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RESEARCH ARTICLE

A Tale of Tailings: The Origins of the Argentine Vice Presidency

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Throughout the independent history of Latin America, and especially during the decades after the Third Wave of democratization, the vice presidency has manifested itself as an institution of great political relevance. However, the knowledge about the origins of this office is startlingly scarce, and usually limited to the idea that it was modeled after the Philadelphia Constitution of 1787. There is actually much more to its genesis than that, and within that territory lie the keys to understand the current performance of this office. But that history has never been investigated thus far. This article aims to fill that gap in the literature for the Argentine case, enriching the scrawny reference to imitation with a fourfold argument based on the following elements: the growing trend towards receiving foreign influences through the period 1810–1853; the growing influence of the United States, which will be evident in the 1853 text and even more so in its reform of 1860; the little importance given to the presidential succession (both in Argentina and in the United States); the haste with which the Constitution of 1853 was written.

Keywords: Argentina; vice presidency; constitution; legal borrowing; succession; United States

A lo largo de la historia independiente de América Latina, y especialmente durante las décadas posteriores a la Tercera Ola de democratización, la vicepresidencia se ha manifestado como una institución de gran relevancia política. Sin embargo, el conocimiento acerca de su origen en asombrosamente escaso, y suele limitarse a la idea de que fue concebida como mera imitación de la Constitución de Filadelfia de 1787. Sin embargo, la génesis de este cargo es más compleja que la simple imitación, y en ese proceso yacen algunas claves para entender el desempeño actual de la vicepresidencia. Pero esa historia no ha sido debidamente investigada hasta ahora. Este artículo pretende llenar ese vacío en la literatura para el caso argentino, enriqueciendo la escuálida referencia a la imitación con un argumento basado en los siguientes cuatro elementos: la creciente tendencia a recibir influencias extranjeras durante el período 1810–1853; la creciente influencia de Estados Unidos, que se hará patente en el texto de 1853 y más aún en la reforma de 1860; la escasa importancia concedida a la sucesión presidencial (tanto en Argentina como en Estados Unidos); la prisa con que se redactó la Constitución de 1853.

Palabras clave: Argentina; vicepresidencia; constitución; préstamo legal; sucesión; Estados Unidos

1. Introduction

Since Argentina's return to democracy in 1983, the vice presidency has been the protagonist of increasingly frequent and intense political conflicts. Through these conflicts, it has become a source of instability for the Executive. In other words, it has operated in a sense exactly opposite to that for which it was conceived—the guarantee of government stability. Originally the vice presidency was designed to remain in the shadows while the president occupies his position, and to ensure the stability and continuity of the Executive if the incumbent leaves it. On the contrary, the vice presidents of the new democracy have played roles of considerable prominence alongside the presidents, and have also failed too often to guarantee the stability and continuity of the government in the absence of the incumbents. To name only four examples, that was the case of Víctor Martínez, vice president with Raúl Alfonsín, who resigned along with the latter; of Carlos Álvarez, vice president with Fernando de la Rúa, who had resigned one year before the president did so too, leaving the vice presidency vacant; of Julio Cobos, who spent most of his period as vice president of Cristina Fernández in open conflict with the president, certainly not contributing any stability to the Executive; and of the very Cristina Fernández, who nominated herself as vice presidential candidate and appointed Alberto Fernández as running mate, turning the custom

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upside down, thus calling into question the power balance within the Executive and its stability.

This radical dissociation between the formal objectives of the vice presidency and its actual performance reveals the need to better understand the foundations of this institution. That is, to investigate how it was conceived, what criteria guided the framers of the constitution to create it, what debates arose around its design; ultimately, what is its origin. This is a startling gap in the academic literature, taking into account the aforementioned role played by the vice presidency during the last almost 40 years (1983–2021).[1]

The present article, therefore, aims to elucidate the origin of the Argentine vice presidency. This institution has remained present through the various constitutional amendments adopted in the country, with few and brief exceptions. More specifically, the vice presidency appears in the 1853 Constitution in terms that are practically identical to those it presents today. Hence, what this article will look for are the reasons that led to the inclusion of this succession figure in the 1853 text.

