee has to be constituted as soon as the house is convened, with no fewer than twenty-one members who are elected by the plenary upon nomination by parliamentary groups in proportion to their size. The committee is chaired by the speaker of the Senate, assisted by two vice speakers and two secretaries elected from among its members. It meets at the request of the president, the government, or one-fourth of its members.

The Permanent Deputations also exercise the functions of the chambers upon the expiration of their mandate or between their being dissolved and the summoning of a new parliament, and their very existence has been strongly criticized. For a start, the institution dates back to when sessions were short and deputies and senators could not easily be summoned to attend extraordinary sessions, so it is argued this institution is no longer needed (Alonso de Antonio 1992). In addition, the extent of its freedom to make its own decisions, as well as the precise nature of its relationship to the house itself, are issues that have long been hotly debated with no entirely satisfactory conclusions having been reached.

**Party Groups and Governing Bodies**

The parliamentary groups are the key building blocks from which the Permanent Deputation is formed, and their important role is the norm in the Senate at large as well as in the lower house. Although the Constitution refers to them only in the specific case of the Permanent Deputations, parliamentary groups are “the real conductors of debates, the promoters of initiatives, and the almost unique subjects of the immense majority of the parliamentary procedures . . . [and] it can be said without hesitation that the upper house operates now basically thanks to the groups” (Perez-Serrano Jáuregui 1989, 218, 213).

In table 9.4 the party group composition of the Senate is shown for the constituent legislature and the six subsequent parliaments. Following the requirements of the Senate's standing orders, parliamentary groups can only be created within five days from the date of the constitution of the house. A minimum of ten senators is required to create a group, and a minimum of six is necessary to keep it in operation afterwards; senators cannot join more than one group, and if they do not join one voluntarily,
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<th>Seats</th>
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<td>Independent Group</td>
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<td>Independent parliamentarians</td>
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<td>Basque</td>
<td>10</td>
<td>9</td>
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<td></td>
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<td></td>
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<td></td>
<td>Basque Nationalist (PNV)</td>
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<td>9</td>
</tr>
<tr>
<td></td>
<td>Catalonia at the Senate (CiU, AIC)</td>
<td>14</td>
<td>7</td>
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<tr>
<td></td>
<td>Mixed (AIC, ex-CiU, and others)</td>
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<td>6</td>
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<td>Democratic and Social Center (CDS)</td>
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<td></td>
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Table 9.4. (Continued)

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<td>Socialist (PSOE and federated parties)</td>
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<td>Catalanian of Convergence and Union (CDC, UDC)</td>
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<td>Mixed (IU, CC, EA, PIL, EFS, ERC, UV, CDN)</td>
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Note: The party groups are as follows:
AIC/CC = Canarian Independent Groups, comprising Independent Assembly from El Hierro (AHI), Majorera Assembly (AM), Independent Assembly from Tenerife (ATI), Canarian Initiative (IC), and Independents from Lanzarote IL; from 1993, Canarian Coalition.
CDN = Convergence of Navarran Democrats.
CDS = Democratic and Social Center.
CG = Galician Coalition.
CdG = Galician Centrists.
CiU = Convergence and Union, comprising Democratic Convergence of Catalonia (CDC) and Democratic Union of Catalonia (UDC); in 1977, only Democratic Convergence of Catalonia; in 1982, as Catalonia to the Senate.
EA = Basque Solidarity.
EFS = Ibiza and Formentera for the Senate.
ERC = Republican Left of Catalonia.
HB = United (Basque) People.
PAR = Regionalist Party of Aragon.
PCE-PSUC/IU-IC = Spanish Communist Party-Socialist Unified Party of Catalonia until 1986; integrated into the coalition United Left-Initiative for Catalonia from then on.
PDP = Popular Democratic Party.
PIL = Independent Party of Lanzarote.
PL = Liberal Party.
PNV = Basque Nationalist Party.
PR = Party of Rioja.
PSOE = Spanish Socialist Workers' Party, comprising as federated parties the Socialist Party of the Basque Country (PSE-PSOE), the Party of Catalanian Socialists (PSE-PSOE), the Spanish Socialist Workers' Party of Andalusia (PSOE-A), the Party of the Galician Socialists (PSG), and the Basque Left (EE).
UCD = Union of the Democratic Center, in coalition with Catalanian Centrists in 1979.
UPN = Union of the Navarran People.
UV = Valencian Union.
they are necessarily allocated to the “mixed group.” Senators campaigning for the same party or coalition cannot create more than one group, while groups have to identify themselves with names similar to those of the parties for which their members campaigned. Senators can leave their original group at any time to join the mixed group or any other group (a choice not accorded to deputies). Although parliamentary groups are equal in rights as far as their participation in the tasks performed by the house are concerned, they receive committee assignments, subsidies, and office space in proportion to their number of members.

The most noteworthy peculiarity of the regulation of parliamentary groups in the Senate compared with the Congress is the existence of the so-called territorial groups. These can be created within a given parliamentary group by no less than three senators elected by the voters or designated by the Parliament of a specific autonomous community. But if their introduction in 1982 was aimed at strengthening the ability of the Senate to become an effective arena for the debate of territorial issues, their meager performance has led to a great deal of dissatisfaction and skepticism (García Fernández 1984, 159–60).

