INTRODUCTION

I. Background

In 1998, I published an essay proposing, among other things, the establishment of a presidential cabinet in Mexico, with its corresponding coordinator or chief.[1] These reflections were later expanded in my work *El gobierno de gabinete* (2003), where I exposed the problems that the concentration of power in the presidential systems poses, and the institutional corrective measures that have been applied to remedy this situation. I stressed, as I also do now, that in law there are no perfect solutions, and that the functioning of institutions is closely related to their cultural environment. The critical observations that this work received were examined in the "Addendum" that appears in the 2005 edition. This study complements the one carried out in 2003. Now I address another question that I only left noted in *El gobierno de gabinete: la responsabilidad de los ministros o secretarios de Estado.*

The concentration of power and the irresponsibility of its exercise are not compatible with a constitutional state. Comparative law shows the evolution that has taken place in terms of updating presidential systems. The preservation of these systems does not exclude that they are reformed and updated. Most of these reforms have consisted of adopting and adapting institutions that originate in parliamentary systems. On this point it is necessary to insist that there no longer exist pure systems, if by purity we understand that the systems have maintained their original characteristics without alteration. With the exception of the United States and Great Britain, there are no imperturbable models, alien to the natural institutional contagion that characterizes contemporary constitutionalism. Even the parliamentary systems developed in the orbit of the British Commonwealth have their own nuances. One, the most important, is that they are based on written Constitutions.

[1] "Todo cambio es constancia", *Significado actual de la Constitución*, Mexico, UNAM, 1998.

II. Parliamentarization of the Presidential System

The Parliament, like numerous other existing institutions, was formed during the Middle Ages. The different expressions associated with it were coined over time. At least from the end of the twelfth century and the beginning of the thirteenth, the voices *parlement* and *parliament* have been identifiable in French and English, almost in parallel: *parlementaire, parliamentarian and parliamentary* appeared in the 17th century, as well as *parlementntarism and parliamentarism* were recorded in the second half of the 19th century.

In Spanish, the *Dictionary of Authorities* identifies the use of parliament by Juan de Mariana (1592) and defines parliamentary in 1737. The Royal Academy admitted *parliamentarism* in 1899. In French and English, *parlement, parliament* first arose to allude to the nascent institution; then *parlamentaire, parliamentary*, to what is proper to parliament; later *parlementarisme, parliamentarianism*, to denote a system, and finally *parliamentarization*, which barely has recent academic recognition in English, to signify a constructive process of the parliamentary system, a tendency towards that system or a political formation similar or similar to said system.

In Spanish, these same voices have later registers. The establishment of Parliament was done later in the Iberian Peninsula, although the idea of Cortes, like its medieval equivalent, had an early appearance in Castile, Aragon and Portugal. However, its derivatives, *courtier, courtesy*, had another meaning, closer to the authoritarian tradition, centered on the hegemonic power of a monarch and his environment.

In this sense, it is not by chance that it was Philip II —and in the wake of his example— Louis XIV, who devised the construction of a residential complex for the monarch and his court. El Escorial, like later Versailles, were spaces where it was possible to concentrate, in an opulent but controllable area, a good part of the aristocracy, the dominant sector of the ruling class. This shrewd decision allowed espionage to reach the highest levels of effectiveness to avoid conspiracies, to exercise strict discipline over the courtiers and to consolidate the absolute power of the monarch.

The evolution of the parliamentary system was accompanied by the construction of its own language. The communication code developed contributed to the institutional shaping of the parliamentary system. This explains why in Spanish the voice of parliamentarism has not yet been accepted by the Academy, because its incidence continues to be low in Spanish-speaking countries. These countries, except for Spain, are organized as presidential systems.

At present, with the expression *parliamentarization* we mean:

a) the constructive process of a system of a parliamentary nature;
b) the incorporation of institutions of parliamentary origin in another type of political system, with the purpose of assimilating it to the parliamentary one;
c) the adoption of institutions of parliamentary origin but preserving the basic structure of the receiving system.

