

The Two Majorities

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The Two Majorities

MY POINT of departure: the tension between Executive and Legislature on the federal level of the American political system. My preliminary thesis: that the character and meaning of that tension, as also its role in the formation of American policy, has been too little examined during the period in which the tension has been at its highest; that the explanations of the tension that are, so to speak, "in the air," do not in fact explain it, but rather tend to lead us away from a correct explanation—and, by the same token, away from a correct understanding of our recent political history; that the entire matter, once we have the elements of a correct explanation in hand, opens up a rich field for investigation by our "behaviorists," hitherto unexplored because (in part at least) of the latter's lack of interest in what politics is really about.¹

¹ This is almost, but not quite, the same point as that involved in the frequently-repeated charge that the behaviorists spend their time (and a great deal of money) studying the trivial and the obvious, a charge too often put forward by writers who are something less than ready with an answer to the question, "What *is* important?" My point is less that the reader of our behavioral literature finds himself asking, "So what?" (though indeed he does), than that he finds himself asking (to quote Professor Rogow), "What happened to the great issues?" The behaviorists go on and on as if the latter did not exist.

First, then, as to the character of the tension:

A. The tension between our “national” Executive and our “national” Legislature, though as suggested above it varies in “height” from time to time, and at one moment seemed to have disappeared altogether, has in recent decades been a characteristic feature of our politics.

B. The tension typically arises in the context of an attempt or expressed wish on the part of the Executive to “do” something that a majority of one or both houses is inclined to oppose. Typically, that is to say, we have an Executive *proposal*, which now successfully, now unsuccessfully, a large number of legislators seek to disallow, either as a whole or in part.²

C. The tension is peculiarly associated with certain readily identifiable areas of public policy; and in these areas it is both continuing and predictable.³ Those that come most readily to mind (we shall ask later what they may have in common) are:

1. The Legislature tends to be “nervous” about “internal security.” The Executive tends to become active on behalf of internal security only under insistent pressure from Congress; it (the bureaucracy probably more than the President and his official family) here tends to reflect what is regarded as enlightened opinion⁴ in the universities and among the nation’s intellectuals in general.

2. The Congress adheres unabashedly to the “pork barrel”

² A distinction that is indispensable for a clear grasp of the problem. We may call it the distinction between “whether to?” and “how much?” And failure to keep it in mind often results, as I shall argue below, in our seeing Executive “victories” where there are in fact Executive defeats.

³ We shall have something to say below about what we might call the “latent but always-present tension” in certain other areas of public policy, where the Executive would like to do such and such, but because of Professor Friedrich’s “law of anticipated reactions” does not dare even to formulate a “proposal.” Much of what we hear about the so-called “decline” or “eclipse” or “fall” of Congress becomes less convincing when we take into account the matters in which Congress always gets its way because the Executive, much as it would *like* to do such and such, is not sufficiently romantic even to attempt it.

⁴ No implication is intended, at this point, as to whether the opinion *is* enlightened, as that question is inappropriate to our immediate purposes.

practices for which it is so often denounced; it tends to equate the national interest, at least where domestic economic policies are concerned, with the totality of the interest of our four-hundred-odd congressional districts.⁵ The Executive regards “pork barrel” measures as “selfish” and “particular,” and does what it can, through pressure and maneuver, to forestall them; it appeals frequently to a national interest that is allegedly different from and superior to the interests of the constituencies.

3. The Legislature tends to be “protectionist” as regards external trade policy. The Executive, again reflecting what is regarded as enlightened opinion among intellectuals, tends to favor ever greater steps in the direction of “free trade,” and acceptance by the United States of a general responsibility for the good health of the world economy.

4. The Legislature (again a similar but not identical point) tends to “drag its feet” on foreign aid programs, unless these promise a demonstrably *military* “pay-off.” The Executive seems to be deeply committed to the idea of foreign aid programs as the appropriate means for gaining American objectives that are not exclusively, or even primarily, military.⁶

5. The Congress (though we must speak here with greater caution than has been necessary above because the relevant tension expresses itself in a different and less readily visible way) does not, by its actions at least, reflect what is regarded as enlightened opinion among intellectuals on the complex of issues related to the integration of the southern schools, withholding all action that might ease the Executive’s path in the matter. The Executive stands ready to enforce the ruling in the Brown case, and seems unconcerned about the difficulty of pointing to any sort of popular mandate for it.

⁵ Cf., *The Federalist*, ed. Edward Mead Earle (“The Modern Library” [New York: Random House, n. d.]), No. 64: “. . . the government must be a weak one indeed if it should forget that the good of the whole can only be promoted by advancing the good of each of the parts or members which compose the whole.” All subsequent citations to *The Federalist* are by number of the relevant paper.

⁶ It perhaps gives to “military objectives” a wider and looser meaning than the congressmen are willing to accept.

6. The Legislature insists upon perpetuating the general type of immigration policy we have had in recent decades. The Executive would apparently like to bring our immigration legislation under, so to speak, the all-men-are-created-equal clause of the Declaration of Independence.

7. The Legislature is, in general, jealous concerning the level of the national debt, and thus about government spending; it clings, in principle at least, to traditional notions about sound government finance. The Executive, at least the vast majority of the permanent civil servants (who are, as is well known, in position to bring notable pressures to bear even upon a President who would like to side with Congress), appears to have moved to what we may call a Keynesian position about the national debt and year-to-year spending.

8. The Legislature tends to be "bullish" about the size of the United States Air Force and, in general, about military expenditure as opposed to expenditures for "welfare." The Executive, though no simple statement is in order about its policies, continuously resists congressional pressure on both points.

9. The Legislature tends to be "nationalistic," that is, to be oriented to the "conscience" of its constituents rather than the "conscience of mankind." The Executive tends to be "internationally minded," that is, to subordinate its policies in many areas to certain "principles" concerning the maintenance of a certain kind of international order.

10. The Legislature appears to have no quarrel with Right-wing dictatorships; it tends to favor policies with respect to them based rather upon expediency than upon commitment to democratic forms of government. The Executive, despite the tendentious charges we often hear to the contrary, is disposed to hold governments not based upon free elections at arm's length.