The speaker, the board, and the Spokesmen’s Joint Committee exist both in the Congress and in the Senate and are usually referred to as “the governing bodies” of the houses (Torres Muro 1987). The Constitution explicitly provides that each house of Parliament elect a speaker, who exercises “all administrative powers and police authority” within the chamber. In addition, the Constitution provides that each chamber elect a board, but it makes no mention of the Spokesmen’s Joint Committee. Just like the speaker of the Congress, the speaker of the Senate is elected by a majority vote with runoff, while the other members of the board, two vice chairmen and four secretaries, are elected by employing the “single non-transferable vote” and “limited vote,” respectively. Therefore, while the chairmanship of the house is always in the hands of the majority party, the board is a rather plural body, a feature that has a decisive influence on its performance.

In principle, the Constitution provides the speaker with powers so far-reaching that the board is made to look like his useless appendage (Santaelalla 1990, 164–65). However, through the standing orders, both houses have sought to introduce some balance into this relationship, even at the cost of some contradictions. In the Senate, the speaker is empowered to represent and act in the name of the chamber, to call, chair, and
moderate plenary sessions and board meetings, to call and chair the meetings of any committee, to interact with the government and other institutions, to interpret the standing orders and to complete them in case of omission, and to apply disciplinary measures and provide for the observation of parliamentary courtesy. Among the many powers of the Board of the Senate, perhaps the most important are the determination of the plenary and committees agendas, the reception, admission, and evaluation of every parliamentary document submitted to the chamber, and the distribution of bills among committees.

The Spokesmen's Joint Committee has been described as “a body for the participation of parliamentary groups in the preparation and coordination of the exercise of the functions of the Chamber” (Santaolalla 1990, 172). It is composed of the speaker of the Senate, who calls and chairs its meetings, and the spokesmen of the existing parliamentary groups. The standing orders also provide for the presence of a representative of the government, and up to two representatives of the territorial groups created within the parliamentary groups, at meetings of the Spokesmen's Joint Committee. Moreover, in perhaps the most interesting innovation regarding congressional regulations, whenever a meeting is convened to address matters affecting a specific autonomous community, the speaker may invite senators from the territorial groups concerned to attend. The Spokesmen's Joint Committee advises the speaker and the Board, in the sense that it presents them in advance with the opinions of the parliamentary groups on the way the work of the house should be organized. It has to be listened to—but not necessarily obeyed—in order to set the beginning and the end of a period of sessions, to approve the agenda of plenary sessions, to interpret and supply the standing orders, and to organize the debates of the house, among other cases.

**Parliamentary Committees**

Committees are the basic “working bodies” of Parliament. In former times, they were simply “restricted meetings of a certain number of deputies or senators in order to get to know more deeply the bills and other issues requiring the approval of the house, and to present it with their proposals or evaluations” (Santaolalla 1990, 174). But since the 1978 Constitution assumed that the chambers would work through committees as well as plenary sessions, that in certain fields permanent legislative
Committees could enjoy full legislative competencies by delegation of the plenary, and that the houses, together or separately, "may appoint investigating commissions on any subject of public interest" (Article 76.1), their role has been dramatically enhanced. Committees have additional legitimacy and effectiveness because their members are appointed by the parliamentary groups in proportion to their number of seats and members have specialized knowledge as a result of serving on a permanent rather than ad hoc basis.

There are two basic types of Senate committee, standing and investigative or special. Standing committees, created for the life of a Parliament, may be legislative or nonlegislative. Legislative standing committees are devoted to lawmaking, and they are named after the subjects with which they deal: constitutional issues, internal affairs and civil service, justice, defense, foreign affairs, economy and finance, budget, and so on. Nonlegislative standing committees are devoted to the internal affairs of the house and its members. They include committees on standing orders, conflicts of interest, applications for indictment of senators, and petitions.

Investigative or special committees are created in order to study or investigate specific issues, and they are dissolved as soon as their assignment is completed or at the end of the Parliament. Mixed committees are composed of members from both houses (not evenly distributed, however, as they comprise twenty-two deputies and seventeen senators), and created by constitutional mandate, by law, or through agreement between the two houses. Joint committees are occasionally formed by members of various standing committees from the same house to deal with interdisciplinary issues.

Committee members are nominated by parliamentary groups, following the guidelines issued at the beginning of each session by the Senate's Board regarding the number of seats awarded to each party group. Group freedom to appoint and substitute their representatives on each committee is so undisputed that it has become a decisive political tool, especially useful for reducing discontent or sending disloyal parliamentarians into political oblivion. However, committee meetings are open to senators who are not members of the committee, to members of the government, and even to deputies. Senators who are not committee members may take the floor only when they have amendments of their own to defend.