Therefore, a distinction must be made between parliamentarization of the constitutional system and parliamentarization of the presidential system. In the first case, the entire constitutional structure of political power tends to adapt to the parliamentary system, which is incorporated in an immediate or gradual way, to replace the current system (presidential or traditional); in the second, the existing structure subsists, but some institutions of political control —even modified— of parliamentary origin are added to it.

The voices *parliamentarize and parlamentarization* have not been welcomed by the Academy. The same occurs with *constitutionalize and constitutionalization*, although *legalize and legalization*, of course, appear from the *Diccionario de Autoridades* (1732). The admission of neologisms related to constitutional and political organization has been slow. For example, *nationalize and nationalization* were incorporated in the 15th. edition (1925) of the *Diccionario académico* (DRAE); *democratize and democratization* appear in the DRAE since the 16th. edition (1936) and *politicizing (politizar) and politicization* only entered the 22nd. edition (2001).

Other representative inclusions are *Spanishize*, which appears from the *Diccionario de las Autoridades*, while *Americanize* appeared in the 19th. edition (1970), and there is still no *Mexicanize*. *Christianize*, on the other hand, entered the DRAE in the 4th. edition (1803), but *Christianization* hardly made it in the 17th. (1947).

The Corpus of Reference for Actual Spanish (CREA) of the Royal Spanish Academy contains a journalistic record (Spain) of *parliamentarism*, and four, also journalistic (three for Spain, one for Mexico), of *parliamentarization)*. On the other hand, on the Internet, 728 incidents of parlamentarization appeared only through the Google search engine (June 6, 2007) and 669 of *parliamentarism*. Of this voice, two months later (August 20) there were already 757 referrals.

Regarding *constitutionalising*, CREA records four cases, all of bibliographic origin (two Spain, one Colombia, and one Panama), while consti-

tutionalization (*constitucionalización*) appears in 22 documents (seven in newspapers and 15 in books) from Spain and several Latin American countries.

Other languages have been more expeditious in the reception of these words. In the case of *constitutionalize and constitutionalising*, in the sense of "converting into constitutional", there is a first registration in 1831, according to the *Oxford English Dictionary*, and *parliamentarization*, understood as "the act or process of becoming a parliamentarian, by the organization or by the means of government", was identified in 1924. This last voice does not appear in the French repertoires. Instead, *constitutionaliser,* with the meaning of "giving to a legislative text [or institution] the value of a constitutional norm", does appear in the *Dictionaire de l'Académie Française.*

III. Renewal of the Presidential Systems

The perception that the president of the United States has considerable internal political power is common. However, if one carefully examines his normal work in matters of domestic politics, it will be seen that his level of influence is lower than that generally exercised by presidents in other systems. Of course, there are exceptions, as was the case with Franklin D. Roosevelt, but in his case, there were also special circumstances. The crisis of 1929 demanded radical measures that Roosevelt did not hesitate to adopt. The New Deal scheme put in the hands of the president a power of intervention over the economy, unprecedented in that country. At present, the list of presidential powers continues to be large, but in no case comparable to that of most presidential systems, especially if the control exercised by both houses of Congress and by the federal system is considered.

The form of election of the president is indicative of the care taken not to erect a dictator. The constituents avoided anointing the president through a plebiscitary election;[2] not so in the case of governors, wherein the plebiscitary principle governs. At the local US level, there have been other factors that mitigate the plebiscite force of the governors, including the federal tax capacity.

[2] This is a recurrent topic in the United States. Some local laws have already adopted mechanisms that link national majority voting with the allocation of electoral votes corresponding to the state, but they condition their validity at the time when the sum of the votes of those states total the majority of the 538 electors required to elect the president. In this way, if a candidate has a lower vote in a state, but a higher number of votes in the country, the electoral votes of that state are assigned to him, even if he did not win it. Cf. New York Times, August 11, 2007, p. 1.