In this sense, it should be noted that the appearance of the vice presidency in that Constitution was as surprising as it was innovative: there was no precedent of vice presidency in previous Argentine institutional history since 1810 (year of the establishment of the first national government). This article will briefly review that preconstitutional history to account for the various institutional designs adopted between 1810 and 1853 and, in this way, highlight the novel nature of the vice presidential institute of 1853. However, the main objective will be to unravel the reasons that led to the incorporation of the vice presidency. And in this sense, it is worth advancing the four elements that will be considered as determining factors to explain this innovation:

1. The growing trend towards receiving foreign influences through the period 1810–1853
2. The growing influence of the United States, which will be evident in 1853 and even more so in 1860
3. The little importance given to the presidential succession (both in Argentina and in its constitutional model, the United States)
4. The rush with which the Constitution of 1853 was written

The study will be arranged as follows. In the first place, a short theoretical introduction will present the issue of legal—or constitutional—borrowing, that is, the mechanism by which countries take foreign, previously existing materials when framing their own constitutions. Secondly, the origins of the American vice presidency will be presented, in order to show how this institution was no more than the tailings of the debate about the electoral system. Next, the history of the succession of the Argentine Executive Power between 1810 and 1853 will be briefly presented. This history will show that the vice presidency incorporated in the Constitution of 1853 did not have any local antecedent; therefore, it can only be understood as a sheer imitation of a foreign model. Straightaway, the evolution of Argentine intellectuals between 1810 and 1853 will be addressed, from the rejection of any foreign influence to the opening to imitation of foreign models. The growing influence of the Philadelphia Constitution (1787) on Argentine constitutionalism throughout the same period will be discussed next (with a brief reference to the 1860 constitutional amendment, in which US influence reaches a paroxysm). Next, we will comment on the little importance given to the succession of the presidency, both in the United States and in the Argentine constitutional process. Finally, the last element that—according to this study—explains the incorporation of the vice presidency into the Argentine Constitution of 1853 will be briefly touched upon: the haste with which that Charter was prepared, and which led to some parts of the institutional design considered of little relevance to be incorporated practically without discussion. Based on all the elements studied, a series of conclusions regarding the origin of the vice presidency and its consequences in current Argentine politics will be proposed.

2. Constitutional borrowing vs. constitutional facts

The use of existing, foreign legal texts—including constitutions—as a model for shaping new charters has been a widespread practice throughout history, and so it is still today.[2] It is a mechanism that can take various specific forms, from imitation to copying, through borrowing and transplant. In some cases abundant information has come down to us about the degree and the way in which these practices have been used, while in other cases we have to reconstruct the history based on existing, and in some cases scarce, documents.

Despite the frequent resort to imitation throughout history, however, renowned voices have risen against this practice. Hegel, for example, claimed that constitutions cannot be copied (Miller 1997: 1488). In section 5.4 of this article, on the contrary, opinions favorable to the use of foreign sources are collected. From the analysis carried out here, it will be concluded that the universal statements in this regard are of little benefit, for three reasons: (1) because it is not the same to imitate than to copy than to borrow. The different mechanisms involve relevant nuances and lead to different results. (2) Because, as Sartori (1995) affirms, time is essential in politics: some institutional arrangements can be highly efficient in the short term but cease to be so in the medium or long term. (3) Because amendments can be applied to a copied institution based on real political experience, so that what is problematic is not the initial copy but later immobility.

This is an area that has received considerable attention since the 1970s. 'Legal transplants' have been widely studied, both within the same region and between different continents, and from a variety of perspectives, including the specific case of constitutional transplants (for reference see Watson 1974; Perju 2012; Horwitz 2003, among many others).

In the case of the Latin American states formed after independence from Spain, the literature in this regard is abundant,[3] although debates persist today about the

authentic sources on which the constituents in each country relied. One of the most common positions in this debate is that the main influence on Latin American constitutionalism came from the United States; and within this position are in turn a variety of optics, moving between the extremes of soft influence on one side, and blind copying on the other. Next we will see examples of all these varieties.

For the Argentine case, it is interesting to take two categories used by Rosenkrantz (2003): constitutional borrowing and constitutional facts. This author associates them, respectively, with two different uses of foreign legal material: authoritative and nonauthoritative use.

Authoritative refers to the use of models considered a source of authority. This is the case of the Constitution of Philadelphia in Argentina in the mid-nineteenth century: the North American text enjoyed immense prestige and both the principles it proclaimed and the institutional organization it projected were considered the most advanced and perfect of their time. This is true, at least, if we take the Constitution as a whole. But it may vary if we analyze each article, each office of the institutional scheme, separately. In fact, this article holds that the introduction of the vice presidency in Argentina is a nonauthoritative use of the Philadelphia charter, within an authoritative use of the American text at a larger scale, as a whole.