A major transformation in the Senate's committee structure took place
in January 1994, when the General Committee for the Autonomous Communities was created (see Visiedo Mazón 1997). During a protracted debate on the ability of the Senate to perform as a chamber for territorial representation, the creation of this special committee was a momentary triumph for those who believed that an intelligent reform of the Senate's standing orders could be enough to allow the transformation of the upper chamber into the real forum for making decisions on territorial issues, as opposed to those who foresaw that this goal could only be achieved by constitutional reform, transforming the electoral system and enhancing the powers of the Senate.

The physiognomy and the internal dynamics of the General Committee are so peculiar that some scholars have been moved to write that they reveal an interest on the part of legislators to make it an intermediary between the plenary and the rest of the committees (Da Silva Ochoa 1994, 30) or even that "a Senate within the Senate" has been created (Sánchez Amor 1994, 114). This committee has a larger board and twice as many members as ordinary committees; every senator designated by the autonomous parliaments can be present and take the floor at its meetings, a right extended to the central and to the autonomous governments but not to provincial senators. Its meetings may be called not only upon request of the Senate's or the committee’s chairs, or upon request of a third of its members, but also upon petition from the central or any of the autonomous governments.

However, the most exceptional feature of this special committee is its extensive list of powers casuistically enumerated across the twenty-three paragraphs of the Constitution's Article 56 of the Standing Orders. Critics argue that many of these paragraphs are redundant, that others refer to competencies which existing committees had already been granted, that some are virtually meaningless, and that a few even seem to conflict with powers of other bodies (Sánchez Amor 1994, 115-22). Basically, they can be classified into six groups: (1) to "inform about the autonomous content of any initiative," prior to its debate in the competent committee and the plenary; (2) to debate initiatives of an essentially autonomous content; (3) to exercise legislative initiative; (4) to receive information from the central and autonomous governments about issues of an autonomous nature lying within their respective scope of competence, and eventually to debate them; (5) to debate cooperation agreements which autonomous
communities may want to sign; and (6) to make proposals to the government regarding the representation of Spain in international institutions where regions are represented.

However, the most eye-catching power of the General Committee is probably the one mandating the holding of an annual debate "in order to evaluate the situation of the State of the Autonomies," in which those taking the floor can use Spanish or any official regional language. Moreover, Article 56 of the Standing Orders, introduced within the same reform package, contained a similar mandate in reference to the plenary, obviously intended to create a replica of the "Debate on the State of the Nation" that is traditionally held in Congress every autumn with the participation of all major party leaders.

The Powers of the Senate

During the constituent debates, the lack of a coherent vision of the form the Senate should take explains to a large extent why the Constitution does not include a coherent and precise enumeration of its powers and, consequently, why the upper chamber has not been given a relevant and intelligible political role in the new democracy. If criticism of its constitutional powers has been less intense than that of its composition, it is only because discussions about the need to reform the way the house is composed have drowned out meaningful debate on other crucial matters. In fact, this same story characterized the constituent debates themselves; the attention paid to the question of Senate powers was almost completely overshadowed by debates about its institutional structure. As a result, decisions were taken after no more than a superficial debate in the Congress. Senatorial debate may have been slightly more substantial, but it was also strongly influenced by positions already taken in the lower house and the lack of time to rethink completely the Senate's role. That the major parties had no clear view about what bicameralism should mean in the new democracy had a lot to do with this definitional failure.

Thus, the Senate was not conceived as a "technical house" that would polish and improve legislative proposals hastily crafted by the Congress; nor was it conceived as a "mirror house" equal in power to the lower house; nor was it granted preferential or exclusive competence in specific policy areas, like those pertaining to the territorial structure of the coun-
try, turning it into a “territorial house.” Broadly speaking, it is possible to classify the powers of the Senate into six major categories: constitutional reform, self-regulation, lawmaking, government control, territorial issues, and nominations (Martínez Sospedra 1989, 349ff.).

The Senate enjoys special powers in the area of constitutional reform. As Valencian jurist Martínez Sospedra has argued, “The position of the Senate in the processes of constitutional reform is enhanced in comparison with the role it plays in ordinary lawmaking. A fact that is not unusual, or surprising, if we take into consideration that without this strengthened position the upper house would be dependent on the goodwill of the lower house and would be unable to guarantee its own position and to fulfill its role as guarantor of other constitutionally protected institutions and interests” (1989, 349-50). The Constitution explicitly confers the initiative for constitutional reform on the Senate as well as the Congress, the government, and the autonomous communities. The proposal has to be initiated by no less than fifty senators, twice the number required to propose an ordinary or an organic law, and to be accepted by at least a plurality of senators meeting in plenary session.

