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### The Three Branches and How They Rub

My subject is prompted by the milestone I just passed. A week ago I concluded four years of service as a federal appellate judge. Those four years followed on the heels of four and one half years as a federal bureaucrat and diplomat. These in turn succeeded four years in the Congress. I reasoned that if ever I could make useful comparisons, it is now or never . . . before a judicial glaze settles too deeply on my lenses.

I realize that to attempt to say anything which is at once fresh, sound, and useful about so large a part of our national life and so well documented may be ostentatious. These will be neither intimate memoirs of great events or personalities nor the disciplined comments of a political scientist. They will be simply my effort to answer the tough question: what have I learned about government in a baker's dozen of years in the three branches?

We begin with the obvious. For the trilogy of branches is one of the first articles of faith and fundamentals of government given every schoolboy and girl. And the roles played are so familiar that they lend themselves to any caricature; for example, the ornithological - the lawmaker a swallow of gossamer weight, covering the entire sky and riding every wind; the bureaucrat a heavy-hooded hawk perched atop his immobile, decaying stump awaiting his inevitable prey; and the judge an impassive owl converting into the impression of wisdom the fact that he can see clearly only half of the time.

While poking fun at the feds is one of our most durable national pastimes, it accomplishes only a momentary release of our frustrations. If we are to arrive at any useful questions, not to mention answers, we must dig deeper. I propose that we first identify the assumptions underlying our tripartite structure, then see how they are being served today, and ask whether they are still valid and sufficient.

The original rationale of checks and balances was both simplistic and negative. As Madison wrote in Federalist, No. 47: "The oracle who is always consulted and cited on this subject is Montesquieu. If he is not the author of this invaluable precept in the science of politics, he has the merit at least of displaying and recommending it most effectively to the attention of mankind." Implicit was the assumption that there were three discrete functions of government; that the prime objective was the counterbalancing of power through dispersion among three coequal branches, each of whose natural tendency would insure against encroachment by the others (Madison or Hamilton wrote in The Federalist No. 51 that "Ambition must be made to counteract ambition."); that all would balance if each was checked; and that balance - a passive, perhaps even static quality - was the sufficient goal. Implied also was the confidence that the members of each branch would have a knowledge of and respect for the boundaries of each domain.

Over eighteen decades have seen three distinct ways of life emerge, with disparate kinds of demands, rewards, resources, restraints, and weaknesses. The net result of all the pressures has been to weaken the basic assumption that the vocation of each branch is to assure the proper role of the others. The original neatness of trifurcation has long been blurred with each branch, to greater or lesser degree, performing all three functions. Sometimes this is necessary and proper, sometimes simply the result of abandonment or overreaching. In any event there is today at least as much need for checks and balances operating within or on each branch, as among the three.

Finally, the passive concept of balance no longer seems an all sufficient goal. Ideally, the adequate responsiveness of national government to the problems of the times demands a more positive interaction and cooperation between the branches than that of checking. This new quality - a leadership quality, or a quality that permits leadership - lies, or ought to lie, I think, in the Congress.

These are vast generalizations. To test them requires a feeling for contemporary life in the three branches. I propose the following scheme. What I would first like to do is to compare life in the several branches in terms of the demands on intellect, communication, and leadership; the threats in each branch to character, energy, and breadth of outlook; and the counterbalancing restraints of limitations on power, accountability, tradition, vocational pressures and security or its lack; and the adequacy of existing methods of evaluating performance. We shall then take a quick aerial survey of the three branches as institutions to see how they seem to be performing.\* Finally, on the basis of both overviews, I shall try to draw some conclusions about areas of weakness and make some suggestions. The latter are less important than the former. I shall be content if the aerial surveys succeed only in identifying the principal barrens hidden in the great forest. I begin autobiographically, having selected one fairly typical day in each branch.

On April 3, 1957 I was a Congressman. At 9 a.m., I attended a meeting of the Maine delegation in Senator Margaret Smith's office to meet with an official of the Maine Port Authority. One of the subjects was a breakwater for the lobstermen at Monhegan Island in my district. Since the breakwater would cost perhaps half a million dollars and would serve perhaps a dozen lobstermen, you can admire our courage. It has not yet been built. But I carried Monhegan Island in the next election by something like 20 to 14. At 10 a.m. I was on the Capitol steps having my picture taken with the Brewer High School band. At 10:30 I attended a meeting of our Foreign Affairs subcommittee to hear from an Assistant Secretary of State on some forgotten subject. At noon I answered a quorum call. I then dashed through the tunnel to the House radio studio to make radio tapes on small business and foreign aid. I lunched in the House Restaurant, gossiped with colleagues, and then voted against an amendment cutting \$50 million from an appropriation bill for water pollution control. We lost by 20 votes. I then attended a European subcommittee meeting to hear an official from the European bureau in the State Department. Back at the office, signing mail, I received a call from a small Maine shipyard concerning a contract on some trawlers it was reconditioning for use in Pakistan. In the evening, an old law school classmate, then the appointed Governor of Hawaii, dined with us. Hawaiian statehood was at last in sight. He had come to do what he could.