Nonauthoritative, on the other hand, refers to uses of foreign material based not on the authority of that material, but simply on its existence:

> reference to foreign constitutional law is not accompanied with the aspiration that it be adopted and enforced because of its inner authority. Nonauthoritative uses grant descriptive relevance to foreign law merely as "constitutional fact," that is, as data that inform us about someone else's constitutional experience (Rosenkrantz 2003: 286).

This article is based on two premises: first, that the introduction of the vice presidency in the North American Constitution of 1787 was not the result of an extensive debate about the succession of the Executive, the characteristics of the vice presidency as it had been proposed, and its political consequences. Rather, as will be explained later, it was the side effect of a debate about the electoral system during the drafting of the Philadelphia charter.

Second, that the incorporation of this position into the Argentine Constitution of 1853 was a paradigmatic case of nonauthoritative use of foreign material. It can be affirmed that the North American vice presidency was a 'constitutional fact,' that is, an institution existing in the United States and framed in the prestigious Constitution of that country, but not validated by legal arguments or by political practice. As Sarmiento proposed, 'U.S. constitutional law (…) must be followed even when one does not understand its reasoning' (Miller 1997: 1518).

The combination of both premises—an institution born in the US practically as tailings of other parts of the constituent process, and the nonauthoritative importation of that institution into Argentina without prior debate—produces a disturbing result for the Argentine institutional system. This result has been complicated by an extension of the import mechanism: the lack of later reforms based on practice. That is, while the United States introduced several amendments to the design of the vice presidency throughout its history, Argentina practically maintains its original configuration.

3. The vice presidency in the US Constitution: tailings of the electoral system

The following summary of the gestation of the vice presidency in the United States aims to highlight two ideas: first, that—as would happen in Argentina half a century later—the succession of the president did not constitute for the members of the Constituent Convention a matter of first order of importance; second, that the vice presidency was born as tailings of the discussions about the electoral system.

The draft of the Committee of Detail (the committee established by the Constitutional Convention to prepare a text reflecting the agreements reached by the Convention) proposed the same succession mechanism as the Argentine constitutional project of 1826: in the event of a possible presidential vacancy, the President of the Senate would assume the powers and obligations of the Chief Executive until another incumbent is elected (Schlesinger 1974: 488).

However, the electoral college system granted each member one vote. Since the number of electors per state was determined according to its population, and since in those times loyalty to the elector's state was very intense, it was highly probable that each elector would cast his vote for the candidate of his own origin. In such a case, there would be a tie between the most populous states and an electoral paralysis that would force the election of the president by the Congress.

Consequently, it was agreed to grant each elector two votes, being prohibited that both were for the same candidate. In this way, even if the first vote of each elector went to the candidate of his own State, a second vote remained that would make a difference and allow a definition. However, the US constituents soon realized that voters, in order to favor their home state, would spoil the second vote, awarding it to a candidate with no real chance of winning the presidency.

The solution to this difficulty was for that second vote to go to elect a different position: the vice president. Thus, each elector cast two votes. Of all the candidates running for the presidency, the one who obtained the highest number of votes won the first magistracy, and the one who obtained the second highest number of votes was appointed vice president (Berns 2004).

Yet another idea emerges from the analysis of other key sources: that the vice presidency, its design, the possible consequences of its incorporation, received minimal attention both during the constitutional process (see, for example, Hamilton, Jay & Madison 2001) and in the most prestigious analyses carried out a posteriori (like the classics of Story 1833 or Paschal 1868).

4. A brief history of succession to power in the United Provinces of the River Plate

The first national governments, after the May 1810 revolution, were collegiate: the Primera Junta, the Junta Grande and the Triunviratos. Provisions for succession for a collegiate government are obviously different in nature from those for a one-man government. While in the latter the absence of the head of the Executive can lead to a situation of power vacuum, this is much more unlikely in a government made up of many people. In this case, the lack of one of them is more simply made up for by one of the others. It is true that collegiate government is not synonymous with horizontal government: the Junta that governed the United Provinces during 1810 and 1811 had a president, that is, a hierarchy. Even so, it can be assumed that, in the absence of the president, some of the members or secretaries could occupy his position, at least temporarily, to eliminate the risk of acephaly.