The greater power of the president derives from the world hegemonic position of the United States, in military and economic matters, and its ability to veto the decisions of Congress. The power of war makes the president a decisive figure in the world and this, by way of reflex, causes his image of power to be projected into the interior of the country. A significant piece of this war power resides in the number of times that the United States troops have intervened abroad and the few occasions in which war has been formally declared.[3] The president, "apart from his authority to appoint various federal officials, lacks other elements to assert his power in purely domestic matters," says Tribe.[4]

The most innovative perspective that has been raised in the United States corresponds to Bruce Ackerman. His thesis of a presidential parliamentary system is highly suggestive and is part of the great renewal trend of presidential systems.[5] This is evident when he expresses his rejection of the Westminster and Washington models.[6] Starting from the antithetical positions represented by these two models, the author proposes another institutional design of separation of powers that corresponds to what he calls "bounded parliamentarism, as a better option for democratic governance. He assures that "intelligent constitutional engineering can translate into stable cabinets aimed at providing effective responses."[7] His proposal, in which he also reviews the electoral and party systems, includes strengthening some mechanisms of direct democracy. This last aspect is not part of the considerations made in my work but, in the other aspects, there are points of agreement between his analysis and mine.

In the Mexican case, the constitutionalist who has studied the presidential systems in greater detail is Jorge Carpizo. One of his works is already

[3] Of the total number of international armed conflicts in which the United States has participated, only eleven cases have there been a declaration of war: Great Britain (1812), Mexico (1846), Spain (1898), Germany and Austria-Hungary (1917), Germany, Italy and Japan (1941), Bulgaria, Hungary and Romania (1942). If the circumstances of these statements are examined, it will be seen that although the statement was made in relation to several countries, it was the same conflict. In this way the effective number is reduced to five.

[4] Tribe, Lawrence H., American Constitutional Law, New York, Foundation Press, 1988, p. 212.

[5] "The New Separation of Powers", *Harvard Law Review*, Boston, vol. 113, no. 3, January 2000, pp. 634 et seq. The author uses the expression "constrained parliamentarianism", which could be translated as "restricted parliamentarism" or "limited parliamentarianism". The Spanish translation has opted for this last modality (*La nueva division de poderes*, Mexico, Fondo de Cultura Económica, 2007).

[6] *Ibidem*, pp. 640 et seq.

[7] *Ibidem*, p. 655.

a classic: Presidencialismo Mexicano (1978), and his most recent study on the matter is "Características esenciales del sistema presidencial e influencias para su instauración en América Latina"[8] In 1999 he published an important essay[9] in which he stated that he was in favor of maintaining the presidential system in Mexico, renewing it without weakening it. Among the measures he proposed to achieve that goal are the following:

— To ratify some of the presidential cabinet appointments by Congress;
— To introduce the figure of the chief of the cabinet of ministers, responsible to the president and the Congress;
— To create an efficient control body regarding the powers that refer to the "power of the stock market" in Congress;
— To review the constitutional system of responsibility of the President of the Republic so that he does not exercise functions that are alien to him.

I fully agree with those approaches. The fact that, in this essay, I use the term *parliamentarization*, with the scope that has already been explained, in no way implies substituting one system for another. Conversely, one can also speak of the *presidentialization* of parliamentary systems, to the extent that some institutions from presidential systems adopt, especially those that contribute to a better balance between the organs of power and to the political stability of the system. For example, the constructive censorship of the German system, or the popular election of the prime minister in Israel, are measures that tend to *presidentialize* parliamentary systems, while reducing uncertainty regarding the term of the head of government. Without being able to speak of a *dominant trend*, the concerns to seek a new power structure extend to different latitudes. For example, in the United States, in most Latin American countries, in Italy[10] and in France, the rationalization of the exercise of power is a problem about which the same is discussed in academic centers as in political and public opinion circles. One

[8] In Boletín Mexicano de Derecho Comparado, Mexico, no. 115, January-April 2006. This and other important essays on the subject appear in his work *Concepto de democracia y sistemas de gobierno en América Latina*, Mexico, UNAM, 2007.