The day in capsule involved the following roles: member of a state delegation, committee member, voter on legislation, advocate for a constituent, and communicator. It was a day of dashing about, with much sitting, chatting, and listening in between the comings and goings. There was no period of sustained thought. Except for my continuing education and one day more of seniority, it was futile. But if we had had 19 more votes, my vote would have saved the water pollution control appropriation.

Another day - August 7, 1963. This day I was Deputy Administrator of A.I.D. It began at 8 with a call to Charlie Murphy, the Undersecretary of Agriculture. We were trying to coordinate

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\* I have spoken of the three branches, but two of these have developed offshoots which more often than not put their mother branches in deep shadow. The White House has, beginning with FDR, but more particularly under our last three Presidents, become a separate force of towering significance. And, through much of our history and particularly today, the Supreme Court has powers, qualities, and problems not shared by the rest of the judiciary. These two important institutions are, however, beyond my experience and the scope of this paper.

our efforts to supply emergency help to the earthquake victims in Skopje, Yugoslavia. Agriculture controlled dinars resulting from past grain shipments. At 8:30 I met with our Congressional liaison staff to prepare for the agency's hearings on the Hill. At 9 I attended Secretary Rusk's daily staff meeting - getting a dolorous summary of the world's crises. Then I trekked off to the Hill to see the Chairman of the House Foreign Affairs Committee. Back at the office I met briefly with four young people from Maine who were working in Washington that summer. Then a meeting on a new part of the Latin American aid program - Operation Los Ninos (children). Then a call - undoubtedly an unhappy one - from aid's chief foe on the Hill, Congressman Passman. After recovering from this I returned a call from Jim Webb, head of NASA - because he had something to do with the Skopje project. Then, perhaps as a result of this, I called Roswell Gilpatrick of the Defense Department, which had some prefabricated buildings in Germany which we wanted to fly to Skopje. Next call was from a Congressman who was trying to have us hire a professor friend of his. We never did. Then a call from Chuck Daley at the White House - probably about how much we would have to concede to Congressman Passman to get the aid appropriation through. This led to a conference with Fred Dutton, the Assistant Secretary of State for Congressional Affairs. Then Gilpatrick called back, I made several other calls, attended a few other conferences, and went home around 7:30 p.m.

In review, this was a far busier day than the earlier one. But the only progress visible was on the specific project of moving some relief aid to Skopje. A great deal of effort and attention had gone into dealing with Congress - but with absolutely no effect. In the meantime, if anyone was trying to improve the effectiveness of the agency, I was not that man.

Now the third day - a day of an appellate judge. This happened to be November 21, 1969 - the last day of my fourth year. From 8 to 9 I worked at my study at home, rephrasing parts of a final draft of an opinion. A short drive to the small society of my chambers - my secretary (who has travelled with me through the three branches) and my two law clerks. The morning's mail produced a draft opinion from a colleague which deserved my prompt review. Bailey had sent papers on a case which needed immediate reflection and a telephone call. Then down to the routine of chambers. I reviewed the final typescript of the opinion I had finished at home while a law clerk did a final cite check. The opinion had been challenging because it had given me the opportunity to discuss three cases which are often linked together to constitute a supposed doctrine. The two major opinions were written a dozen years apart, by the same Supreme Court Justice, with no reference to the former decision in the later case. This prompted me to ask whether they really addressed the same problem. To my satisfaction they did not. Now whether my analysis is helpful to bench or bar I cannot say, but at least anyone who blithely links the two in the future will have to go through a thought process. That done, I picked up the briefs in another case and started the process of absorbing it into my bones. This process is not a standard one. Sometimes it means immersing oneself in the factual record, reliving the trial. At other times it means following the scent of a legal doctrine to see how it arose, why, how far it reaches, and how, if at all, it applies in the case that lies on the desk. As I began to ferret around, going from brief to trial transcript to my shelves, I could hear my law clerks arguing at a high decibel count on an issue in a case one of them was working on.

