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THOMAS E. MANN

Dave,

Thanks for the book and syllabus. Here's a copy of Fenno's Time speech. Now that I see it on paper, it seems there's little disagreement between you. Best, Tom

If, as Ralph Nader says, Congress is "the Broken Branch," How come we love our Congressmen So Much?

by Richard F. Fenno

Off and on during the past two years, I accompanied ten members of the House of Representatives as they traveled around in their home districts. In every one of those districts I heard a common theme, one that I had not expected. Invariably, the Representative I was with—young or old, liberal or conservative, Northerner, Southerner, Eastener, or Westerner, Democrat or Republican—was described as "the best Congressman in the United States." Having heard it so often, I now accept the description as fact. I am even prepared to believe the same thing (though I cannot claim to have heard it with my own ears) of the members of the Senate. Each of our 435 Representatives and 100 Senators is, indeed, "the best Congressman in the United States." Which is to say that each enjoys a great deal of support and approbation among his or her constituents. Judging by the election returns, this isn't much of an exaggeration. In the recent election, 96% of all House incumbents who ran were re-elected; and 85% of all Senate incumbents who ran were re-elected. These convincing figures are close to the average re-election rates of incumbents for the past ten elections. We do, it appears, love our Congressmen.

On the other hand, it seems equally clear that we do not love our Congress. Louis Harris reported in 1970 that only one-quarter of the electorate gave Congress a positive rating on its job performance—while nearly two-thirds expressed themselves negatively on the subject. And we would not be here tonight if there were not considerable concern—dramatized recently by the critical Nader project—for the performance of Congress as an institution. On the evidence, we seem to approve of our legislators a good deal more than we do our Legislature. And therein hangs something of a puzzle. If our Congressmen are so good, how can our Congress be so bad? If it is the individuals that make up the institution, why should there be such a disparity in our judgments? What follows are a few reflections on this puzzle.

A first answer is that we apply different standards of judgment, those that we apply to the individual being less demanding than those we apply to the institution. For the individual, our standard is one of representativeness—of personal style and policy views. Stylistically, we ask that our legislator display a sense of identity with us so that we, in turn, can identify with him or her—via personal visits to the district, concern for local projects and individual "cases" and media contact of all sorts, for example. On the policy side, we ask only that his general policy stance does not get too frequently out of line with ours. And, if he should become a national leader in some policy area of interest to us, so much the better. These standards are admittedly vague. But because they are locally defined and locally applied, they are consistent and manageable enough so that legislators can devise rules of thumb to meet them. What is more, by their performance they help shape the standards, thereby making them easier to meet. Thus they win constituent recognition as "the best in the United States." And thus they establish the core relationship for a representative democracy.

For the institution, however, our standards emphasize efforts to solve national problems—a far less tractable task than the one we (and he) set for the individual. Given the inevitable existence of unsolved problems, we are destined to be unhappy with Congressional performance. The individual legislator knows when he has met our standards of representativeness; he is re-elected. But no such definitive measure of legislative success exists. And, precisely because Congress is the most familiar and most human of our national institutions, lacking the distant majesty of the presidency and the Court, it is the easy and natural target of our criticism. We have met our problem solvers, and they are us.

It's more complicated than this...

Furthermore, such standards as we do use for judging the institutional performance of Congress are applied inconsistently. In 1963, when public dissatisfaction was as great as in 1970, Congress was criticized for being obstructionist, dilatory and insufficiently cooperative with regard to the Kennedy programs. Two years later, Congress got its highest performance rating of the decade when it cooperated completely

with the Executive in rushing the Great Society program into law. But by the late 1960s and early 1970s the standard of judgment had changed radically—from cooperation to counterbalance in Congressional relations with the Executive. Whereas, in 1963, Harris had found "little in the way of public response to the time-honored claim that the Legislative Branch is . . . the guardian against excessive Executive power," by 1968 he found that three-quarters of the electorate wanted Congress to act as the watchdog of the Executive and not to cooperate so readily with it. The easy passage of the Tonkin Resolution reflects the cooperative standards set in the earlier period; its repeal reflects the counterbalancing standards of the recent period. Today we are concerned about Ralph Nader's "broken branch" which, we hear, has lost—and must reclaim from the Executive—its prerogatives in areas such as war making and spending control. To some degree, then, our judgments on Congress are negative because we change our minds frequently concerning the kind of Congress we want. A Congress whose main job is to cooperate with the Executive would look quite different from one whose main job is to counterbalance the Executive.