11. The Executive ⁷ tends to favor each and every component of the current program (the product of what is generally regarded as enlightened opinion among political scientists at our universities)

⁷ For the sake of simplicity of exposition, I here reverse the previous order, and speak first of the Executive.

for transforming the American political system into a *plebiscitary* political system, capable of producing and carrying through *popular mandates*. These components, so well known as to require only the briefest mention, are: Remake our major political parties in such fashion that their programs, when laid before the American people in presidential elections, will present them with "genuine" "choices" concerning policy, and that candidates for office within each party will stand committed to their party's program. (The major public spokesmen for such a reform are the chairmen of the national committees, one of whom is of course the appointee of the President.) Get rid of the Senate filibuster, as also of the seniority principle in congressional committees (which do indeed make it possible for little bands of willful men to "frustrate" alleged majority mandates). Iron out inequalities of representation in Congress, since these, theoretically at least, are capable of substituting the will of a minority for that of the majority. (Although it is perhaps difficult to attribute any policy on the latter two components to the White House itself, anyone who has himself been a permanent civil servant knows that in the executive departments the animosity against the filibuster, the seniority principle, and the alleged "over-representation" of rural folk and white southerners is both intense and deeply-rooted.) Further assure equal representation, and thus genuine majority mandates, by enacting ever stronger "civil rights" legislation calculated to prevent the white southerners from disfranchising or intimidating potential Negro voters, and by putting the Justice Department permanently into the business of enforcing the "strengthened" civil rights. (The extreme "proposals" here do normally originate with senators and congressmen, but it will hardly be disputed that the White House is consistently on the side of the proponents, and consistently disappointed by Congress' final reply, from session to session, to the question "How much?") "Streamline" the executive branch of government, so as to transform it into a ready and homogeneous instrument that the President, backed up by his "disciplined" majority in Congress, can use effectively in carrying out his mandate, and so as to "concentrate" power and make it more "responsible" (by getting rid of the independent agencies,

and eliminating the duplication and competition between agencies that perform the same or very similar tasks). Finally, glorify and enhance the office of President, and try to make of presidential elections the central ritual of American politics—so that, even if the desired reform of the party system cannot be achieved at once, a newly-elected President with a popular majority will be able to plead, against a recalcitrant Congress, that *his* mandate must prevail.

Congress seldom shows itself available to any such line of argument, and off-year congresses like to remind presidents, in the most forceful manner possible, that the system has rituals other than that of the presidential election. For the rest, it resists the entire program with cool determination. With respect to the party system, it is clearly wedded to our traditional system of decentralized parties of a non-“ideological” and non-programmatic character. With respect to mandates, it clearly continues to regard the American system as that which, as I contend below, its Framers intended it to be—that is, one in which the final decisions upon at least the important determinations of policy are hammered out, in accordance with “the republican principle,” in a deliberative assembly made up of uninstructed representatives, chosen by their neighbors because they are the “virtuous” men; thus as a system which has no place for mandates. As for the filibuster and the committee chairmen, it clearly regards as their peculiar virtue that which the Executive and its aggrandizers within the bureaucracy and out among the nation’s intellectuals regard as their peculiar vice, namely, that they *are* capable of frustrating an alleged majority mandate. With respect to “streamlining” the executive branch of government, it appears to yield to proposals in this sense only when it has convinced *itself* that further resistance is an invasion of presidential prerogatives rooted in the same constitution from which it derives its own; it clearly clings to the traditional view, again that of the Framers themselves, that power should *not* be concentrated, but rather (since a most efficient Executive might well come to be the most efficient against the liberties of the people) shared out in such fashion that ambition may counter ambition. With respect to civil liberties, it clearly cherishes

the notion that the Tenth Amendment has not been repealed, and that, accordingly, there is room in the American system for differences in civil liberties from state to state and even, within a state, for differences in civil liberties from differently situated person to differently situated person. With respect to the aggrandizement of the office of president and the glorification of presidential elections, it again takes its stand with the tradition and the Framers: there is no room in the American system for a presidential office so aggrandized as to be able itself to determine how much farther the aggrandizement shall go; the ultimate decisions on that point must be made not by the President but by *itself*, in the course of the continuing dialectic between its members and their constituents; plebiscitary presidential elections cannot become the central ritual of our system without destroying the system.

II

What general statements—of a sort that might throw light on their meaning in the American political system—may we venture to make about these areas of tension? ⁸

At least, I believe, these:

A. They all involve matters of policy which, by comparison with those involved in areas where tension is *not* evident and predictable, bear very nearly indeed upon the central destiny of the United States—on the kind of society it is going to become (“open” or relatively “closed,” egalitarian and redistributive or

⁸ I do not forget that the areas of tension are also areas of tension *within* both houses of Congress, where the Executive always, when the big issues are “up,” has considerable support, and sometimes “wins” (or at least seems to). It would be interesting, though not relevant to the purposes of the present paper, to study the incidence of the tensions within Congress (as revealed, e. g., in voting, about which we have a rich and growing literature), particularly with a view to discovering whether there is a discernible “trend” in this regard. As also whether there is any relation, of the kind my analysis below would lead us to expect, between the character of an M. C.’s constituency and the “side” he takes in these matters. One imagines that the tensions are also repeated within the bosom of the Executive. But we must not get in the habit of permitting our sophistication about such matters to obscure for us the fact that “Congress” acts finally as *an* institution, whose “behavior” as an institution can and for some purposes must be observed without regard to its internal divisions.

shot through and through with great differences in reward and privilege, a "welfare state" society or a "capitalist" society); on the form of government the United States is to have (much the same as that intended by the Framers, or one tailored to the specifications of democratic ideology); or on our relatedness to the outside world on points that, we are often told, nearly affect the central destiny of mankind itself. They are all areas, therefore, in which we should *expect* disagreement and thus tension in a heterogeneous society like ours (though by no means necessarily, I hasten to add, tension between its Legislature and its Executive—not, at least, for any reason that leaps readily to the eye).