The day ended, the only index of production being one opinion put in the mails. Any accomplishment? Only one case decided, if colleagues agree. Beyond that, has the law beyond the case been helped at all? Only time can tell. Unlike the other two days, there were no dashings around, no meetings, few calls. It was filled with uninterrupted reading, thinking, and writing.

When I say that this kind of day is fully as exciting as the other two, there are two

reactions by friends who inquire. The first is that I can't possibly mean it, that I must miss the excitement of being, as they say, is the mainstream. The second reaction is that if I really mean what I say, I was really miscast as a politician and have only recently found my true metier. Neither reaction is sound. Each branch has its rewards and its costs. While I relish most the independence of the official, once elected, and of the judge, I probably learned more about government as a bureaucrat. But enough of these personal comments. Their purpose is to lead into a comparison of those aspects of the three life styles which can help us identify where the machinery of national government is showing stress. We might label this an exercise in the new technology of thraustics - the use of brittle but otherwise highly desirable structural materials to make a product of minimum weight that will stand up under heavy use.

We first consider the intellectual demands made on a legislator, executive, and judge, and their ability or aptitude in responding to these demands. The demands on intellect can be further identified as those of range, depth, creativity, and staff resource. For a Senator or Congressman, the range of demand is extreme, compelling action on everything from animal husbandry to outer space. By the same token, he cannot bring depth of reflection to more than a few issues. His ability so to master a subject that can be creative is, under these circumstances, rare; few policies or programs - the Peace Corps is a recent exception - can be traced to the initiative of Congress. Because the horizon of issues is so wide, the intellectual resources on which the Congress must depend are all important. These resources are the staffs of the individual Senator or Congressman and the staffs of the committees, with certain supplements - notably the Library of Congress and the General Accounting Office. But the personal staffs are largely directed to constituent service and the committee staffs, whose appointment historically is the prerogative of the Chairman, are not uniformly distinguished. Nor do they usually draw effectively on the executive branch, on outside experts, or even on the General Accounting Office and Library of Congress. Rarely - the T.N.E.C. reports of 1940 are memorable in their isolation - are committee reports an outstanding contribution to any field.

By contrast, the executive branch has almost infinite resources, both in-house and by contract with academic institutions and other outside experts.

The judiciary is by far the thinnest in its resource reservoir. The dimensions are contained in two statistics: 530 active and retired judges and 538 law clerks. But, since the judiciary's approach to problems is via one discipline, this is not a serious matter. By compensation, the judiciary's enforced austerity helps it avoid the debilitating effects of Parkinson's Law.

How people respond to the demands of their vocation is not merely a matter of the intellectual resources at their disposal. There are also the vocational pressures working for or against their optimum performance. These might be called institutional checks and balances operating within or on each branch.

In Congress there is wider and looser dealing with people of all types and standards. The pressures of financing campaigns, dealing with interest groups, irregular hours, and long periods of strenuous activity interspersed with idle chatter present temptations which can be ethical, moral, or dietetic. That corruption, alcoholism, and flagrant philandering are so rare is a tribute to the stamina of one of the hardest groups of Americans. What are more serious - because less discernable and less punishable - are the temptations to lose energy, creativity, and idealism, to follow a rut, and to tend to one's parochial knitting, to be re-elected. Tradition is strongest and least vulnerable to change in this branch. Seniority, ancient rules, mores, and customs reign supreme. Ethical codes may be prescribed for judges and bureaucrats but they have slow sledding within the citadel on the Hill. The favorable judgment of one's peers - specifically, of

one's superiors, the Congressional barons ruling the committees - is conditioned not on one's ability or energy or creativity but on how well one adjusts to the club. The insecurity of the elected official plays into the hands of tradition, since the need to show concrete results for one's state or district requires one to be a suppliant to the barons for projects, grants, and contracts. By the time the young Senator or Congressman reaches a position where he has the power to lead, he is no longer young, may well have lost his zeal and energy, and has taken out many mortgages. All of the pressures and rewards push him toward parochialism, in an era when broad-gauged nationalism and cosmopolitanism are needed more than ever.

Of course there are countervailing forces at work. The most obvious are the press and the public. But two factors conspire to blunt outside evaluation. The first is historic - the difficulty of evaluating a legislator's work either in his committee work or on his voting record. The prolixity of voting opportunities on a single issue range from unrecorded voice and teller votes to roll call votes, on preliminary motions, on motions to amend, on motions to recommit, on final passage, and on a conference report. A legislator can, with literal accuracy, say to one group of constituents that he voted for a measure and to another group that he voted against the same measure.