However, this vote is only the starting point of the reform process, which in the Spanish case is twofold, depending on whether the reform does or does not affect basic constitutional principles, fundamental rights, the Crown, or the constitutional structure itself. In any case, the Congress is the first house to debate a reform initiative, regardless of who proposed it. Except for this “strategic” advantage, in the case of an aggravated reform, one affecting basic constitutional principles, fundamental rights, the Crown, or the constitutional structure itself, the position of both houses is identical in that a two-thirds majority in both houses has to approve the reform project. Parliament then has to be dissolved immediately, new elections have to be called, the initiative has to be readopted by the newly elected houses, and the final bill has to be passed in both houses, again by a two-thirds majority. In the final stage, the reform proposal is submitted to referendum. However, the position of the Senate is slightly weaker than that of the Congress in the so-called ordinary reform process. In no way can a reform of this kind be passed against the will of the Senate, but in the case of deadlock between the two houses, the Constitution allows the Congress, with an extraordinary majority, “to supply” the lack of enthusiasm on the Senate side.

Both houses of Parliament have the same power to determine their
internal organization and operations (Santaolalla 1990, 40–43). Both adopt their own standing orders, approve their annual budget, choose their own chairs, and elect the members of their board. The Constitution sensibly limits this autonomy partly because many key matters previously addressed by parliamentary standing orders are now written into the Constitution itself and partly because the standing orders themselves are subject to scrutiny by the Constitutional Court (Revenga Sánchez and Morales Arroyo 1987, 2.021–43). But, within these limits, both houses can regulate themselves without interference from each other or the government. In addition, the Statute of Parliamentary Personnel and the Cortes’s Standing Orders, regulating the joint sessions of both houses, require the approval of each house in entirely identical terms, although the superiority of the Congress is underscored by the constitutional stipulation that joint sessions be chaired by the Congress’s chair.

Lawmaking is the most fundamental power of any parliament, and in bicameral legislatures the position of the upper chamber in the legislative process is the single most important factor to consider when attempting to characterize the bicameral system. In the case of Spain, the legislative power of the state is clearly conferred on the Cortes Generales, “constituted by the Congress of Deputies and the Senate” (Article 66). This amounts to saying that the Senate participates in the legislative process in its own right, not merely as an advisory body or a review chamber but as a coequal body whose participation cannot be circumvented. Moreover, the legislative competence of the Senate is general in the sense that, like the lower house, it encompasses any matter falling within the province of the central institutions of the state. Hence, there are no matters excluded from the Senate’s scope of action. By the same token, there are no matters reserved for its exclusive legislative competence. This does not mean that it enjoys equality with the Congress in the lawmaking process. To the contrary, its position is far weaker than that of its counterpart, so much so that the Spanish Senate falls among the weakest of democratic upper houses.

To be sure, it can take legislative initiatives by supporting, or “taking into consideration,” a legislative proposal signed by no fewer than twenty-five senators or put forward by a parliamentary group. But even here, the bill must first be debated in the Congress (with the one exception of the Interterritorial Compensation Fund). Consequently, the Senate does no
more than to respond to bills already discussed and passed by the Congress, so senators' ability to introduce major changes in the structure and contents of legislation is thereby diminished. Further diminishing its influence is that every party has consistently placed its political leaders and heavyweights on the benches of the lower house.

Article 90 of the Constitution enumerates the limited range of options open to the upper house when debating bills coming from the Congress:

1. Once an ordinary or organic bill has been approved by the Congress, its Speaker shall immediately notify the Speaker of the Senate, who shall submit it for its deliberation.

2. The Senate, within two months of receiving the text, may, through a message explaining the reasons, veto it or introduce amendments to it. The veto must be approved by an absolute majority. The bill cannot be submitted to the king for approval unless the Congress ratifies the initial text in the case of a veto by an absolute majority, or by a simple majority once two months have passed since the presentation of the text, or expresses itself on the amendments, stating whether or not it accepts them by a simple majority.

3. The period of two months in which the Senate has to veto or amend the bill shall be reduced to twenty calendar days for those bills declared urgent by the government or by the Congress.

Article 90 applies to all legislation regardless of who initiated it; Senate vetoes of organic bills can be overturned only by an absolute majority vote of Congress, even after the two-month deadline. The short time allowed to the Senate to make its position known counts among the shortest known in bicameral systems, but it has been lengthened a little thanks to a generous interpretation of the Senate's standing orders. Counting begins not when the Congress's bill is received but when it is published in the Senate's Bulletin, and counting stops when the Senate enters any of its vacation periods. Second, to make it possible for the house to meet the constitutional deadlines, its standing orders provide a large catalog of antifilibuster mechanisms, a number of urgency procedures, and the option to delegate lawmaking to standing committees.

Above all, Article 90 has attracted the attention of scholars for its political and constitutional implications. After reviewing the legislative powers
of upper houses across Europe, Martínez Sospedra (1989, 362) concluded that the powerlessness of the Spanish Senate is comparable only to that of the Austrian Bundesrat and lies not far away from that of the Council of the Republic depicted at the original 1946 French Constitution, which declared that legislative powers were vested exclusively in the National Assembly.

Hence, some scholars (see González Navarro 1987, 386) have even claimed that the Spanish Senate has no legislative powers, since it cannot impose its will on the Congress, can only delay the enactment of the bill for a short time, and can influence the content of bills only if the lower chamber accepts its amendments. This assessment of the Senate's real power may seem extreme and clearly incompatible with the wording of Article 66. Yet it has been argued that "when designing an uneven bicameralism, it seems that the constituents went too far... It is not just that the upper house is placed in a weaker position, which would be logical: what happens is that on any matter, before any kind of bill, the will of the Senate is perfectly and totally dispensable" (Martínez Sospedra 1989, 362).