B. They are areas in which the Executive (as I have already intimated) is able, with good show of reason, to put itself forward on any particular issue as the spokesman for either *lofty and enlightened principle* or still undiffused professional *expertise*, or both. The Executive tends, that is to say, to have the nation's ministers and publicists with it on "peace," the nation's professors and moralizers with it on desegregation, the nation's economists with it on fiscal policy and redistribution, the nation's political scientists with it on political reform and civil rights, etc. To put it otherwise, Congress at least *appears*, in all the areas in question, to be holding out for either the repudiation or evasion of the moral imperatives that the nation's proper teachers urge upon us, or the assertion of an invincibly ignorant "layman's" opinion on topics that are demonstrably "professional" or "expert" in character, or both. The Executive is *for* world government, *for* the outlawing of war, *for* unselfishness in our relations with the outside world, *for* the brotherhood of man, *for* majority-rule, *for* progress, *for* generosity toward the weak and lowly, *for* freedom of thought and speech, *for* equality, *for* the spreading of the benefits of modern civilization to "underdeveloped" lands, *for* science and the "scientific outlook," *for* civil rights; apparently it is its being *for* these things that somehow runs it afoul of Congress in the areas in question; and it is difficult to avoid the impression that Congress is somehow *against* these things, and against them because wedded to bigotry, to selfishness both at home and abroad, to oppression, to the use of force, to minority rule, to outmoded

notions in science. Because the Executive so clearly represents high principle and knowledge, the conclusion is well nigh irresistible that Congress represents low principle (or, *qui est pire*, no principle at all), reaction, and unintelligence, and does so in full knowledge that the President (both he and his opponent having, in the latest election, asserted the same high principles and the same generally enlightened outlook)⁹ has not merely a majority mandate but a virtually unanimous mandate to go ahead and act upon high principle.

C. They are areas that, for the most part, do not lend themselves to what is fashionably called "polyarchical bargaining." For example, the internal security policies that Congress has in recent years imposed upon the Executive have been in no sense the result of protracted negotiations among groups, conducted with an eye to leaving no group too unhappy; so, too, with the policy that it imposes (by inaction) with regard to the desegregation of the southern schools, and that which it imposes (by action) concerning immigration and the armed forces. To put it otherwise, the policy problems involved are by their very nature problems about which everybody can't have a little bit of his way, because either we move in *this* direction (which some of us want to do) or in *that* direction (which others of us want to do); and the line Congress takes with respect to them seems to be determined much as, before Bentley and Herring and Truman and Latham and Dahl, we fondly supposed all policy lines to be determined—that is, by the *judgment* of individuals obliged to choose between more or less clearly understood *alternatives*, and obliged ultimately to choose in terms of such notions as they may have of justice and the public weal.

D. They are areas—though we come now to a more delicate kind of point—in which, little as we may like to think so and however infrequently we may admit it to ourselves, Congress pretty consistently gets its way; indeed the widespread impression to the contrary seems to me the strangest optical illusion of our politics, and worth dwelling upon for a moment: the question

⁹ See below, pp. 342-44.

actually at issue becomes, quite simply, whether in recent decades (since, say, 1933) the “liberals”—for, as intimated repeatedly above, the tension between Executive and Legislature is normally a liberal-conservative tension—have or have not been “winning”; and I contend that the reason both liberals and conservatives tend (as they do) to answer that question in the affirmative is that we are all in the habit of leaving out of account two dimensions of the problem that are indispensable to clear thinking about it, and that we may express as follows:

First, we cannot answer the question without somehow “ranking” political issues in order of “importance”—without, for example, distinguishing at least between those issues that are “most important,” those that are “important” but not most important, those that are “relatively unimportant,” and those that are “not important at all”—meaning here by “important” and “unimportant” merely that which the liberals and conservatives themselves deem important or unimportant. In the context of such a ranking we readily see that “winning” in our politics is a matter of getting your way on the matters that are most important to you, not getting defeated too often on those that are merely important to you, and taking your big defeats on those are relatively unimportant to you or not important at all. Take for instance that liberal “victory” of the period in question that comes most readily to mind: the creation and maintenance of the Tennessee Valley Authority. Everyone familiar with the politics of the period knows that the TVA enthusiasts intended TVA to be the first of a *series* of “authorities,” which would have the effect of shifting the entire American economy away from “capitalism” and “free private enterprise.” That was what the liberals wanted, and that was what the conservatives, if they meant business, had to prevent; that was what was “most important,” against the background of which the creation and maintenance of a single TVA (one, moreover, that men could support out of no animus whatever against private enterprise) was at most “unimportant”; and, once we put the question, “Who won?” in *those* terms, and remind ourselves where the White House and the bureaucracy stood, we are obliged to give an answer quite different from that which we are in the

habit of giving: The Executive got its TVA in particular, but Congress put a stop to TVA's in general (nor is there any issue so dead in America today as that of "socialism").

Secondly, there is the dimension we have mentioned briefly above, that of the things that the Executive would like to propose but has the good sense not to because of its certain foreknowledge of the impossibility of getting the proposals through Congress, it being here that Congress *most* consistently gets its way, and without anyone's noticing it.¹⁰ James Burnham is quite right in arguing that the capacity to say "No" to the Executive is the essence of congressional power;¹¹ but he exaggerates the infrequency with which Congress does say "No," partly by ignoring the "No's" that Congress does not have to say for the reason just given, and partly by failing to distinguish between the "No's" that are "most important" to the Congress itself and those that are not.

To summarize: The areas of tension are typically "most important" areas in which this or that application of high principle desired by the Executive gets short shrift from enough congressmen and senators to prevent it, or at least to prevent it on anything like the *scale* desired by the Executive. And in these areas the Congress normally "wins," "high principle" seemingly going by the board. Nor would it be easy to show—and thus brings us to the nub of the matter—that the tensions are less acute, or produce a notably different result, during the two-year periods that *precede* presidential elections than during the two-year periods that *follow* them, which if it were true might enable us to argue that the tensions arise because of *shifts* of opinion in the electorate; or that they

¹⁰ Let anyone who doubts the point (a) poll his liberal acquaintances on the question, is it proper for non-believers in America to be taxed for the support of churches and synagogues (which they certainly are so long as churches and synagogues are exempted from taxation)? and, (b) ask himself what would happen in Congress if the Treasury Department were to propose removal of the exemption. There is no greater symbol of Executive-Legislative tension than the fact that the sessions of both houses open with prayer, whereas we cannot imagine a prayer at the beginning of a meeting of, say, an interdepartmental committee of bureaucrats.

¹¹ Cf., James Burnham, *Congress and the American Tradition* (Chicago: Henry Regnery Co., 1959), p. 278.

relate particularly to the two-thirds of the senators who, after any biennial election, are "holdovers." And, that being the case, we are obliged, as I have already intimated, to confront an unexplained mystery of our politics, namely: the fact that *one and the same electorate maintains in Washington, year after year, a President devoted to high principle and enlightenment, and a Congress that gives short shrift to both*; that, even at one and the same election, they elect to the White House a man devoted to the application of high principle to most important problems of national policy, and to the Hill men who consistently frustrate him. More concretely: the voters give an apparent majority mandate to the president to apply principles "x, y, and z," and a simultaneous (demonstrable) majority-mandate¹² to the Congress to keep him from applying them. And the question arises, why, at the end of a newly-elected President's first two years, do the voters not "punish" the congressmen? Are the voters simply "irrational"? Our political science has, it seems to me, no adequate or convincing answer to these (and many kindred) questions.