There is a second difficulty of evaluation. Modern means of communication have enabled the legislator to swamp his constituents with newsletters, speeches, baby letters and books on infant care, silver anniversary letters, robotyped letters with simulated signature on any issue, graduation congratulations, questionnaires, radio tapes, TV strips, ad infinitum. While the executive agencies communicate to the public at large only by wooden press releases, and the courts generally not at all, the Congress is in communication up to its ears. This is part of its function, as a channel between people and government, but it does not necessarily aid discriminatory judgment about who is performing well and who is not.

The vocational hazard of the bureaucrat is that over time he loses his interest and initiative, becomes a time server, and does less and less for more and more. He may have high ability and rich experience and be rotting away in some deadend corridor. If he has developed personal relations with Congressmen and Senators, he is suspect by his colleagues. If he has so impressed the White House that he is elevated to a Schedule C position, he is a sitting duck when the other party seizes the Presidency; he has sacrificed his tenure and may find his formal resignation readily accepted. Even if he retains his civil service status, his job can be abolished or he can be transferred to Nome, Alaska. So he is tempted to play the game of conformity, which blends over time into the game of mediocrity. His goal all too often becomes retirement at the earliest possible age when, still in his forties, he can start a second career.

The story of Viet Nam is a case in point. It is a remarkable story of thousands of experts all through government, at home and abroad, who for years worked with monolithic loyalty to implement a policy until it fell apart at its seams. Townsend Hoopes describes the inability of even those at the top of the bureaucratic pyramid to voice their gathering uneasiness until Clark Clifford seized upon a new troop request to come to grips with the problem. There is no bureaucratic post of Devil's Advocate to test and retest underlying assumptions.

As to performance of more conventional tasks, however, bureaucracy is subject to considerable oversight. Each agency has its personnel evaluation systems under the watchful eye of the Civil Service Commission. The General Accounting Office has 2655 employees, almost half of them assigned to Defense Department activities, auditing on an increasingly broad basis. The Bureau of the Budget tries to maintain a watching brief on programs and their inter-agency coordination. Congressional committees, White House citizen advisory groups, and watchdogs

like Ralph Nader are constantly exercising oversight functions. Indeed, some agencies such as A.I.D. and O.E.O. have been examined and reshuffled to exhaustion.

The vocational hazards of the judge are more difficult for me to identify. Myopia may already have set in for me. The hazards most highly publicized in the past year are, I think, not real ones for most judges. Improper associations, activities, and financial interests are, I suspect, rare though eminently newsworthy when exposed. I suspect that more to be feared are intellectual arrogance based on a lifetime of work in a discipline or an unconscious closing of the mind to new principles or novel applications of old principles. Perhaps also there are some judges who find their work and restricted life boring. But it seems to me that the challenge of lawyers, the variety of cases, the stimulation of bright young law clerks, the necessity for written opinions, the omnipresence of review by a higher court, the sophisticated criticism of the law journals, the oversight of the professional bar, centers such as the Institute for Judicial Administration, the new Federal Judicial Center, the American Bar Foundation, the American Law Institute, and seminars for judges provide effective goals and standards of evaluation, if not guarantees against the hazards.

The federal judiciary (530) and the Congress (535) are identical in size. It might be thought that the democratic institution - the Congress - would be far more innovative and responsive to change than the judiciary, which is non-democratic. But a strong case can be made for the proposition that there is more effective evaluation of and pressure for reform on the judiciary than can be said of the other two branches.

Having looked at the three branches with respect to individual performance, let's fly quickly over the three branches as institutions. Where are the problems? Without pretending to be wholly fair or complete, we can compile a catalogue.

As to the Congress:

It has little time for its major business of legislating.

Its leadership, value system, pressures, insecurity all trend toward parochialism.

Its limited staff resources are more calculated to make it use its power to negate and restrict actions (e.g., the Hickenlooper Amendment, the investigation of foundations) rather than to develop positive initiatives.

While protesting the activism of the Supreme Court, its own failure to act in the areas of desegregation and apportionment forced the Court to enter and in effect legislate.

Its protective coloration, through aggressive use of all media, defies discriminating judgment.

As to the bureaucracy:

Its value system discourages innovation and encourages conformity.

It rewards empire building and skillful infighting.

Its multiplicity makes coordination difficult.

Its procedures are complex and rigid; appliance by business, individuals, state and local governments is onerous.