[9] "México: ¿sistema presidencial o parlamentario?", *Cuestiones Constitucionales*, Mexico, no. 1, july-december 1999, pp. 49 et seq.

[10] See, for example, Mezzetti, Luca and Piergigli, Valeria, *Presidezialismi, semipresidenzialismi, parlamentarismi: modeli comparati e rinforme istituzionali in Italia*, Turin, Giappichelli Editore, 1997.

of the most vulnerable points of parliamentary systems is that the heads of government remain in office until they reach the minimum limit of their popularity or until they exhaust their possibilities of leadership within their own party. In general, the destiny of a parliamentary head of government is to conclude his work when he is at a level of majority, popular or partisan rejection. This means subjecting the systems to a very intense game of partisan interests. In a presidential system, the instability factors are different: they are situated in the sphere of the concentration of power and the irresponsibility of the rulers. If these deviations are corrected, the system gains in legitimacy and, therefore, in stability. The parliamentarization of presidential systems does not weaken government power; on the contrary, it strengthens it insofar as government programs and decisions have the support of Congress. What weakens presidential action is the monopoly of power; the highly concentrated exercise of power implies isolation and less ability to form alliances. The presidents become the character to beat. The traditional style only works in closed, authoritarian systems, where the president exercises power according to meta-constitutional powers, as Jorge Carpizo has shown.

IV. Rationalization of Presidential Systems

The rationalization of power can be seen from different angles. For the holder it may mean how to put decisions into practice with the least resistance possible. For the recipient, it may involve a passive attitude: receiving the least harm, or an active position: achieving the greatest influence. These perspectives have in common that the rationalization of power is based on self-interest. But, in a democratic system, there are no perpetual holders or fixed recipients. The free, open, plural game based on electoral activity, makes the interests of holders and recipients have a certain convergence.

Furthermore, the extreme utilitarian position is also nuanced in the practice of constitutional states, insofar as there is no depositary of absolute power. All agents of power exercise different quotas of influence and intervention in decision-making, so that the first search for the maximum possible utility is limited by the data of reality. At this point, the construct on the contractual nature of society and the State, according to which sovereignty corresponds to the entity called the people, is of great help. Consequently, the vectors of rationality have to do with what interests and suits that universe. Even if it is a theoretical elaboration, that is the basis on which institutions are built (these are very specific) in a constitutional state.

Therefore, let us assume that the members of an integrated community, in accordance with the principles of the constitutional State, are interested in identifying and adopting the elements that ensure the rational exercise of a power of which all are legitimate depositaries and whose exercise results from an express and revocable delegation.

In the first place, it will be necessary to contemplate the distinction between rational and reasonable.[11] In general, in the first case we have someone who acts appropriately (or intelligently) to achieve their objectives; in the second, to those who act in a comprehensive and supportive way as regard to their own objectives and the objectives of others. The unregulated exercise of power implies that the decision of the strongest prevails. This is a primitive arrangement of power. To circumvent this factual situation, the legal system has among its purposes to attenuate the effects of this elementary behavior and to introduce rationality factors in power.

The rationalization of power has allowed the construction of the institutions that regulate the basic processes of access to power and its exercise. The unreserved struggle for power, which implied the destruction of the adversary, the indisputable imposition of ideas and decisions, the hoarding of wealth, discretion, secrecy, collusion, and partiality in the performance of the functions of the power, they were expressions of primitive power. Thanks to a rationalization process, standards were adopted to legitimize access to power and its exercise, in such terms that power was the object of the widest possible acceptance.

This is how the institutions of the constitutional state have been built. But the regressive tendency is always latent, so that even the best designs require occasional corrections that, in addition to amending the distortions, accentuate the rationalizing intention of the constitutional state.

The rationalization of public institutions can therefore be understood in two ways: correcting the errors noticed in the functioning of the institutions and improving the processes of power. The adoption of new standards is a central part of this second option.