III

What is "in the air" in American political science (to return now to the hint thrown out above) because of which my statement of the problem of executive-legislative tension sounds unfamiliar—not to say "against the grain"? Not, I think, any doctrines that clash head-on with such a statement on the ground that it appears to move in a direction that might be "pro-Congress"; that would be true only if contemporary American political science were "anti-Congress," which I, for one, do not believe to be the case¹³ (besides which the statement is *not*, up to this point, "pro-Congress"). Not either, I think, any specific doctrine or doctrines concerning executive-legislative tensions as such; for though contemporary American political science is certainly not unaware of the tensions (it might, at most, be accused of sweeping them now

¹² Unless we want to argue that Congress does *not* have a majority mandate. See below my reasons for thinking such a position untenable.

¹³ There is, of course, an "anti-Congress" literature, but there is also an enormous literature that is friendly to Congress.

and then under the rug, contrary to the rules of tidy housekeeping), it seems safe to say that there is no prevailing "theory" of the problem. The answer to our question lies rather, I believe, in this: there are *overtones* in the statement, perhaps even *implications*, that simply do not "fit in" with what we are accustomed, these days, to say or assume, and hear others say and assume, not about legislative-executive tensions, but about some very different matters, namely, elections, majority rule, and the comparative "representativeness," from the standpoint of "democratic theory," of the Executive and the Legislature. And perhaps the best way to bring the relevant issues out into the open is to fix attention on what we *are* accustomed to hear said and assumed about these matters.

I propose to use for this purpose Robert A. Dahl's celebrated Walgreen lectures,¹⁴ which precisely because they are *not* "anti-Congress" (are, rather, the handiwork of one of our major and most dispassionate experts on Congress) have the more to teach us about the problem in hand. The lectures seem to me to show that we are accustomed now to assume (if not to say), and to hear it assumed, that when we speak of "democratic theory," of majority rule in the United States, we can for the most part simply ignore Congress and congressional elections. This is nowhere *asserted* in the *Preface*, but I submit to anyone familiar with it *both* that such a tacit premise is present throughout its argument, which goes on and on as if our presidential elections were not merely the *central* ritual of our politics but also the *sole* ritual, and that Dahl's procedure in the matter seems, in the present atmosphere, perfectly natural.

But let us think for a moment about that tacit premise, and the resultant tacit exclusion of executive-legislative tension as a problem for democratic theory (Dahl, I think I am safe in saying, nowhere in the *Preface* refers to it).¹⁵ To put the premise a little differently: the majority-rule problem in America *is* the problem of the presi-

¹⁴ Robert A. Dahl, *Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956).

¹⁵ The function of his Congress, in the *Preface* anyhow, is that of "legitimizing basic decisions by some process of *assent*" (italics added), and of registering pressures in the process he likes to call "polyarchical bargaining." See respectively pp. 136, 145.

dential elections; either the majority rules through the presidential elections (which Dahl thinks it does not), or it does not rule at all; a book about majority rule in America does not, in consequence, need to concern itself at any point with the possibility that fascinated the authors of *The Federalist*, namely, that of the “republican principle” as working precisely through the election of members to the two houses of Congress. And the *effect* of that premise, whether intended or not, is to deny legitimacy, from the standpoint of “democratic theory,” alike to Congress as a formulator of policy, and to the elections that produce Congress as expressions of majority “preferences”; that is, to deny the relevance of those elections to the problem to which the authors of *The Federalist* regarded them as *most* relevant, i. e., the problem of majority rule in America.¹⁶ Nor is the reason for the premise difficult to discover: for Dahl, and for the atmosphere of which his book may fairly be regarded as an accurate summary, Congress, especially the lower house, is a stronghold of entrenched minorities,¹⁷ and in any case is, and was always intended to be, a *barrier* to majority rule, not an *instrument* of majority rule.¹⁸ It is bicameral; its members are chosen in elections deliberately staggered to prevent waves of popular enthusiasm from transmitting themselves directly to its floors; it “overrepresents” rural and agricultural areas and interests; many of its members are elected in constituencies where civil liberties, including even the liberty to vote, are poorly protected, so that the fortunate candidate can often speak only for a minority of his constituents; and as the

¹⁶ Cf., *The Federalist*, No. 54: “Under the proposed Constitution, the federal acts . . . will depend merely on the majority of votes in the federal legislature. . . .” Cf., No. 21: “The natural cure for an ill-administration, in a popular or representative constitution, is a change of men”—through, of course, elections. Cf. also No. 44: If Congress were to “. . . misconstrue or enlarge any . . . power vested in them . . . in the last resort a remedy must be obtained from the people, who can, by the election [in elections where the candidate who gets the largest number of votes wins?] of more faithful representatives, annul the acts of the usurpers.”

¹⁷ Dahl, *op. cit.*, p. 142.

¹⁸ *Ibid.*, p. 14. I am sure Professor Dahl will not object to my mentioning that the point about civil liberties, although not present in his book, he has pressed upon me in private conversation.

decades have passed it has developed internal procedures—especially the filibuster and the seniority principle in the choice of committee chairman—that frequently operate to defeat the will of the majority even of its own members;¹⁹ it reflects, in a word, the anti-democratic, anti-majority-rule bias of the Framers, who notoriously distrusted human nature (because of their commitment to certain psychological axioms).²⁰

Now the doctrine just summarized is so deeply imbedded in our literature that it may seem an act of perversity to try, at this late a moment, to call it into question (as the overtones and implications of my discussion in I and II certainly do). The present writer is convinced, however, that a whole series of misunderstandings,²¹ partly about the Framers and partly about majority rule, have crept into our thinking about the matter, and that these have disposed us to beg a number of questions that it is high time we reopened. The Framers, we are being told, distrusted the “people,” cherished a profound animus against majority rule, and were careful to write “barriers” to majority rule into their constitution. But here, as it seems to me, the following peculiar thing has happened. Taught as we are by decades of political theory whose creators have been increasingly committed to the idea of majority mandates arising out of plebiscitary elections, we tend to forget that that alternative, not having been invented yet, was *not* in the mind of the Framers at all; which is to say, we end up accusing the Framers of trying to prevent something they had never even heard of,²² and so cut ourselves off from the possibility of understanding their intention. Above all we forget that what the Framers (let us follow the fashion and accept *The Federalist* as a good enough place to go to find out what they thought) were above all concerned to

¹⁹ *Ibid.*, p. 15.