The Primera Junta (1810) had a written rule for the case of vacancy of a member: in the event of the death, absence or serious illness of any member, 'this Cabildo reserves the right to appoint the one to integrate it' (Ravignani 1937–1939, T. 1: 925). The Primera Junta became the Junta Grande in December 1810, by incorporating the representatives of the provinces of Mendoza, Santa Fe, Corrientes, Salta, Córdoba, Tucumán, Tarija, Catamarca and Jujuy. However, there is no evidence of any change in its organic functioning. In September 1811, the Junta Grande gave way to the Triumvirate. Although the number of members of the Executive was reduced, it was still a collegiate government, so the risk of acephaly remained low. It can be affirmed in this sense that, although the Provisional Statute of the government established the procedure for the replacement of a vacant triumvir, it was not yet a matter of maximum relevance.

For the Assembly of the year 1813, four constitution projects were drawn up. Two of them maintained the triumvirate, while the other two designed a one-man Executive. Of them, one (the "Articles of confederation and perpetual union between the provinces of Buenos Aires, Santa Fe, Corrientes, Paraguay, Banda Oriental del Uruguay, Córdoba, Tucumán. Etcetera") did not incorporate any provision for the case of the president's vacancy. The other project introduced the figure of the vice president for the first time (Demicheli 1955, T. 1: 177–199; Ravignani 1937–1939, T. 6.2: 613–637). In any case, it should be remembered that none of these projects came into force, so they are only drafts that were not truly part of Argentine institutional history.

In 1814 the first unipersonal Executive appeared in the United Provinces of the River Plate. This implied the need to seek new solutions, both because of the unipersonal nature (the disappearance of the President or Director would create a power vacuum) and because of the progressive consolidation of the republic, which invalidated the recourse to hereditary succession (it should be remembered that until well into the 1820s, the monarchical proposals for the River Plate remained latent).[4]

That first unipersonal Executive appears within the framework of a parliamentary system, where the General Assembly elected the Supreme Director—and his replacement in case of absence. In addition, there was a Council of State, whose president replaced the Supreme Director in case of illness or temporary impediment (Ravignani 1937–1939, T. 1: 84). In 1815, a new provisional Statute establishes that in case of vacancy of the Director, the Junta de Observación and the Cabildo would choose the person to replace him—either temporarily or permanently (Ravignani 1937–1939, T. 6.2: 640–641). In 1816 and 1817 new Statutes were approved that introduced small modifications in the mechanism of succession of the Supreme Director, but the general lines remained constant.

The Constitution drafted by the special Commission of the Congress of Tucumán (1816–1817) maintained the parliamentary system, but introduced a notable modification: in case of vacancy, the Supreme Director would be replaced by the President of the Senate (Ravignani 1937–1939, T. 6.2: 700–701). This mechanism was incorporated into the 1819 Constitution of the United Provinces in South America (Ravignani 1937–1939, T. 6.2: 716–717), which was rejected by the littoral provinces due to its markedly unitary character. And it was incorporated again in the Constitution of 1826 (Ravignani 1937–1939, T. 3: 1050).

Between the Constitution of 1826 and that of 1853 there are two founding texts of Argentine constitutionalism: the Federal Pact of 1831 and the Agreement of San Nicolás de los Arroyos. These are general union agreements between the provinces, which do not include details on the specific configuration of each organ of the State—among them, the Executive Power and its succession. The Federal Pact constitutes an agreement between provinces by which the signatory parties pledge their mutual aid in various areas, but a supra-provincial government is not instituted. The Agreement of San Nicolás introduces the figure of the Provisional Director of the Argentine Confederation as the common Executive of the provinces, but it is still far from being a proto-constitution that even briefly regulates the Executive Power and its succession. Article 12 indicates that once the Constitution is approved, a Constitutional President of the Republic will be appointed. But there is no reference whatsoever about the origin of this figure of the President (instead of the Supreme Director existing at the time), nor are other clauses related to the Executive or its succession included.

As has been seen, the period 1810–1853 witnessed a great variety of institutional designs in the United Provinces of the River Plate. However, the vice presidency—as it would appear in the Constitution of 1853—was not part of any of them. Therefore, this look at history places us before the uncertainty about the sudden incorporation of the vice presidency in the 1853 text. The following sections will be dedicated to unraveling it.