Mannheim, taking many of Weber's theses as a reference, decided to explore the problem of how a man thinks, not from a philosophical or psychological perspective, but in terms of public life, politics, and institutions. Mannheim understood that there are rationalized structures where there are standardized procedures to deal with all kinds of situations; For this reason, rationalization translates into a series of successive actions that fol-

[11] See this distinction in Rawls, John, *Political Liberalism*, New York, Columbia University Press, 1993, pp. 48 et seq.

low an orderly, regular, and predictable course. The central characteristic of modern culture, he concluded, is its tendency to rationality.[12]

However, that approach does not tell us much because, from an aseptic or neutral perspective, all well-structured political systems would be rational. The same an authoritarian system that a democratic system, whose components were adequate to its objective, would be rational. In this sense, when referring to the rationalization of a system, one could think of how to make it more functional to achieve the proposed ends. In an authoritarian system, for example, adopting electoral rules would be contrary to its rationality, unless in parallel the means were built or preserved to make the electoral exercise null and void. In this case we would be facing a fiction, but the rationality of authoritarianism, which supposes the limitation of individual and public freedoms, would not be broken. On the contrary, if the purpose were to build a democratic system, rationality would imply the unambiguous functioning of the electoral system. There would be a process of rationalization of the system if the actions taken were oriented in that direction.

Talking about the rationalization of a system, therefore, can give rise to conflicting perceptions. When using a polysemic concept, it is necessary to identify the elements that allow to connote precisely what is meant. This problem is solved by Weber, by distinguishing between rationality in terms of instruments and rationality as values.[13] There is instrumental rationality or as ends, he says, when the agent uses the appropriate instruments to achieve his ends, according to your intentions, forecasts, and calculations; there is rationality regarding values when the adequacy of that conduct and of those ends corresponds to a transcendent purpose. At this point we can understand that for a constitutional system, what is transcendent is what interests the community, not the holders of the organs of power.

By understanding rationality in this way, it is possible to deduce more easily what the rationalization of a power system means, not as a process to increase concentration and discretion in the exercise of power, but vice versa, to make it more in line with expectations. social. Therefore, rationalization can also be distinguished as a process of updating the mechanisms of traditional domination, or as a process to regulate the structure and functioning of the organs of power, and their relations with their recipients, the governed, according to the principles of freedom and equity. *Instrumental ra-*

[12] Mannheim, Karl, *Ideology and Utopia*, New York, HBJ Book, 1936, pp. 113 et seq.

[13] "La naturaleza de la acción social", *La acción social: ensayos metodológicos*, Barcelona, Península, 1984, pp. 38 et seq.

tionalization and *legitimizing rationalization* can occur in a complementary manner, while the former concerns the design of the mechanisms to make the latter possible; But the mere instrumental rationalization can lead to misunderstandings and damage to institutional life, such as those mentioned above.

However, another problem would remain: the attitude towards what can be considered rational and reasonable. In this case, as seen above, the solution keys are provided by Rawls. In this work I make frequent reference to the rationalization of power in presidential systems. With this expression I want to denote that p*olitical power must be exercised in a rational and reasonable manner*; that is, the objectives of power must be achieved with adequate instruments and decisions in a free and plural society, and that social equity must be among those objectives. In general terms, it can be understood that the *rationalization of power in a presidential constitutional system implies legitimacy for access to power, and plurality, proportionality, responsibility, cooperation, and equity in its exercise.*

The plurality indicates that the institutions benefit from the deliberation of their holders, without risk of coercion for the dissenting party, or exclusion for the minority. Proportionality implies that the concentration of power is attenuated as much as possible and that there is the greatest symmetry that allows the differentiated and effective functioning of the organs of power. Responsibility implies that no agent of power performs his functions without having to account for his acts or omissions, and without subjecting himself to the consequences of not complying, or preventing others from complying, with the assigned tasks. Cooperation means that power is not part of the patrimony of officials or parties, that institutions are public and that their operation concerns the general interest, so that any form of blocking or exclusion of other institutions, or of the different heads of the same institutions, affects that interest and damages the bases of social cooperation. Equity represents the central objective of the exercise of power, so that its decisions do not generate unjustified benefits or excessive burdens for any member of society.