²⁰ *Ibid.*, p. 8.

²¹ To which I must plead myself guilty of having contributed, particularly in my *John Locke and the Doctrine of Majority-Rule* (Urbana: University of Illinois Press, 1941).

²² This is not to deny that the “barriers” do, as it turns out, operate to prevent a plebiscitary system. My point is they were not, and could not, have been intended to, but also that a plebiscitary system is not the only possible majority-rule system.

prevent was the *states*' going their separate ways, their becoming an "infinity of little, jealous, clashing, tumultuous commonwealths,"²³ so that there would *be* no union in which the question of majority rule could arise. The "majority rule" they feared was the unlimited majority rule within the several states that would, they thought, result from disintegration of the union; and we are misreading most of the relevant passages if we read them in any other sense. We take an even greater liberty, moreover, when we sere off on the Framers the (largely uncriticized) premise that the proper remedy for the evils of some form of majority rule is as a matter of course non-majoritarian. No one knew better than they that the claim of the majority to have its way in a "republican" (or "free") government cannot be successfully denied;²⁴ indeed what most amazes one upon rereading *The Federalist*, in the context of the literature with which we have been deluged since J. Allen Smith, is precisely the degree of their *commitment* to the majority principle,²⁵ and their respect and affection for the "people" whose political problem they were attempting to "solve."²⁶ Their concern, throughout, is that of *achieving* popular

²³ *The Federalist*, No. 9.

²⁴ Cf., *ibid.*, No. 58: ". . . the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. . . ." Cf., No. 22, with its reference to the fundamental maxim of republican government as being: that the "sense of the majority shall prevail." Cf., *ibid.*: ". . . two thirds of the people of America could not long be persuaded . . . to submit their interests to the management and disposal of one third." Compare Dahl, *op. cit.*, pp. 34, 35, where after citing various strong pro-majority-rule statements, from political philosophers, he concludes that they are all "clearly at odds with the Madisonian view." Note that one of the statements, curiously, is from Jefferson, whom Dahl immediately describes as a "Madisonian."

²⁵ See preceding note. The point has been obscured by our habit of reading the numerous passages that insist on ultimate control by the "people" on the assumption, impossible in my opinion to document, that the authors of *The Federalist* thought they had discovered some way to have matters decided by the people in elections, *without* having them decided by a majority of the people. See following note.

²⁶ Cf., *ibid.*, No. 14: "I submit to you, my fellow-citizens, these considerations, in full confidence that the good sense which has so often marked your decisions will allow them due weight and effect. . . . Hearken not to the unnatural voice which tells you that the people of America . . . can no longer continue the mutual guardians of their mutual happiness. . . . Is it not the glory of the people of

control over government, not that of *preventing* it.²⁷ That they thought to do by leaving the “people” of the new nation organized in a particular way,²⁸ that is, in constituencies which would return senators and congressmen, and by inculcating in that people a constitutional morality that would make of the relevant elections a quest for the “virtuous” men²⁹—the latter to come to the capital, normally, without “instructions” (in the sense of that term—not the only possible sense—that we are most familiar with). These virtuous men were to *deliberate* about such problems as seemed to them to require attention and, off at the end, make decisions by majority vote; and, as *The Federalist* necessarily conceived it, the majority votes so arrived at would, because each of the virtuous men would have behind him a majority vote back in his constituency, represent a popular majority. (My guess, based on long meditation about the relevant passages, is that they hoped the deliberation would be of such character that the votes would seldom be “close,” so that the popular majority represented would be overwhelming.) That, with one exception, is the only federal popular majority of which Madison and Hamilton were thinking—the exception being the popular majority bent on taking steps adverse to natural rights,³⁰ that is, to justice. What they seem to have been thinking of here, however, and took measures (though not drastic ones)³¹ to prevent, was precisely *not*, I repeat, an

America [that they have heeded] . . . the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience? ” Such passages abound in *The Federalist*.

²⁷ Cf., *ibid.*, No. 40: “. . . the Constitution . . . ought . . . to be embraced, if it be calculated to accomplish the views and happiness of the people of America.” Cf., No. 46: “. . . the ultimate authority . . . resides in the people alone. . . .”

²⁸ Cf., *ibid.*, No. 39: “Were the people regarded . . . as forming one nation, the will of the *majority of the whole people* . . . would bind the majority . . . and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of the majority of the States. . . . Neither of these rules has been adopted.” (Italics added).

²⁹ Cf., *ibid.*, No. 57. The chosen are to be those “whose merit may recommend [them] to . . . esteem and confidence. . . . Cf., No. 64, with its reference to assemblies made up of “the most enlightened and respectable citizens” who will elect people “distinguished by their abilities and virtue. . . .”

³⁰ *I. e.*, a majority “faction.” See *ibid.*, No. 10, *passim*.

³¹ Indeed, Madison clearly believed (*ibid.*) that nothing could be done *constitutionally* to block a majority “faction.”

electoral majority acting through a plebiscitarily-chosen president, but rather a demagogically-led movement that might sweep through the constituencies and bring pressure to bear upon the congressmen; nor must we permit our own emancipation, because of which we know that the difference between unjust steps and just ones is merely a matter of opinion, to blind us to the implied distinction between a popular majority as such and a popular majority determined to commit an injustice. Madison and Hamilton not only thought they knew what they meant, but *did* know what they meant, when they used such language;³² and we err greatly when we confuse their animus against the popular majority bent on injustice with an animus against the popular majority, the majority of the people, as such.