5. The sudden incorporation of the vice presidency in 1853

As has been advanced in the Introduction, this research proposes that the incorporation of the vice presidency in the Constitution of 1853 can be explained through four factors, which will be developed in the following four

sections. However, before doing so, we must prevent—following Adelman (2007: 87)—the tendency to search for an internal logic within the Argentine—or even the Latin American—constitutional tradition; the tendency to search for a coherence that better fits theory than practice. The idea that there was an authentic national tradition that 'culminated in some kind of national synthesis' (idem) is wrong in general, and—as will be seen—is especially wrong if we try to apply it to the specific case of the vice presidency.

5.1 The growing trend towards receiving foreign influences (1810–1853)

It is natural that the movement of distancing of the River Plate viceroyalty from Spain, which in 1810 gave rise to the first local government and in 1816 to the declaration of independence, implied the exaltation of the own, American values and institutions—in contrast to the Spanish ones. In other words, the reaction to Spanish domination was the rejection of the institutional influence of that country, slightly tempered only by the appearance in 1812 of a liberal Spanish constitution (that of Cádiz), which in many aspects was close to the ideals behind the independence process. And that movement implied, if not the rejection of just any foreign influence, the search for local institutional solutions, adjusted to the River Plate's own unique values.

On the other hand, that trend towards searching for the autochthonous values and political forms intermingled with a striking historial fact: the birth of two brand new political bodies just three decades before, such as the United States and the French Republic. Doubtlessly, those two regimes were born from the fight against circumstances assimilable to those of the viceroyalty (this being especially clear in the case of the United States), and they incorporated both sets of rights and freedoms, and institutional designs, that could not be overlooked by the River Plate framers. All in all, by 1810 the two trends coexisted—the rejection of foreign influences and the will to use prestigious foreign models as sources. The process that can be seen through the next 45 years, until the sanction of the 1853 Constitution, is the gradual fade-out of the first one and the intensification of the latter. And it can be seen both in the legislation passed during those years, as will be shown in the next section, and in the writings of the leading intellectual elites.

As for the latter, the turn is very clear. During the years after 1810, a romantic-nationalist movement took shape, which culminated in the Generation of '37. This group includes some of the fathers of the Constitution of 1853, such as Juan María Gutiérrez and Juan Bautista Alberdi. This generation gave birth to a movement of exaltation of patriotic values and nationalist ideas. Exponents of all this are names as representative of those years as the Salón Literario, the Young Argentine Generation or the Asociación de Mayo (Adelman 2007: 89).

To illustrate how the above statement applied to constitutional matters, we can take the following words from Alberdi, who states that 'the principles may be general and may not vary; but the forms are "national and must vary" (…) when we cease plagiarizing, we abdicate the impossible and return to the natural, to ours, to the most opportune' (Adelman 2007: 91). It is clear that his romantic ideas drove him during the 1830s to 'reject legal borrowing' (Adelman 2007: 94).

However, in the 1840s Alberdi travels to Europe. His trip makes him abandon his romantic, nationalistic, anti-European and anti-legal borrowing ideas. It can be assumed that this turn was not exclusively Alberdi's, but of a large part of his generation, including those who participated in the drafting of the Constitution of 1853 and those who, without directly participating, influenced its spirit: 'The vision expounded by Juan Bautista Alberdi in 1852 became the guiding political philosophy of the Argentine political elite' (Miller 1997: 1491). More specifically, the openness to foreign influences by this sector of the Argentine intellectuals is crystal-clear in the following statement: 'The Generation of '37 sought inspiration in European and U.S. culture' (Miller 1997: 1501).

It is necessary to distinguish the penetration of foreign influences in different areas. To cite only three, we can mention culture in a broad sense (thought, art, customs), the dogmatic bases of the constitution (rights and freedoms) and the organic part of the charter (the regulation of State institutions). Now, it is only natural that the writings of the framers of the Constitution of 1853 and those of the intellectuals of the time do not indicate in detail to which of these—or other—areas they refer in each passage. Therefore, the extent of the foreign influence in a very specific area, like the vice presidency, is open to diverse interpretations.

In the narrower terrain of the Constitution, in the mid-nineteenth century there was a double motivation to imitate a foreign model: 'to establish legitimacy domestically but also to achieve recognition as legitimate international actors' (Benton 2012: 1098). Furthermore,

> 'a binding source of normative authority was needed in order to prevent the multiplicity of normative discourses that usually emerge in circumstances where no institution is yet able to provide authoritative interpretations of a constitutional text' (Rosenkrantz 2003: 273).