The Senate is in a strikingly different position when it comes to oversight of the executive. Its oversight powers are virtually identical to those of the Congress. Like the Congress, it may engage in debate, scrutinize, assess, or request information about governmental policies. Its fundamental weakness remains, though, that when it comes to demanding the ultimate political responsibility—that is, government resignation—the Senate is completely powerless, just as it is at the moment of choosing a new government (Montero Gibert and García Morillo 1984, 36-45).

The constitution allows the Senate to create committees of inquiry "on any matter of public interest" and to participate in joint committees with deputies, as well as to demand cooperation from citizens and institutions (Article 76). The Senate may receive "individual and collective petitions, always in writing" and forward them to the government, obliging it "to explain itself on the contents" whenever the Senate so requests (Article 77). It may demand full information from the government on those international treaties which do not require the consent of Parliament (Article 94.2) or on any other topic (Article 109). And it may summon members of the government and high-ranking state officials to appear before it (Article 110); it can question and interpellate the president and government ministers (Article 111) and subsequently express its position on an
issue under debate by means of a motion; it receives, along with the Congress, the annual report of the ombudsman (Article 54) and the General Council of the Judiciary, and it may also request information from the authorities in the autonomous communities.

Despite this arsenal of oversight powers, the Senate has absolutely no voice in the selection and the permanence in office of the executive. When new elections are held, the presidential candidate proposed by the king is required only to present his government's political program to, and win the confidence of, the Congress. Despite the fact that his failure to obtain it may lead to the dissolution of both houses, the upper chamber has no formal role whatsoever in the process of investiture. Consequently, it plays no role when the president presents a question of confidence or when a vote of no confidence or motion of censure is proposed. Moreover, the Senate's peripheral role in government making and unmaking influences the way it exercises its oversight powers. In the end, the political relevance of devices like questions, interpellations, or motions depends on the impact they have on public opinion. Here, the political "weight" of the people putting them forward and sitting in the house becomes crucial, and recruitment patterns, in turn, hinge largely on the ability of the house to determine or influence the government's composition and tenure of office (Martínez Sospedra 1989, 370). If the Senate is irrelevant in these matters, then the likelihood of its being influential in government decision making will be close to zero as well.

Nor is it elected in such a way as to make it a good vehicle for the effective participation of the autonomous communities in the shaping of the state's policies (see Fernández Segado 1985). This explains why, despite being labeled "the chamber for territorial representation," it lacks special powers in the domain of territorial policies, and why in this field its position is largely the same as in other policy areas: one of subordination to the Congress's will. Moreover, it also explains why in recent years bilateral and multilateral agreements between the central and the autonomous governments have become the standard means for the resolution of autonomous problems, bypassing the intervention of Parliament and thereby substantially reducing the Senate's role and authority (Da Silva Ochoa 1994, 20–23, 34–35). At the same time, there is language in the constitution regarding the role of the upper house that makes it marginally more relevant regarding territorial issues than it is in ordinary
lawmaking. Moreover, the Constitution also provides the single instance in which the Senate may make a political decision in which the Congress has no say: the so-called federal execution clause.

Senate approval was indispensable for the enactment of those Statutes of Autonomy drafted through the process described in Article 151 of the Constitution, the process followed by the historical nationalities who sought the largest possible level of self-government in the shortest possible time. However, the Senate did not participate in the drafting of the text itself, and its vote was scheduled after the draft bill negotiated between the Congress's Constitutional Committee and a delegation of representatives of the territories concerned had been put to referendum of the people of the community-to-be. Under these conditions, the Senate was not in a position to impose any objection. Beyond this limited arena, the Senate's legislative role has not been a powerful one.

The cornerstone of the strengthened position of the Senate in this area is the constitutional provision that significantly modifies the ordinary legislative process, postponing the moment that Congress is allowed to impose its will on the Senate's in three specific instances: the approval of the most relevant international treaties, the authorization of cooperation agreements between the autonomous communities, and the distribution of resources pertaining to the Interterritorial Compensation Fund. In these cases, the consent of both chambers is needed in the first instance. If no agreement can be reached, a joint commission composed of an equal number of deputies and senators may be established to iron out disagreements and submit an agreed proposal to both chambers. If this proposal is not approved by both, the Congress makes a final decision by majority vote. More relevantly, perhaps, the Senate becomes the first chamber to debate the bills concerning cooperation agreements and the Interterritorial Compensation Fund, an exceptional procedure aimed at reinforcing its position in the entire process which, paradoxically, has been subject in practice to a very restrictive interpretation (see Rodrigo Fernández 1987, 2.118–24).