The institutional design that contemplates these objectives will obey the criterion of rationalization of power. On the contrary, it will be regressive, in the sense of turning towards the rudimentary expressions of power, any design that eludes that advance, or that institutes models that affect the legitimacy regarding the origin of power, or limit its plural, proportional, responsible, cooperative, and equitable exercise.

V. Adjustments and Controls

Due to the action of the holders of the organs of power and the set of factors, positive and negative, present in a plural and free society, every constitutional system continually experiences tensions and distortions that force it to adopt corrective measures. The adjustment measures have two aspects: control and reform. The controls operate permanently; reforms are adopted when there are structural or functional problems whose solution involves reshaping the institutions. A well-designed system makes it possible to process most of the demands of the environment through the standard means of control, but even so, the most that is achieved is to extend the periods to carry out structural or functional changes through the arbitrations of institutional reform.

Both ways of adjusting are part of the rationalization of a constitutional system. When permanent corrections allow to channel environmental tensions and remedy errors or excesses of power, the system operates smoothly; but when expectations exceed the response capacity due to a restrictive or insufficient institutional design, it is recommended, and sometimes essential, to introduce changes that solve existing problems and, if possible, anticipate those that may arise as the horizon of democratic culture widens. Rationality, therefore, is also exposed to lapses. Even the rationality of values is subject to the changes that occur as the democratic and legal *culture consolidates and spreads*.[14]

The reform of a system allows the scope of the rationality of values to remain in force, when due to different circumstances the institutions that were conceived and adopted to achieve the collective objectives of coexistence in freedom and with equity, are insufficient in the face of unforeseen challenges. The globalization of the economy, for example, has generated adverse collateral effects on workers' rights and accentuated tendencies to concentrate wealth. There has also been an asymmetric relationship between world corporations and nation states, especially those with less political management capacity or less economic density. It is evident that the rationality of the values that serve to structure power must contribute to the adjustments that demand the preservation and achievement of the objectives of freedom and equity of a constitutional state. When referring to

[14] It is common to use the expression culture of legality. The reference to legal culture has a broader content because it goes beyond knowledge and observance of the law. This is the case of the democratic culture, which expands what, as the equivalent of the culture of legality, would be the electoral culture.

the rationalization of a constitutional system, therefore, reference is always made to its adequacy in accordance with the rationality of values.

VI. The Parliamentary System

Most of the institutions referred to in this study are of British origin. The first, obviously, consists of the participation of ministers in the parliamentary debate, which by its very nature was accompanied by the formulation of questions.

The right to dissolution is of *quasi* republican genesis, while the first to exercise it was Richard Cromwell, in January 1659.[15] Later, in 1715, shortly after the beginning of the reign of George I, elector of Hanover, the right of dissolution was formalized through the law identified as the Septennial Act. This regulation established that the duration of each legislature would be five years, although the monarch could dissolve Parliament at any time. As for the vote of no confidence, the first recorded case also occurred in Great Britain; corresponded to Lord North,[16] in 1782, on the defeat suffered in Yorktown, during the war of independence of the United States. As can be seen, the Parliament's right to censure ministers is subsequent, in time, to the monarch's right to dissolve Parliament. Confidence, expressed in a formal way, was mentioned in the Hansard Commons[17] on June 8, 1846. This does not mean, however, that it was not practiced well in advance.

In the United States, Hamilton addressed the issue of trust (although he alluded to the negative aspect of censorship) in the Senate's appointments of the president.[18] He defended the power of senatorial ratification before those who advocated unrestricted freedom of appointment by part of the president, arguing that the risk of making bad appointments did not strengthen the president and did weaken the Republic. Confidence was not, therefore, a matter alien to the considerations of a presidential system in the making.

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[15] Hallam, Henry, *The Constitutional History of England*, New York, Widdleton, 1872, t. II, pp. 258 et seq.