5.2 The growing influence of the United States

The trend described in the previous section was especially notable regarding the American influence. Since 1810, if not before, the Constitution of the United States was known in the River Plate region (Zorraquin Becu 1988). But, although known, towards the middle of the period studied here, the influence of the United States was still meager. Thus, Rosenkrantz (2003: 270) states that 'Argentina had two short-lived constitutions, of 1819 and 1826, not inspired by the U.S. Constitution.' However, during the second half of this period, that influence would grow rapidly and would lead towards 1852–1853 to the undebated copycat of entire articles of the American constitution into the Argentine one.

On the other hand, US constitutional thought was not the only foreign source for the framers of the 1853 text. Most scholars mention a number of constitutions that were taken into account in the River Plate debates, although there is

no consensus regarding the specific weight of each of them. Zimmermann (2014: 393), for instance, asserts: 'Alberdi, whose book Bases inspired much of the 1853 Argentine constitution (...) The Chilean Constitution of 1833 was the main source adopted by Alberdi to construct a strong national executive". Zorraquin Becu (1988), in turn, draws the following list of influences: (1) the U.S. Constitution of 1787; (2) Alberdi's *Bases*; (3) the Argentine Constitution of 1826; (4) the Federal Treaty of 1831; (5) the Agreement of San Nicolás de los Arroyos of 1852; (6) the Chilean Constitution of 1833. Rosenkrantz (2003) stresses out the relevance of the U.S. Constitution, and mentions also the Swiss precedent. Miller (1997: 1510–1511) reckons that two thirds of the Argentine text was taken from the U.S. Constitution via Alberdi, while with 'respect to a number of individual liberties, the 1853 Constitution looked to France's Declaration of the Rights of Man and Citizen of 1789.'

In any case, there are numerous reasons to accept that the Constitution of Philadelphia was of foremost relevance. In this sense, Zimmermann (2014: 386) argues that 'By the mid-nineteenth century, these tendencies had evolved into a widespread acceptance of American constitutionalism as a model to shape Argentine constitucional culture.' And goes even further, confronting the American, positive influence with the Spanish, backward bequest: 'the adoption of U.S. constitutionalism was taken by many as a panacea for the institutional ills bequeathed by the Hispanic colonial legacy' (Zimmermann 2014: 393). Rosenkrantz supports this claim: 'both [Sarmiento and Alberdi] endorsed the idea of breaking away from the Spanish tradition to adopt the institutions of the U.S.' (Rosenkrantz 2003: 272). If we pay attention to the vice presidency, it is doubtless that the source was the American text, given that such institution was not present in any other of those charters.

In fact, according to Miller (1997: 1512), 'the two key draftsmen at the [Constituent] Convention, Juan María Gutiérrez and José Benjamín Gorostiaga, were likewise indistinguishable from the liberals allied with Buenos Aires in their (...) fascination with the United States.' The same can be said of other influential characters of that time, like Justo José de Urquiza, who would be President of the Argentine Confederation just after the sanction of the Constitution (1854–1860), and who was eager 'to approximate the United States' model of government' (Miller 1997: 1513); and of Domingo Sarmiento, whose 'reliance on the North American model' is underscored by Adelman (2007: 106).

The strength acquired through these decades by the American model was such, that some scholars place it beyond the rational realm, into the field of belief: 'The U.S. Constitution is more than a source of new ideas, it is a talisman' (Miller 1997: 1518). In fact, the power of the American influence would continue to grow as the representatives of Buenos Aires joined the rest of the Confederation in order to ammend the Constitution. So states it Rosenkrantz (2003: 273), asserting that 'The goal of the provincial convention [of 1860] was to purge the 1853 Constitution of all the clauses that differed from the U.S. Constitution.'

The representatives of Buenos Aires in the assembly that reformed the Constitution in 1860 had the clear objective of bringing it closer to the North American text (Zorraquin Becu 1988). This was established by the Constitutional Examining Commission itself in its report, which recognized the Constitution of Philadelphia as the most perfect and applicable. For this reason, 'there would be as much presumption as ignorance in trying to innovate in matters of constitutional law, ignoring the lessons given by experience, the truths accepted by the conscience of the human race' (Ravignani 1937–1939, T. 5: 769). That trend would not change or stop after the sanctioning of the 1860 Constitution: 'the U.S. influence increased, not decreased, during the following three decades,' that is, between 1853 and 1880 (Miller 1997: 1490). The U.S. influence would begin to decline only in the late 1890s (Miller 1997).