A controversial provision of the Constitution (Article 150.3) allows Parliament to "dictate laws which establish the principles necessary to harmonize the norms of the autonomous communities even in the case of matters attributed to their competence when the general interest so demands." Although these lawmaking powers are to be carried out through the usual legislative procedures, a "state of necessity" must be determined
by Parliament, by a majority vote in each chamber, and with no mediation or action allowing the Congress to impose its will on the Senate. Finally, Article 155.1 contains the only power granted solely to the Senate: the approval of coercive measures against an autonomous community acting against the general interest of Spain. This is an extreme measure which, fortunately, still remains unapplied: "If an autonomous community does not fulfill the obligations imposed upon it by the constitution or other laws, or should act in a manner seriously prejudicing the general interest of Spain, the government, after lodging a complaint with the president of the Autonomous Community and failing to receive satisfaction therefore, may, following approval granted by an absolute majority of the Senate, adopt the means necessary in order to oblige the latter forcibly to meet said obligations, or in order to protect the above-mentioned general interest."

The Senate participates in the selection of staff for many of the most important governmental institutions. In some instances, it does so because this role belongs to Parliament as a whole, and senators take part in the selection process through their participation in the joint session of the Cortes, just as deputies do. In others, the Constitution and laws divide the right to nominate between the two chambers of Parliament. In the specific case of the ombudsman, both houses have to agree on a nominee in order to comply with the selection procedure, although the houses vote separately. With the exception of the president of the government, there are no instances in which the members of a state institution are elected by one house without the participation of the other.

Parliament meets in joint sessions when matters concerning the Crown are involved: both houses vote jointly to provide for succession to the Crown in case the royal dynasty were to end, to appoint a regent or regents whenever the monarch cannot exercise his or her authority and no one can exercise the regency in his or her own right, and to appoint a tutor for a king or queen who is a minor. Also, the houses of the Cortes act jointly to prohibit the marriage of the prince or princess, to recognize the incapacity of the monarch, to witness the oath of the new royal heir, and to declare war or conclude peace. In all these cases, Senate influence depends directly on the relative size of the membership of each house.

The Constitution is flexible in both cases: Congress may swing from 300 to 400 members, and the exact number of senators depends on the population of each autonomous community. The fact remains that currently
the 256 senators are far outnumbered by the 350 deputies, and this places the upper house at an obvious numerical disadvantage.

Both houses of Parliament are involved in selecting governmental officials in three cases in which the houses deliberate and decide separately. These involve members of the Constitutional Court, the General Council of the Judiciary, and the Court of Accounts. In each case, both houses nominate the same number of members, and they do so through essentially identical procedures, so there is complete parity between them.

Additionally, consider the case of the ombudsman, the Defensor del Pueblo. Article 54 requires that this official be elected by Parliament. Candidates are proposed by a joint committee, but each house votes separately. Congress votes first on every candidate, and the Senate is asked to confirm or reject candidates approved by the Congress within twenty days. Confirmation requires a three-fifths majority in each house, but when the two houses disagree, the candidates supported by the Congress are appointed, provided they win the support of at least a majority of the votes in the upper house.

Finally, there are three major political decisions which the Constitution places under the exclusive authority of the Congress, and the Senate is given no power in making these decisions. These decisions include the validation of decree laws (see Santolaya Machetti 1988); the calling of consultative referenda (see Cruz Villalón 1980); and control over the states of alarm, emergency, and siege (see Entrena Cuesta 1985). In circumstances of national emergency, the government may issue provisional legislative decisions that take the form of decree laws. Within thirty days the decree law must be submitted for debate and a vote by the Congress, which may validate or derogate it. Unless Parliament decides to transform the decree into ordinary law—by means of an extraordinary urgency procedure—the Senate has no opportunity to express its opinion about it.

A national referendum may be called by the monarch upon a proposal of the president of the government "after previous authorization by the Congress of Deputies," and in this process the Senate plays no institutional role. Concerning the parliamentary response to "alarm, emergency, and siege," the Constitution envisaged different procedures for the declaration of each of these "states," but in none of these procedures has the Senate any official voice: the state of alarm is declared by the government, subsequently informing the Congress; the state of emergency is declared
by the government following an authorization from the Congress; and the
state of siege is proposed by the government and declared by a majority
vote of the Congress.

Reform of the Senate?

Its ill-defined constitutional functions and powers soon precipitated criti-
cism of the Senate's political role and, inevitably, of its performance. In
the beginning, these criticisms were partly muted by the hope that the
autonomous senators, added to the Senate's membership only in the early
1980s when the new autonomous communities were first constituted,
would somehow transform the essentially province-based profile of the
upper house (Aja and Arbós 1980, 63–66). Still later, it was anticipated
that the creation of territorial groups would make senators more con-
scious of their territorial than of their partisan constituencies, or that the
existence of the Committee for Autonomies would translate into a sharper
focus on territorial issues. But time and experience led to the conclusion
that such hopes for the institution were largely futile, and the belief took
shape that substantial reform was needed. Reform proposals of all kinds
were launched, including the revitalization of the Senate through a broad
pact among Parliament, parties, government, and autonomous commu-
nities (Fontán 1991, 6); the modification of the electoral system for the
upper house (Aragón Reyes 1991, 210); the renewal of the Senate's role
through constitutional conventions leading to a redefined institution (Ri-
pollés Serrano 1993, 123); and the substantial reform of the Senate's stand-
ing orders.