[16] A.V. Dicey explains that compliance with the vote of no-confidence corresponds to an act of "constitutional morality", and that if the criteria of the parliamentary majority are not shared, the dispute must be submitted to the voters, through dissolution Parliament and the call for a new election. *Introduction to the Study of the Law of the Constitution*, Indianapolis, Liberty Fund, 1982, pp. 299 et seq.

[17] Text in which an account of the British parliamentary debates is reported. The vote of confidence is then known as the vote of want of confidence.

[18] Hamilton, Alexander, *The Federalist*, no. 73.

Censorship, in its contemporary sense of adverse expression to the performance of a cabinet member, has been presented in the United States on two occasions. The first time occurred during the presidency of Abraham Lincoln. Between December 15 and 22, 1862, during the Civil War, the Republican senators made the decision to censor the Secretary of State, William Seward. The episode, which Carl Sandburg identifies as a "cabinet storm," is extensively outlined in the president's biography.[19] The tensions of the war and the president's apparent indecision to lean on his cabinet, led senators from his party to deliberate about possible remedies. They all agreed that the secretary of state was not worthy of his trust and agreed to let the president know. After a first interview in which Lincoln requested time to meditate, the president called a meeting with the presence of his cabinet and the senators.

Seward was not invited to the meeting, because confidentially, knowing that the senators would request his removal, he had anticipated the presentation of his resignation. The president asked his collaborators to freely express his views before the senators, about the way the cabinet works, and then asked the senators to express their disagreements. Six hours later, in the early morning of Saturday the 20th, the meeting concluded without definitive results, but the senators, despite having expressed their wishes that Seward be removed, warned that the president had made no commitment. Hours later, at his first morning meeting, the Secretary of the Treasury, Salmon P. Chase, also submitted his resignation. Sandburg mentions that this fact was recorded in the diary of a witness as of "intense satisfaction" for the president, who immediately exclaimed: *"This solves my problems."*

Indeed, Lincoln, on the verge of accepting Seward's resignation on the occasion of the senatorial demand, found that he either accepted both resignations, thus leaving the senators without a sympathizer in the cabinet (Chase), or he rejected both. He chose not to accept them, and the senators admitted that this was the best solution. The file was closed, not without one of the senators clarifying to the president that the actions of the legislators were based on the constitutional power to advise the president.[20]

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[19] Sandburg, Carl, *Abraham Lincoln. The War Years*, New York, Harcourt, 1939, t. I, pp. 636 et seq.

[20] The advice and consent formula, which appears in article IV section 2 of the United States Constitution, also comes from English parliamentary law. The isolated voices are already present in the Magna Carta and the expression, of customary origin, was incorporated into article 1, section 9 of the Habeas Corpus Act, of 1679. Its reception in the United States text indicates that originally the system parliamentarian was not so distant from the constituents, as is often assumed.

The second time an attempt was made to formulate a vote of no confidence in the United States was in 2007, against Attorney General Alberto Gonzales. On December 7, 2006, the attorney general removed eight federal prosecutors. Given the generalized versions that it was a decision adopted for political reasons, on May 24, 2007, a group of senators promoted a vote of no confidence against the attorney. The vote took place on June 11. Fifty-three senators voted for censorship and 38 against, but 60 votes were required for the Senate to adopt a non-binding recommendation addressed to the president of the United States. Everyone knew that censorship, as such, is not a current institution in the American constitutional system; however, lawmakers from both parties voted in favor of a critical position for a member of the presidential cabinet.

Before the vote, the attorney general was questioned in public by the senators and received accusations and opinions that inflicted severe political damage on him. Therefore, the failure of the action did not benefit the president or his attorney, nor to the Senate. The former he exhibited in a very negative sense, which had costs for the image of both. He let the Senate be seen as an institution without enough power to even recommend the removal of a challenged and discredited minister. What is significant about this experience is that the US political leadership sees the convenience of having more effective control instruments that limit presidential discretion and establish the responsibility of cabinet members.