5.3 The little importance given to the succession of the Executive (both in Argentina and in the United States)

As shown before, the history of the disregard towards the succession of the President can be traced back into the 1780s, when the American Constitution was drafted. And it can be recognized still today, as vice presidential studies receive surprisingly little attention from the academic community. In between, both succession in general and the vice presidency in particular were overlooked by the Argentine framers, by the writers of the greatly influential constitutional comments of the 19th century—i.e. Story and Paschal for the US, Sarmiento and Alberdi for Argentina, and we could also mention the *anotaciones y concordancias* (notes and comparative comments) incorporated by the translators of the American texts to Spanish, like Nicolás Calvo or Juana Manso (Zimmermann 2014), as well as by scholars within modern political science and constitutional law.

In fact, when the influence of the American constitution on the Argentine one is analyzed still today, the focus is set on the Executive Power (bewilderingly excluding the vice president), the balance of forces between unitary and federal forces, the bi-cameral character of the Legislative Power and the capacities of the Judicial Power (see, for example, Rosenkrantz 2003). The vice presidency is certainly not the only element of the constitutional scheme that is left out when that influence is studied. But still it is striking that the prominence of the vice presidency in numerous Latin American countries during the last decades has not pushed these limits strong enough to move them.

The Constituent Assembly of 1826 offers us an illustrative anecdote of the little importance given to the President's succession, as well as the improvised nature with which some decisions were made in this regard. In the session of February 6, 1826, there appears an Indication by Mateo Vidal, representative of the Banda Oriental, on the replacement of the Executive. Vidal expresses his concern about a possible acephalous Executive—and the consequent anarchy—, while the project that is being approved only foresees, in the event of an absence of the Executive Power, that the Congress will provide whatever

it deems appropriate. Vidal considers such foresight insufficient, especially when the country is in a state of war. Consequently, he proposes that the law clearly stipulate who is to replace the Executive if it becomes vacant. He is indifferent to whether it is a vice president or the executive function remains in the hands of the Congress and Ministers. Following this intervention, the President of the Assembly asks him to expose the exact text of the article that he wishes to incorporate, to which Vidal responds that he does not have it, since he only intended to draft it once his initiative was approved by the constituent body. Deputy Gómez intervenes to point out that the treatment of Vidal's motion does not seem urgent. Vidal insists on the need to incorporate the succession mechanism into the law that is being approved, and Deputy Agüero urges him to present a specific text for such an article. Obviously improvising, Vidal proposes: 'Due to absence, illness, death, or any other impediment of the President of the State, and in the meantime the Congress provides what is convenient, the Council of Ministers will replace him.' Gomez replies that the concept of illness is vague to him, and Agüero adds that not only is the text imprecise on various points, but it has also been presented without the slow reflection that the matter requires, and that in any case it is not an urgent problem; on the contrary, it can and should wait for Vidal to present a clearer and duly considered writing. Thus, the law of the permanent Executive Power is voted and approved without the addition proposed by Vidal (Ravignani 1937–1939, T. 2: 605–607).

5.4 The rush with which the Constitution of 1853 was written

Let us start straightforward with Adelman's words: 'On April 18, 1853 they issued their code to a Convention, which rushed to promulgate it in time to commemorate the revolution of May 25, 1810' (Adelman 2007: 103). More concisely, on April 18 and 19 the project presented by the Constitutional Affairs Commission is read in the Constituent Assembly. On April 20, before starting the specific discussion of each article, a debate intimately related to the question of haste is introduced: an extensive speech written by the Representative of Salta is read, in which the postponement of the Constitution is defended, arguing that the conditions are not met for a text to solidly constitute the nation and the State. Contrary to this opinion, the majority of the Assembly votes in favor of beginning the discussion of the articles and eventually the approval of the Charter with the greatest possible urgency (Ravignani 1937–1939, T.4: 466–488).

In order to better understand this, let us take into consideration the time span dedicated to the debate of the Constitution articles by the previous constituent assemblies.

On July 27 1818, a schedule is set for two weekly sessions to be exclusively dedicated to the debate of the new constitution. In fact, on July 31 the President of the Assembly solemnly announces the beginning of such debate, and the first articles are discussed. The 1819 Constitution was signed by the constituents on April 26 that year (Ravignani 1937–1939, T.1: 366–422). That is, the debate went on for a period of nine months. As for the 1826 Constitution, the discussion regarding the form of government to be introduced by the new charter started off in June (Ravignani 1937–1939, T.3: 21), and the Constitution was approved on December 24 (Ravignani 1937–1939, T.3: 1192). That is, it was discussed over six months.