This last option appeared for some time to be the most promising and
feasible reform. In 1987 and again in 1989 subcommittees were created
within the Committee for Standing Orders to reform the Senate's stand-
ing orders so as to “reinforce its territorial functions” and “allow and
reinforce the presence and the participation of the autonomous insti-
tutions in the house's tasks” (Garcia-Escudero Márquez 1994, 42). This
reform effort led to the creation of the General Committee for the Au-
tonomous Communities, the only significant reform of the organization
of the Senate since the formalization of its standing orders in 1982 when
the provisional rules adopted in 1977 had been replaced. But despite hav-
ing the right to reform its own standing orders, this reform took no less than six years to complete, dragged on across three legislatures, and created more frustration than satisfaction. This episode also served to feed the belief that constitutional reform was the only possible solution to the deficiencies of the Senate.

Subsequently, parliamentary parties, autonomous institutions, legal scholars, political scientists, and even mathematicians have become involved in the debate over Senate reform. However, the seemingly endless reform proposals and schemes have fallen far short of sharing a single focus. The contradictory goals of major and minor and national and peripheral parties, the conflicting interests of the larger and smaller and the more- and less-developed autonomous communities, and the political leanings of scholars involved have produced a veritable Babel of propositions, programs, projects, and plans.

The author of the first monograph on Senate reform, Martínez Sospedra, a former senator, argued that irrespective of reformist goals, efforts to make the Senate more effective should attend to four closely related constraints (1990, 41–43). First, reform should be consensual, at least to the same extent as the original Constitution. In his view, it would be politically devastating if reform proposals were to be carried with the backing of only a bare parliamentary majority, especially if the mainstream political party groups were to succeed in carrying the day against the peripheral party groups. Second, Senate reform efforts should not touch the constitutional settlement over the territorial organization of the country because it might be interpreted as a subversion of the fundamental structure of the regime and would be unlikely to generate consensus. Third, reform should be crafted so as to be achievable through the “ordinary” reform procedures allowed for in the Constitution, since so-called aggravated reform is highly demanding procedurally and implies more sweeping constitutional change that is not only unthinkable in present political circumstances but also disproportionate to the upper house reform project. Fourth, reform should respect the basic structure of parliamentary democracy as defined by the existing constitutional provisions and practices. In particular, reformers should not seek the “Italian solution,” requiring governments to win and retain the confidence of the Senate as well as of the lower house.

Within these broad constraints, many plausible options were available to reformers (Martínez Sospedra 1994, 33–35). They could seek to mini-
mize any lack of institutional legitimacy by eliminating the striking contrast between the Senate's function of territorial representation and the provincially based election of most of its members. The electoral machinery could be reformed so as to give greater recognition to the autonomous communities without altering the fundamental powers of the body. Again, so as to optimize its performance as a lawmaking institution, the Senate could be provided with more time to debate and be given a stronger position from which to negotiate disagreements with the Congress. Alternatively, the Senate could be transformed into a full-fledged federal chamber, the unabashed locus for the representation of the autonomous communities and the carrier of a heavier workload on territorial issues. Finally, the Senate's capacity to provide adequate participation for the autonomous communities could be strengthened, giving it a role in bilateral (national/autonomous community) or multilateral (national/several autonomous communities, or among several communities) negotiations. To do this, the presence of the autonomous communities in the Senate would have to be enlarged substantially.

But even the most cursory glance at the reform projects considered reveals that improvement of the Senate's lawmaking ability has not been high on the agendas of parties and scholars. The political history of second chambers in Spain and elsewhere shows just how troublesome a powerful second chamber can be. New technologies have clearly proved that reliable information, good organization, and skilled staff can do more than bicameralism to improve the quality of legislation. Besides, reform of the Senate's electoral system to bring it in line with the realities of autonomous communities and thereby end its widely perceived lack of legitimacy could never be a goal in its own right. A Senate elected directly by the people in districts coincidental with the existing autonomous communities would turn out to be as representative of the popular will as the Congress, if not more so, making it likely that the Senate would then challenge its secondary position in the parliamentary firmament. One way or another, the emergence of two equally powerful houses would become unavoidable.

Another position has been that the ideal formula for a reformed Senate would be its transformation into a permanent (i.e., not subject to dissolution) house composed of senators appointed either by the governments or by the parliaments of the autonomous communities and granted special powers in territorial matters. Such an institution could be constrained
by instruction and recall mechanisms, devices that would provide the autonomous communities with cohesive, politically unified representation (Punset Blanco 1993, 83–86). However, such a reform—obviously patterned after the German Bundesrat—seems extremely unlikely under present circumstances inasmuch as there is an obvious lack of political will to take the reform process this far. Neither public nor elite opinion seems yet ready to accept formulas like recall, instructions, or even majority rule in senatorial elections, not to mention the unsurmountable difficulty of adequately differentiating the role of the Senate in common and territorial lawmaking, in view of the already complex lawmaking system created by the 1978 Constitution (Punset Blanco 1990, 196–97).