Its relations with citizens too often are marked by arrogance and arbitrariness.

Its size - some 2-1/2 million people - impedes management efficiency.

Its anonymity hides responsibility.

As to the judiciary:

It is not keeping pace with its increasing caseload. Backlog of pending cases in both the district and circuit courts are at an all time high. The median time

required to reach trial in a civil case is now 13 months. Over 5000 civil cases have been awaiting trial for more than 3 years.

Its management of dockets varies greatly; poor management inconveniences litigants, lawyers, and juries to the jeopardy of respect for the law.

Access to the courts by all is still a remote goal.

Explanation of complicated rulings or decisions is left to the press, with misunderstanding and lessened respect for the results.

Opinions are often too long, too turgid, too lacking in candor.

What can we make of all this? What do our aerial surveys show as areas needing and susceptible of improvement? Each branch stands always in need of better people - better in terms of competence, energy, breadth of outlook, innovative capacity. And each branch is always capable of institutional improvement. My judgment is impressionistic and perhaps clouded by my present occupation. Indeed, it is suspect because I rate the urgency of need for more adequate people and institutional change in inverse proportion to the remoteness of my participation in each branch.

My view of the federal judiciary is not that it is what it should or could be, but that there are many engines of change at work. Appointments could - my presence here is mute testimony - obviously be better. But it seems to me that the present system - which makes room for both political and professional judgments - is working passably well. In my travels about the country I have been uniformly impressed by the caliber of the federal district and circuit judges I have met. It is likely that, in the aftermath of the year of Justice Fortas and Judge Haynsworth, we shall see even closer attention to choosing judicial nominees. As for pressures to improve performance, I have already listed the many institutions at work. Beyond this, I am forced to say that the effective administration of justice often depends on the work of the other two branches: their policies and programs directed at reducing poverty, increasing educational and economic opportunity, eliminating segregation, improving law enforcement, providing adequate penal and rehabilitative institutions and programs.

The one suggestion I have is addressed to that part of the role of the judiciary that is almost universally ignored - communication. I think it is important that more than the lawyers know why a judge decides a case a certain way. Jury verdicts the public will accept without question, because juries are the public writ small. But a judge has two audiences - the professionals who understand him, and the public which more often than not misunderstands him. Apart from the Supreme Court, coverage of legal news is abysmal. Yet legal news today goes to the very fabric of the citizen's faith in his society. It is important that the faith not be unnecessarily eroded. I would therefore suggest that there be attached to every district court and circuit court complex a legally trained reporter who, working with the judges, can distill accurately into layman's language what was decided, and why.

The federal bureaucracy is what most people have in mind when they talk of the need for reform. My feeling is that the need is overstated - or at least what can reasonably be expected from such a large and diverse group performing so many different services. I see four large areas demanding institutionalized attention: policy, programs, personnel, and relations with the public. None of my suggestions contemplate radical change; all but one are in the realm of internal checks and balances.

In the area of policy, the need is to make room somehow, some place, for the devil's advocate function. I mentioned this in connection with our Viet Nam policy. It would apply to the oil import quota program if large oil reserves in northern Alaska and Canada prove

accessible. It would apply to highway programs as they begin to conflict with our desire for open space. It applies to weapon systems. Had the function been carried on in the past, it would have called into question our approach to welfare legislation at an earlier date. But the function of reassessing old assumptions, policies, and progress is not likely to be well done by a department having a vested interest. Given White House backing, it could be a permanent responsibility of the Bureau of the Budget.

Program execution also needs continual, rather than spasmodic, informed rather than casual, oversight. Present proposals in Congress contemplate enlarging the mandate to the General Accounting Office, beyond its auditing function, to include the evaluation of management in the executive branch. If this becomes reality, and if the GAO can develop the capacity to evaluate on a broader basis than required by financial cost-benefit analyses, this would at once enhance the intellectual resources of the Congress and subject the bureaucracy to continuing and intelligent oversight.

Beyond this the executive branch itself might do well to create and sustain its own permanent standing Hoover Commission on government organization. Old forms outlive their usefulness but seldom fade away; new forms of organization and procedure may well be called for to deal with new problems and new relationships with states, cities, and regional authorities. Such a standing commission would concern itself not only with organization but with program execution and personnel utilization and development. The various agencies differ markedly in their recruitment, training, and advancement of younger employees. Sometimes it takes a Ralph Nader to point a finger at a Federal Trade Commission to stimulate interest. The Civil Service Commission protects the rights of personnel, but there is need also to widen their opportunities. The proposed new governmental center for training hearing examiners and legal counsel is an example of the type of activity which could be encouraged - to the advantage of the bureaucrat and the public alike.