Ah, someone will object, but you have conceded that the measures they took operate equally against both; the Framers, that is to say, made it just as difficult for a popular majority as such, even a popular majority bent upon *just* measures, to capture the Congress, and use it for its purposes, as for an “unjust” majority. But here again we must hold things in their proper perspective—by keeping ourselves reminded that Madison did not think the measures we have in mind (staggered elections and bicameralism in particular) would constitute much of a barrier to either. As Dahl himself points out, Madison placed his sole reliance against the popular movement that snowballs through the constituencies in the hope that the constituencies would, because of the growth and development of the nation, become so numerous, so widely flung, and so diverse as to make it impossible to bring people together into the kind of popular movement he feared, which is one point. But there are several other dimensions to the thought implicit in *The Federalist* on this matter. There is, first, the constitutional morality suggested in the doctrine concerning the

³² That is, when they distinguished between just and unjust, and measures adverse to the rights of others and measures not adverse to them. Cf., *ibid.*: “. . . measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority.” Cf., Dahl, *op. cit.*, p. 29, where he illustrates the gulf between himself and the Madisonians by writing “good” and “bad,” the implication being, I take it, that the distinction is operationally meaningless.

virtuous men; these being, by definition, men bent upon justice, constituency elections turning upon the identification of virtuous men would, on the face of them, constitute a major barrier to a popular movement bent upon injustice,³³ *but not to a widespread popular movement demanding something just.*³⁴ There is, second, the fact that the constitution, being a constitution that limits governmental power, might fairly be expected to bear more heavily upon the prospects of an unjust movement, which as Madison must have known is of the two the more likely to run afoul of the relevant limitations, than on a just one. And there is, thirdly, the fact that so long as the system works as Madison intended it to, bicameralism and staggered elections themselves might be expected to bear more heavily upon an unjust movement than upon a just one: they constitute a “barrier,” as far as Congress is concerned, only to the extent that the hold-over senators and the congressmen from constituencies not yet captured by the spreading popular movement *resist* the relevant popular pressures—which they are most likely to do by *debate* in the course of deliberation, and can do most effectively precisely when they are able to wrap themselves in the mantle of justice (which by definition they cannot do if the popular movement is itself bent upon justice). In fine: once we grant the distinction between a popular majority in the constituencies bent upon injustice and a popular movement bent upon something just, grant it with all the literalness with which it was intended, there remains no reason to attribute to Madison, or to the constitution he defended, any animus against popular majorities (as such) having their way. He simply wanted, I repeat, the majority to be articulated and counted in a certain way, and had confidence that so long as it was it would produce just results. And we must, if we are to bring the whole problem into proper focus, recognize that the Madisonian majority, articulated through and counted within the constituencies, is still present in the

³³ Cf., *ibid.*, No. 51: “. . . a coalition of a majority . . . could seldom take place [except on] principles . . . of justice and the general good.”

³⁴ Cf., *ibid.*, No. 57, where it is argued that a political constitution should aim at obtaining for “rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society”—and taking the “most effectual precautions for keeping them virtuous. . . .”

American political system; which is to say that we must learn to think in terms of what we may call *two* popular majorities, the congressional and the presidential, and that we must accept, as an unavoidable problem for American political theory, the problem of the respective merits of the two (and must not, like Professor Dahl, talk as if one of them did not exist). What is at stake when there is tension between Congress and President is *not* the majority principle (the "Rule," Dahl calls it), but rather the question of where and how we are to apply it.

IV

What we are always dealing with in the American system is, on the present showing, Two Majorities, two *numerical* majorities,³⁵ *each* of which can, by pointing to the Rule, claim what Dahl calls the "last say," and each of which merits the attention of that part of "democratic theory" that deals with the problem of majority rule. The moment this is conceded, moreover, the problem of executive-legislative tensions begins to appear in the light in which it is presented above.

As for the merits of the respective claims of the two majorities, I content myself here with the following observations:

A. One of the two majorities, the presidential, has (as I have intimated) been *engrafted* on our political system: it was not intended by the Framers, not even present to their minds as something to be "frustrated" and have "barriers" put in its way. It is, in other words, insofar as we can satisfy ourselves that it exists *qua* majority and eventuates in "mandates," something new in our politics, something therefore whose appropriateness to the spirit and machinery of our system may fairly be regarded as still open to question. (I hope I shall not be understood to mean that its newness necessarily establishes a presumption against it.)

B. Professor Dahl, for all his fascination with presidential elections, is himself the author of the most brilliant demonstration we have (or could ask for) that nothing properly describable as a

³⁵ But cf., Burnham, *op. cit.*, p. 316 (and the preceding discussion) for a different view of the two majorities. Burnham, of course, follows Calhoun.

majority mandate, sanctioned by the Rule, emerges from a presidential election.³⁶ Indeed, one way of stating the question concerning the merits of the respective claims of the two majorities is, Is the congressional majority open to the same objections, from the standpoint of the Rule, that Dahl brings so tellingly against the presidential? If not, we should be obliged to view with suspicion Dahl's contention that, there *being* no majority in America, the majority cannot rule (so that we can stop worrying about majority tyranny).³⁷

C. It is interesting to notice some of the claims that Madison (were we, like Professor Dahl, to go so to speak to his assistance) might be imagined as making for *his* majority "mandate" that, as Dahl demonstrates, cannot be made for the side that gets the more votes in a presidential election:

1. It does not stand or fall with the possibility of proving that the voters who are its ultimate sanction voted for the same man because they endorse the same policies; the other, as Dahl admirably shows, does.³⁸ It is *heterogeneous* by definition, and is supposed to be, was intended to be, heterogeneous; it cannot, indeed, accomplish without being heterogeneous its intended purpose, which is the ultimate arriving at policy decisions through a process of deliberation among virtuous men representing potentially conflicting and in any case different "values" and interests.

2. It is at least potentially *continuous* in its relation to the voters, whereas, as Dahl shows, the presidential sanction is *discontinuous*³⁹ (his majority speaks, insofar as it speaks at all, then promptly disappears), and potentially therefore *simultaneous* with the policy decisions in which it eventuates. Indeed, the major difference between Madison and Dahl as theorists of majority-rule is precisely that Dahl clearly cannot, or at least does not, imagine a popular

³⁶ Dahl, *op. cit.*, pp. 124-131.

³⁷ *Ibid.*, p. 25, and Chap. V, *passim*. It might be pointed out that Dahl has difficulty deciding just how to phrase the point; "rarely, if ever," does not say the same thing as "rarely," and "ruling on matters of specific policy" does not say the same thing as "ruling."

³⁸ *Ibid.*, pp. 127-129.