Beneath the differences in our standards of judgment, however, lies a deeper dynamic of the political system. Senators and Representatives, for their own reasons, spend a good deal more of their time and energy polishing and worrying about their individual performance than they do working at the institution's performance. Though it is, of course, true that their individual activity is related to institutional activity, their first-order concerns are individual, not institutional. Foremost is their desire for re-election. Most members of Congress like their job, want to keep it, and know that there are people back home who want to take it away from them. So they work long and hard at winning re-election. Even those who are safest want election margins large enough to discourage opposition back home and/or to help them float further political ambitions. No matter what other personal goals Representatives and Senators wish to accomplish—increased influence in Washington and helping to make good public policy are the most common—re-election is a necessary means to those ends.

We cannot criticize these priorities—not in a representative system. If we believe the representative should mirror constituency opinion, we must acknowledge that it requires considerable effort for him to find out what should be mirrored. If we believe a representative should be free to vote his judgment, he will have to cultivate his constituents assiduously before they will trust him with such freedom. Either way we will look favorably on his efforts. We come to love our legislators, in the *second* place, because they so ardently sue for our affections.

As a courtship technique, moreover, they re-enforce our unfavorable judgments about the institution. Every Representative with whom I traveled criticized the Congress and portrayed himself, by contrast, as a fighter against its manifest evils. Members run *for* Congress by running *against* Congress. They refurbish their individual reputations as "the best Congressman in the United States" by attacking the collective reputation of the Congress of the United States. Small wonder the voters feel so much more warmly disposed and so much less fickle toward the individuals than toward the institution.

One case in point: the House decision to grant President Nixon a spending ceiling plus authority to cut previously appropriated funds to maintain that ceiling. One-half the Representatives I was with blasted the House for being so spineless that it gave away its power of the purse to the President. The other half blasted the House for being so spineless in exercising its power of the purse that the President had been forced to act. Both groups spoke to supportive audiences; and each man enhanced his individual reputation by attacking the institution. Only by raising both questions, however, could one see the whole picture. Once the President forced the issue, how come the House didn't stand up to him and protect its crucial institutional power over the purse strings? On the other hand, if economic experts agreed that a spending ceiling was called for, how

come the House didn't enact it and make the necessary budget cuts in the first place? The answer the first question lies in the proximity of their re-election battles, which re-enforced the tendency of all Representatives to think in individualistic rather than institutional terms. The answer to the second question lies in the total absence of institutional machinery whereby the House (or, indeed, the Congress) can make overall spending decisions.

Mention of the institutional mechanisms of Congress leads us to a *third* explanation for our prevailing pattern of judgments. When members of Congress think institutionally—as, of course they must—they think in terms of a structure that will be most congenial to the pursuit of their individual concerns—for re-election, for influence or for policy. Since each individual has been independently designated "the best in the United States," each has an equal status and an equal claim to influence within the structure. For these reasons, the members naturally think in terms of a very fragmented, decentralized institution, providing a maximum of opportunity for individual performance, individual influence and individual credit.

The 100-member Senate more completely fits this description than the 435-member House. The smaller body permits a more freewheeling and creative individualism. But both chambers tend strongly in this direction, and Representatives as well as Senators chafe against centralizing mechanisms. Neither body is organized in hierarchical—or even in well-coordinated—patterns of decision-making. Agreements are reached by some fairly subtle forms of mutual adjustment—by negotiation, bargaining and compromise. And interpersonal relations—of respect, of confidence, trust—are crucial building blocks. The members of Congress, in pursuit of their individual desires, have thus created an institution that is internally quite complex. Its structure and processes are, therefore, very difficult to grasp from the outside.

In order to play out some aspects of the original puzzle, however, we must make the effort. And the committee system, the epitome of fragmentation and decentralization, is a good place to start. The performance of Congress as an institution is very largely the performance of its committees. The Nader project's "broken branch" description is mostly a committee-centered description because that is where the countervailing combination of congressional expertise and political skill resides. To strengthen Congress means strengthening its committees. To love Congress means loving its committees. Certainly when we have not loved our Congress, we have heaped our displeasure upon its committees. The major legislative reorganizations, of 1946 and 1970, were committee-centered reforms—centering on committee jurisdictions, committee democracy and committee staff support. Other continuing criticisms—of the seniority rule for selecting committee chairmen, for example—have centered on the committees.