Not only the 1853 Constitution was finished on time to commemorate the Revolution of May 25—it was approved and signed on May 1. That is, it took as short as 10 days to discuss its 107 articles. Taking this into account, it comes as no surprise that the debate over some of its sections was utterly short, not to say absent. Moreover, it seems reasonable to think that, if the time available for debates was limited, it was probably allocated according to some sort of proportionality based on the importance of each article discussed. Therefore, if—as shown in the previous section—the succession of the Executive Power, i.e. the vice presidency, was considered of slight importance, it is easy to understand that the article introducing this office was assigned no time at all for discussion (see Ravignani 1937–1939, T.3: 1050).

Conclusions

This article has shed light on the process through which the succession mechanism still in use today—the vice presidency—was incorporated into the Argentine constitution back in 1853. It has shown that such incorporation cannot be explained based on any previous, local institutional culture, but on the combination of four circumstances—(1) the growing openness of Argentine intellectuals and framers to foreign influences in general; (2) the ever-increasing prestige of the US as a political model; (3) the very scarce importance granted to succession by the Argentine framers, but not less so by the American founding fathers, by constitutional commentators in both countries, and still by political scientists and Constitutional Law scholars today; and (4) the short time available for the debate of the constitution project by the 1853 Assembly.

We can say with Rosenkrantz (2003: 292–293) that 'the use of foreign law'—in this case, for the incorporation of the vice presidency—hindered 'the implantation and development of a constitutional culture.' This argument acquires even greater foundation if one takes into consideration that the vice presidency is still in force in Argentina under conditions practically identical to those of 1853.

And it is worrying if two circumstances are observed. The first is that, while the United States introduced several amendments to its vice presidency throughout history, based on political experience and the changing needs of each historical context, Argentina did not do the same. In other words, it kept practically intact an institution (1) that had been born in the United States without a solid foundation, (2) that had been borrowed without due attention to the differences between the two countries, and (3) that was the origin of important political incidents since its appearance—and even more so in the recent past.

The second circumstance is precisely the quantity and severity of the political difficulties in which the vice presidency has been the protagonist (Sribman Mittelman 2019a describes many of them, although the list has continued

to grow considerably since that work was published). A modification of the vice presidency is undoubtedly necessary to limit the tortious use that can be made of it and redirect it towards the fulfillment of its main, genuine functions: the strengthening of the Executive and the guarantee of its stability and continuity in the event of the president's vacancy.

Domingo F. Sarmiento, in his *Comentarios* to the Argentine Constitution of 1853, stated that 'it would be monstrous, if not ridiculous, to pretend that the same ideas, expressed in the same words, for identical purposes, might produce different results or have different meanings in our constitution' (Sarmiento 1853: 9–10). The history of the Argentine vice presidency, studied in contrast to that of the United States, shows how wrong Sarmiento was: neither monstrous nor ridiculous—the same ideas, expressed in the same words, can give categorically different results. In fact, as Miller (1997: 1517) observes, 'Sarmiento's approach is entirely consistent with an excessively rational approach toward law, that views law as independent of society and able to operate to shape behavior regardless of the situation of the society in which it operates.'

Notes

[1] The existing literature on the vice presidency in Latin America is so scarce that it is possible to cite practically all the existing works: Linz (1988) and Linz and Valenzuela (1994), who touched upon this topic only tangentially while analyzing presidentialism in Latin America; Serrafero (1999; 2013; 2018), Sribman Mittelman (2011; 2015; 2019a; 2019b; 2021), Mieres (2012), Mieres and Pampín (2015), Bidegain (2017), Marsteintredet (2019), Marsteintredet and Uggla (2019), Pignataro and Taylor-Robinson (2019) and Uggla (2020).

[2] The Constitutions of Bolivia and Colombia are being thoroughly used as models by the Chilean Constitutional Assembly of 2021.

[3] See for instance Uribe Vargas (1985), Álvarez Lejarza (1958), Mariñas Otero (1965), Trigo (1958), or Mariñas Otero (1978).

[4] Simón Bolívar had proposed in 1826 a variant of the republic that included a president for life who chose his successor (Trigo 1958: 78–79). In any case, this model, in addition to being absolutely exceptional, never came into force.

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