³⁹ *Ibid.*, p. 130.

majority-rule system as working through any process other than that of elections, which, as he himself sees, are in the nature of the case discontinuous and prior to actual policy decisions. Madison, on the other hand, is not in the first place all that preoccupied with elections, and ends up describing a majority-rule process rich in possibilities (as we all know) for what we may, with Burnham, call a continuing dialectical relationship between the virtuous men and their constituents, though one which by no means necessarily takes the form of the member of Congress “keeping his ear to the ground” and seeking to carry out automatically the “will” of a majority of his constituents; he is himself a part of his constituency, potentially “representative” in the special sense of reacting to policy problems just as his constituents *would* were they present, and also informed (which, of course, they often are not); besides which the dialectic, as Madison could hardly have failed to realize, may take the form of actually *thinking* with them, whether by communication back and forth or in the course of visits back home.⁴⁰ Finally, as again Madison certainly knew, the member of Congress will, if normally ambitious, wish to be reelected, and will not willingly become a party to policy decisions that, when they come to the attention of his constituents, will seem to them foolish or outrageous; which means that he must ask himself continuously how at least his general course of behavior is *ultimately* going to go down at home.

3. In two senses, it does not need to be, and Madison did not expect it to be, “positive” in the way that a writer like Dahl assumes a mandate must be if it is to be really a mandate.⁴¹ First, it is as likely to express itself in prohibitions and “vetoes” as in imperatives. And second, the popular command involved is basically, as Madison conceived it, a command to help produce *just* policy decisions in a certain manner, and normally does not presuppose a positive mandatory relation with respect to particular matters.

⁴⁰ The essence of *Federalist* thought here is that of a “deliberate sense of the community” (meaning by community, surely, not less than a majority?) formed as problems arise and get themselves discussed in the Congress and out over the nation, and by no means necessarily expressing itself always through elections.

⁴¹ *Ibid.*, pp. 129, 131.

4. It is a mandate that emerges from a process that was always intended to emphasize specifically *moral* considerations, e. g., the kind of considerations involved in deciding who are the virtuous men. To put the point otherwise: it is a process that was originally conceived in terms of a moral theory of politics, where the theorists of the presidential mandate tend, to say the least, to a certain relativism about morals (which is why they can end up insisting that this and this must be done because the majority demands it *tout court*). Its emphasis, therefore, is on the ability of the people, i.e., at least a majority of the people, to make sound judgments regarding the virtue of their neighbors, not on the ability of the people to deliberate on matters of policy. (Dahl leaves us in no doubt about its inability to do the latter.)

V

The above considerations seem to me not only to throw light on the respective claims of the Two Majorities, but also to show why (assuming that the older of the two continues to function much as Madison intended it to, which I do believe to be the case) we have no cause to be astonished at the fact of executive-legislative tension in our system: since there is no reason *a priori* to expect the virtuous men to be attracted as a matter of course to the proposals put forward by the Executive (with whatever claim to a "majority mandate" for them); at least, that is to say, we see how such tension *might* occur. But there are some further considerations that seem to me to show why it *must* occur, and at the same time to throw light on how each of us should go about making up his mind as to which of the two to support. These are:

A. The essentially *aristocratic* character of the electoral process that produces the older of the majorities as over against the essentially *democratic* character of the electoral process that produces the newer (despite the fact that the electors are in the two cases the same men and women). A moment's reflection will reveal at least one reason for that aristocratic character: although the constituencies and states differ greatly in this regard, they all nevertheless approximate, in a way in which the national constituency cannot

do, to *structured communities*, involving more or less endless series of face-to-face hierarchical relations among individuals—of superordination and subordination, of capacity to influence or subject to pressure and susceptibility to being influenced or subjected to pressure, of authority and obedience, of economic power and economic dependence, of prestige enjoyed and respect tendered, etc., that are patently relevant to the choice of a congressman or senator in a way that they are not relevant to the choice of a president. In the election of the member of Congress, a community faithful to the constitutional morality of *The Federalist* makes a decision about whom to send forward as its most virtuous man, a decision which is the more important, and which it accordingly takes the more seriously, because the community knows that it can have little effect on a presidential election (i. e., its most direct means of defending its own interests and “values” is by sending the right senator or representative to Washington, and sending the right one becomes therefore a matter of sending a man who will represent the hierarchical relations in which those interests and values are articulated). In the congressional election, therefore, the “heat” can and will go on, if there is a powerful community “value” or interest at stake in the choice among available candidates; so that although the voters vote as nominal “equals” (one man, one vote) they do so under pressures that are quite unlikely to be brought to bear on their “equal” voting for President (especially as the powerful and influential in the community are normally unable to estimate accurately, for reasons we shall notice below, the probable impact of the presidential candidates upon their interests and “values,” whereas they *can* do so with the candidates for the legislature). This state of affairs is reflected in the notorious fact that congressmen and senators, when they phone home to consult, are more likely, other things being equal, to phone bank presidents than plumbers, bishops than deacons, editors than rank-and-file newspaper readers, school superintendents than schoolmarms—and would be very foolish if they were not more likely to. And the unavoidable result is that the men chosen are likely to be far more “conservative,” far more dedicated to the “status quo,” than the candidate whom the same community

on the same day helps elect President (or, to anticipate, than the candidate whom the same community on the same day helps defeat for President); and the chances of their disagreeing with that candidate a few months later on “most important” and “important” questions are, on the face of it, excellent. So that we have at least one built-in reason for *expecting* executive-legislative tension.

B. The difference in the discussion process as we see it go forward in the constituencies and the discussion process as we see it go forward in the national forum. This is partly a matter of the point just made (that the constituency is to a far greater extent a structured community), and partly a matter (not quite the same thing) of the sheer difference in *size* between the local constituency and the nation—or, as I should prefer to put it, of the kind of considerations that led that remarkable “empirical” political theorist, J.-J. Rousseau, to declare, at a crucial point in *Du contrat social*, that there is more wisdom in small bands of Swiss peasants gathered around oak trees to conduct their affairs than, so to speak, in all the governments of Europe. One of the questions that that sentence necessarily poses, when we examine it carefully, and that which leads on to what I believe to be a correct interpretation of it, is whether it intends a tribute (which the attribution of wisdom certainly was for Rousseau), (1) to the Swiss, or 2) to peasants, or (3) to peasants who are also Swiss, or (4) to small groups of persons caught up in a certain kind of discussion situation. The context, I suggest, leaves no doubt that the correct answer here is (4): Rousseau certainly thought highly of the Swiss, but not so highly as to claim any sort of monopoly of wisdom for them; he also thought highly of peasants, because of their simplicity of life (if you like—which I don’t—because of their closer approximation to the “noble savage”), but precisely *not* because of their native wisdom in the sense intended here, which evidently has to do with wise decisions concerning public affairs; by the same token, as we know from the *Julie*, he thought highly of Swiss peasants in particular, but not so highly as to permit himself the claim that the small bands, merely *because* made up of Swiss peasants, are the repositories of wisdom. The emphasis, in