Like Congress as a whole, committees must be understood first in terms of what they do for the individual member. To begin with, committees are relatively more important to the individual House member than to the individual Senator. The Representative's career inside Congress is very closely tied to his committee. For the only way such a large body can function is to divide into highly specialized and independent committees. Policy-making activity funnels through these committees; so does the legislative activity and influence of the individual legislator. While the Senate has a set of committees paralleling those of the House, a committee assignment is nowhere near as constraining for the career of the individual Senator. The Senate is more loosely organized, Senators sit on many more committees and subcommittees than Representatives, and they have easy access to the work of committees of which they are not members. Senators, too, can command and utilize national publicity to gain influence beyond the confines of their committee. Whereas House committees act as funnels for individual activity, Senate committees act as facilitators of individual activity. The difference in functions is considerable—which is why committee chairmen are a good deal

more important in the House than in the Senate and why the first modifications of the seniority rule should have come in the House rather than the Senate. My examples will come from the House.

Given the great importance of his committee to the career of the House member, it follows that we will want to know how each committee can affect such careers. Viewed this way, House committees do not all look the same. Committees that guard such fundamental House prerogatives as taxing and spending–like Ways and Means and Appropriations–provide a special opportunity for their members to increase their influence in Washington. Other committees, which deal with currently controversial policy areas–like Education and Labor and Foreign Affairs–provide a special opportunity for their members to pursue their national-policy concerns. Still other committees, which deal with locally important subjects–like Interior and Agriculture–provide a special opportunity for their members to pursue their re-election concerns. House members will be attracted to these various committees for quite different personal reasons. And, we must assume, committees will perform quite differently in accordance with the kind of career assistance they provide for their members.

Where a committee's members are especially interested in pyramiding their individual influence, they will act so as to maintain the influence of their committee (and, hence, their personal influence) within the House. They will adopt procedures that enhance the operating independence of the committee. They will work hard to remain relatively independent of the Executive Branch. And they will try to underpin that independence with such resources as specialized expertise, internal cohesion and the respect of their House colleagues. Ways and Means and Appropriations are committees of this sort. By contrast, where a committee's members are especially interested in getting in on nationally controversial policy action, they will not be much concerned about the independent influence of their committee. They will want to ally themselves closely with any and all groups outside the committee who share their policy views. They want to help enact what they individually regard as good public policy; and if that means ratifying policies shaped elsewhere–in the Executive Branch particularly–so be it. And, since their institutional independence is not a value for them, they make no special effort to acquire such underpinnings as expertise, cohesion or chamber respect. Education and Labor and Foreign Affairs are committees of this sort.

These two types of committees display quite different strengths in their performance. Those of the first type are especially influential. Ways and Means probably makes a greater independent contribution to policymaking than any other House committee. Appropriations probably exerts a more influential overview of Executive Branch activities than any other House committee. The price they pay, however, is a certain decrease in their responsiveness to non-committee forces–as complaints about the closed rule on tax bills and Executive hearings on appropriations bills will attest. Committees of the second type are especially responsive to noncommittee forces and provide easy conduits for outside influence in policymaking. Education and Labor was probably more receptive to President Johnson's Great Society policies than any other House committee; it successfully passed the largest part of that program. Foreign Affairs has probably remained as thoroughly responsive to Executive Branch policies, in foreign aid for instance, as any House committee. The price they pay, however, is a certain decrease in their influence–as complaints about the rubber-stamp Education and Labor Committee and about the impotent Foreign Affairs Committee will attest. In terms of the earlier discussions of institutional performance standards, our hopes for a cooperative Congress lie more with the latter type of committee; our hopes for a counterbalancing Congress lie more with the former.

So, committees differ. And they differ to an important degree according to the desires of their members. This ought to make us wary of blanket descriptions. Within the House, Foreign Affairs may look like a broken branch, but Ways and Means does not. And, across chambers, Senate Foreign Relations (where member incentives are stronger) is a good deal more potent than House Foreign Affairs. With the two Appropriations committees, the reverse is the case. It is not just that "the broken branch" is an undiscriminating, hence inaccurate, description. It is also that blanket descriptions lead to blanket prescriptions. And it just might be that the wisest course of congressional reform would be to identify existing nodes of committee strength and nourish them rather than to prescribe, as we usually do, reforms in equal dosages for all committees.