Reform aimed at strengthening the role of the autonomous communities in the formulation of national policies, by contrast, appears a reasonable and realistic objective. But attempting to put it into practice opens a Pandora’s box of conflicting proposals, preferences, and problems. One concern is the way in which senators are to be chosen. López Garrido (1994, 10–11) argues that if the Senate is to represent citizens “as members of a region or nationality,” it should be directly elected in districts falling within the boundaries of the existing autonomous communities. But most scholars reject this recommendation, arguing that it would give the Senate a degree of legitimacy that is incompatible with its subordination to the Congress (Martínez Sospedra 1994, 43). Moreover, it is held, such a change would not guarantee adequate representation of the autonomous communities, since such an upper house would very likely exhibit the partisan dynamics already seen in the Congress (Garro renia Morales 1995, 26). Hence, indirect election or designation by an existing body like the autonomous parliaments appears the most promising alternative.

A second issue concerns which territorial unit this “chamber for territorial representation” should represent. The overwhelming majority of scholars agree that the Senate should represent the people of the different autonomous communities, while other reformers have defended the need to maintain a number of senators as direct representatives of the provinces, since the Constitution clearly enumerates the provinces among the territorial units of Spain, and indeed they are entities very deeply rooted in many regions (see Martínez López-Muñiz 1997). The most radical approach along these lines has been put forward by Manuel Fraga Iribarne, former PP party leader and current Galician president. In an address
before the Senate's Constitutional Committee, he argued in favor of a Senate composed of 158 popularly elected members, plus 131 members designated by the parliaments in the autonomous communities.

Yet another proposal for reform, particularly hotly contested, concerns the criteria for the distribution of senatorial seats among the constituencies. The basic question here is how many seats should each community be awarded, and why? One proposal involves making the seats awarded to each autonomous community dependent on the number of provinces it encompasses, despite the fact that these senators would not be elected in or by the provinces. This proposal has fallen on deaf ears. Garrrorena Morales (1995, 23–26), by contrast, argues for the American or Swiss formula of equal representation of territorial units on the grounds that this is the only course compatible with the principle of territorial, as opposed to popular, representation. Again, this proposal has gone nowhere in the face of the markedly unequal population sizes of the existing communities and the highly probable opposition of the larger ones to any plan for equal representation of territorial units.

A cacophony of reform plans has been proposed in recent years, with most of them falling in the very wide range stretching from an entirely egalitarian, territorially based distribution of seats to a rigid application of population-size criteria (see Franch i Ferrer and Martin Cubas, 1997). Most have been closer to the latter than the former pole. Further complicating the picture has been that they have moved beyond representational specifications to embrace wider issues of appropriate powers for an upper house. Most recommend that a new Senate should not be subject to dissolution; that presidents of the autonomous communities should be designated ex officio senators or, minimally, that each autonomous government should be allowed to designate a senator to defend its point of view; that the selection of the remaining senators representing the autonomous community should be carried out by its legislature either by proportional representation or by limited vote; and that senators should not be subject to instructions or mandates from the regional assemblies, although their terms of office would depend on the duration of these assemblies.

Added to the question of how the Senate is elected is the question of what kinds of issues the Senate should deal with. The complexity of lawmaking procedures and control mechanisms in the Spanish parliamentary system means that the precise formulae possible are innumerable. To
simplify the terms of the debate, we will stress three points of consensus and one major point of dissent. To begin with, there seems to be consensus that reform should not enhance senatorial control of the government and certainly not to the point of its being involved in the selection of the prime minister and cabinet or in a position to force their resignation. There also seems to be a consensus that the Senate should become "the place where the basic core of cooperation, encounter, and conciliation relations which characterize a complex State should be developed" (Garrorena Morales 1995, 37). This amounts to saying that the upper chamber should become the central, albeit not the exclusive, forum for multilateral bargaining and agreement among all the central and peripheral actors involved. Finally, there also seems to be consensus that the Senate should in some way enhance its legislative powers whenever bills have an autonomous dimension.

But herein lies the problem. Is it enough to equalize its authority with that of the lower house, forcing compromises all the way, or should it be able to impose its will on the Congress in some specific cases? Or should Spain embrace the most radical approach and provide the Senate with exclusive powers in some specified policy areas? Who should determine which bills do or do not have an autonomous relevance? And what about the Senate's legislative powers in matters lacking a territorial dimension? Should the Senate be stripped of this power? Would conflicts of power not arise between the two chambers, and possibly between their opposed partisan majorities, on a regular basis?

If the litany of reform proposals has been virtually endless, the number of questions that remain unanswered is probably even larger. And here the risk is doubled, since it would be a mistake to engage in ill-conceived reform. But, for the sake of the confidence of the Spanish people in its institutions, it would be even more harmful to reform the Senate in a way that brought to everyone's mind the classic Horace quote: "Parturiunt montes, nascetur ridiculus mus" [The mountains were in labor; a ridiculous mouse was born].

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