other words, is upon the “small bands,” the fact that each embraces only a *small number* of individuals, and on the fact of that small number being gathered to dispatch the public business of a small community—the Swiss peasants and the oak tree being simply the symbol, the example, that comes most readily to Rousseau’s mind. So we are led on to ask, what difference or differences does Rousseau think he sees between their “deliberation” and other kinds of deliberation? We can, I think, answer with some confidence. First, there is a presumption that each small band is talking about *something*, not *nothing*. Second, there is a presumption, because of each band’s relatedness to the community whose affairs it is dispatching, that its members are reasonably well-informed about the *something* they are talking about—the implication being (it is caught up and developed in the *Government of Poland*) that, as a discussion group increases in number and a constituency in size, there is greater and greater danger that the persons concerned will find themselves talking about *nothing*, not *something*, and will also find themselves talking about situations and problems that are too large, too complicated, for them to understand. Wise deliberation—the point recurs again and again in Rousseau’s political writings—occurs only where people are discussing problems that they can, so to speak, “get outside of,” and where the participants in the discussion are not so numerous as to give scope to the gifts of the orator and the rhetorician.

Now: evidently a congressional or senatorial constituency is *not* a small band gathered around an oak tree; but also nothing can be more certain than that the national constituency in America long ago became so large and complex that, even were there candidates who themselves understood it (which is doubtful), the audiences to which they must address themselves do not understand it, cannot even visualize it. Yet we have engrafted upon our constitution an additional electoral process that *forces* discussion of “national” problems in the national constituency; that obliges candidates to “go to the people” and court votes; and that, for the reason just mentioned, makes it necessary for them to avoid talking about something and leaves them no alternative but to talk about nothing—that is (for this is always the most convenient way of

talking about nothing), to talk about high—or at least high-sounding—principle, without application to any concrete situation or problem. Add to this the fact that the candidates, hard put to it to produce in a few weeks enough speeches to see them through the campaign, must enlist the assistance of speech-writers, who come as a matter of course from the intellectual community we have frequently mentioned above, and things—*inter alia*, the sheer impossibility of saying, after a presidential election, what “issues” it has decided—begin to fall into place. There are no issues, because both candidates for the most part merely repeat, as they swing from whistle-stop to whistle-stop and television studio to television studio, the policy platitudes that constitute the table-talk in our faculty clubs: no one, not even the most skilled textual analyst, can tease out of the speeches any dependable clue as to what difference it will actually make which of the two is elected; it seems probable, indeed, that the candidates themselves, unless one of them be a White House incumbent, do not know what use they would make of the vast powers of the presidency. And the inevitable result, as intimated above, is that what you get out of the presidential election is what amounts to a *unanimous* mandate for the principles *both* candidates have been enunciating, which is to say: the presidential election not only permits the electorate, but virtually *obliges* it, to overestimate its dedication to the pleasant-sounding maxims that have been poured into its ears. Even did the electorate *not* deceive itself on this point, moreover, it has no way to arrest the process: it must vote for one of the two candidates, and tacitly commit itself, whether it likes it or not, to what they have been saying.

We now stand in the presence, I believe, of the decisive explanation of executive-legislative tension in the American political system, and the decisive clue to its meaning. Elections for congressmen, and up to now at least most elections for senator, do not and cannot follow the pattern just outlined. With rare exceptions, for one thing, the relevant campaigns are *not* running debates between the candidates, and thus do not offer them the temptation to raise each other’s ante in the matter of principle. For another thing, principle is for the most part *not* what gets talked about, but rather

realities, problems, the potential benefits and potential costs (and for whom?) of doing this rather than that, and in a context where the principles that are applied are those (very different we may be sure from those of the presidential candidates) upon which the constituents are actually accustomed to act. The talk generated by the campaign, much of it at least, is in small groups made up of persons involved in the actual face-to-face situations we spoke of earlier, and is, therefore, *not* wholly dissimilar to that of those peasants under the oak tree. So that, insofar as the presidential election encourages the electorate to overestimate its dedication to moral principle, the congressional election encourages them, nay, obliges them, to take a more realistic view of themselves, and to send forth a candidate who will represent, and act in terms of, that more realistic view. By remaining pretty much what the Framers intended them to be, in other words, the congressional elections, in the context of the engrafted presidential election, provide a highly necessary corrective against the bias toward quixotism inherent in our presidential elections; they add the indispensable ingredient of Sancho Panzism, of *not liking* to be tossed up in a blanket even for high principle, and of *liking* to see a meal or two ahead even if the crusade for justice has to bide a little. And it is well they do; the alternative would be national policies based upon a wholly false picture of the sacrifices the electorate are prepared to make for the lofty objectives held up to them by presidential aspirants. And executive-legislative tension is the means by which the corrective works itself out.

If the foregoing analysis is correct, the tension between Executive and Legislative has a deeper meaning—one which, however, begins to emerge only when we challenge the notion that the “high principle” represented by the President and the bureaucracy is indeed high principle, and that the long run task is to somehow “educate” the congressmen, and out beyond the congressmen the electorate, to acceptance of it. That meaning has to do with the dangerous gap that yawns between high principle as it is understood in the intellectual community (which makes its influence felt through the President and the bureaucracy) and high principle as it is understood by the remainder of the population (which

makes its influence felt through the Congress). To put it differently: the deeper meaning emerges when we abandon the fiction (which I have employed above for purposes of exposition) that we have on the one hand an Executive devoted to high principle, and a Legislature whose majority simply refuse to live up to it, and confront the possibility that what we have is in fact two *conceptions* of high principle about which reasonable men may legitimately differ. Whilst we maintain the fiction, the task we must perform is indeed that of “educating” the congressmen, and, off beyond them, the electorate, “up” to acceptance of high principle; once we abandon it, the task *might* become that of helping the congressmen to “educate” the intellectual community “up” to acceptance of the principles that underlie congressional resistance to executive proposals. In the one case (whilst we maintain the fiction), discussion is unnecessary; in the other case (where we recognize that what we stand over against is two sharply differing conceptions of the destiny and perfection of America and of mankind, each of which conceivably has something to be said for it), discussion is indispensable; and in order to decide, as individuals, whom to support when executive-legislative tension arises, we must reopen (that is, cease to treat as closed), reopen in a context of mutual good faith and respect, the deepest issues between American conservatism and American liberalism. Reopen them, and, I repeat, discuss them; which we are much out of the habit of doing.