One lesson of the analysis should be that member incentives must exist to support any kind of committee activity. Where incentives vary, it may be silly to prescribe the same functions and resources for all committees. The Reorganization Act of 1946 mandated all committees to exercise "continuous watchfulness" over the Executive Branch—in the absence of any supporting incentive system. We have gotten overview activity only where random individuals have found an incentive for doing so—not by most committees and certainly not continuously. Similarly, I suspect that our current interest in exhorting all committees to acquire more information with which to combat the Executive may be misplaced. Information is relatively easy to come by—and some committees have a lot of it. What is hard to come by is the incentive to use it, not to mention the time and the trust necessary to make it useful. I am not suggesting a set of reforms but rather a somewhat different strategy of committee reforms—less wholesale, more retail.

Since the best-known target of wholesale committee reform is the seniority rule, it deserves special comment. If our attacks on the rule have any substance to them, if they are anything other than symbolic, the complaint must be that some or all committee chairmen are not doing a good job. But we can only find out whether this is so by conducting a committee-by-committee examination. Paradoxically, our discussions of the seniority rule tend to steer us away from such a retail examination by mounting very broad, across-the-board kinds of arguments against chairmen as a class—arguments about their old age, their conservatism, their national unrepresentativeness. Such arguments produce great cartoon copy, easy editorial broadsides, and sitting-duck targets for our Congressmen on the stump. But we ought not to let the arguments themselves, nor the Pavlovian public reactions induced by our cartoonists, editorial writers and representatives, pass for good institutional analysis. Rather, they have diverted us from that task.

More crucial to a committee's performance than the selection of its chairman is his working relationship with the other committee members. Does he agree with his members on the functions of the committee? Does he act to facilitate the achievement of their individual concerns? Do they approve of his performance as chairman? Where there is real disagreement between chairman and members, close analysis may lead us to fault the members and not the chairman. If so, we should be focusing our criticisms on the members. If the fault lies with the chairman, a majority of the members have the power to bring him to heel. They need not kill the king; they can constitutionalize the monarchy. While outsiders have been crying "off with his head," the members of several committees have been quietly and effectively constitutionalizing the monarchy. Education and Labor, Post Office, and Interior are recent examples where dissatisfied committee majorities have subjected their chairmen to majority control. Where this has not been done, it is probably due to member satisfaction, member timidity, member disinterest or member incompetence. And the time we spend railing against the seniority rule might be better spent finding out, for each congressional committee, just which of these is the case. If, as a final possibility, a chairman and his members are united in

opposition to the majority part or to the rest of us, the seniority rule is not the problem. More to the point, as I suspect is usually the case, the reasons and the ways individual members get sorted onto the various committees is the critical factor. In sum, I am not saying that the seniority rule is a good thing. I am saying that, for committee performance, it is not a very important thing.

What has all this got to do with the original puzzle—that we love our Congressmen so much more than our Congress? We began with a few explanatory guesses. Our standards of judgment for individual performance are more easily met; the individual member works harder winning approval for himself than for his institution; and Congress is a complex institution, difficult for us to understand. The more we try to understand Congress—as we did briefly with the committee system—the more we are forced to peel back the institutional layers until we reach the individual member. At that point, it becomes hard to separate, as we normally do, our judgments about Congressmen and Congress. The more we come to see institutional performance as influenced by the desires of the individual member, the more the original puzzle ought to resolve itself. For as the independence of our two judgments decreases, the disparity between them ought to grow smaller. But if we are to hold this perspective on Congress, we shall need to understand the close individual-institution relationship—chamber by chamber, party by party, committee by committee, legislator by legislator.

This is not counsel of despair. It is a counsel of sharper focus and a more discriminating eye. It counsels the mass media, for example, to forego "broken branch" type generalizations about Congress in favor of examining a committee in depth, or to forego broad criticism of the seniority rule for a close look at a committee chairman. It counsels the rest of us to focus more on the individual member and to fix the terms of our dialogue with him more aggressively. It counsels us to fix terms that will force him to think more institutionally and which will hold him more accountable for the performance of the institution. "Who Runs Congress," asks the title of the Nader report, "The President, Big Business or You?" From the perspective of this paper, it is none of these. It is the members who run Congress. And we get pretty much the kind of Congress they want. We shall get a different kind of Congress when we elect different kinds of Congressmen or when we start applying different standards of judgment to old Congressmen. Whether or not we ought to have a different kind of Congress is still another, much larger, puzzle.