Finally, the bureaucracy needs to find ways to deal more effectively with the public. Failure to deal adequately is a double weakness, for not only is confidence in the administrative apparatus eroded, but unmanageable burdens are shifted to the tribunes of the people, the Congress. One suggestion emanating from the bureaucracy itself is creation of the office of people's counsel. This, I take it, is a variation of the Ombudsman ideas. This idea has been around for so long a time that I suspect that it responds to a need felt deeply by many, for different reasons. I am beginning to think that a national general purpose service agency, with branches to cover regions, offices to cover communities, agents on Capitol Hill and in the departments and agencies of government might well serve both to reduce that part of a legislator's job which so handicaps him and his staff from facing the problems of the nation and to temper the rigidities of bureaucratic procedure.

What I have said about the bureaucracy is marginal. Perhaps this is a confession of failure to grapple with such an immense aggregation of people and programs. In any event what I have to say about the Congress is not marginal. Here, it seems to me, is where crisis lies in our system. The state of the Congress today is leagues removed from what the Founding Fathers contemplated. Here is what Madison wrote in *The Federalist* No. 48:

"The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex. . . . But in a representative republic, where the executive magistracy is carefully limited, both in the extent and the duration of its power; and where the legislative power is exercised by an assembly, which is inspired, by a supposed influence over the



people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which activate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions."  
(Modern Library, pp. 322-3.)

"Enterprising ambition" describes everything that Congress lacks. Its power to negate, to cut programs, to restrict the executive, to veto appointments, to terminate foundations in forty years is supreme. But power that is creative, innovative, constructive, positive, responsive, cosmopolitan, and timely - this kind of power is not exercised. The two other branches cannot compensate for this deficiency, despite all of the ingenuity of the bureaucrats and all of the boldness of the Court.

The need shares the magnitude of the problem. That need is twofold: a system for improving on evaluation and a crystallized, concrete national movement for reform.

One of the lethal ironies of the times is that the crucible of democratic elections is not a completely effective evaluator. Elections work effectively where issues are sharply drawn - but this happens all too seldom in contemporary politics. It is nevertheless a fact that the ordeal of a campaign does not assure that the district, or state, elects a person whom the nation needs. What I propose is a new institution whose business it is to report to whoever will read the facts about the performance of a Senator or Congressman, about the effectiveness of committees, and about the Congress as a whole. It is time that editorial writers, reporters, columnists, the League of Women Voters, and the public at large had some help in separating the wheat of performance on the grist issues from the chaff of advocacy for provincial measures. Ideally, this would be an autonomous, federally funded but independent agency like the Federal Reserve Bank, with a broadly representative and rotating board, representing both parties, the media, universities, technical experts, and the general public. In the absence of any popular demand, the question "Who will bell the cat" may have to be resolved by a consortium of foundations (if they dare), industries, labor unions and farm organizations, and individuals who care enough about Congress and the country to help save them.

Evaluation and communication of more pertinent information are only the beginning. If we are to save a national legislature dedicated to broad national and even international goals, operating from a depth of information and professional advice, striving to find new directions and better methods, and working under rules that allow issues to come to a timely vote, there must be an aroused public in every constituency. Somehow, institutional reform of what is at once our most democratic and oligarchical institution must become a national cause. Americans traditionally do not become excited over institutions. Or at least they haven't since the days of Andrew Jackson and a national bank. But all depends on this and I would think that, once Viet Nam leaves the center of the stage, the youth of America might deploy their very considerable forces to this end. Think what it would mean if every candidate for the Senate and the House had to take a position on the institutional reform of Congress. This would be the first time in our history when the people got into the inner sanctum of the Club.

I close my impressionistic survey with a quotation from John Gardner in a speech to the American Bar Association:

"At this critical juncture in our history, we can less and less afford to limit ourselves to routine repair of breakdowns in our institutions. More and more, we must undertake the imaginative redesign of institutions. We see in all clarity that

many of our institutions are ill-fitted to cope with the tasks that the modern world presses on them. Yet we find those institutions apparently incapable of change, even in the face of savage attacks by those who would not hesitate to destroy them altogether. . . . "

These words, applicable to our churches, universities, professions, are nowhere quite so applicable as to the institution envisaged as *primus inter pares* by our Founding Fathers - the Congress.