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STRATEGIC STUDIES PROJECT



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STRATEGIC STUDIES REPORT ABSTRACT

TITLE: The Growth of Congressional Oversight and Its
Consequences For National Security

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DATE: February 1966

This paper serves to focus a novice eye on the topic of Congressional oversight. The evolution of the Congress and Executive is examined in order to establish historical perspective. A trend in the oversight process is presented in this thesis and some of the causative factors associated with the growth of Congressional oversight are analyzed. The essay concludes that oversight will become more prevalent in the future.

BIOGRAPHICAL SKETCH

Commander Lawrence M. Kelly, USN, (BA, Harvard; MS, USC) majored in government during his undergraduate studies. After graduation from college he served as a Surface Warfare officer. He subsequently volunteered for Special Operations duty with Explosive Ordnance Disposal Forces and has spent most of his career in this specialized field. He has had operational tours with both CINCLANTFLT and CINCPACFLT and several tours on the Navy staff in Washington D.C. Commander Kelly is a graduate of The National War College, Class of 1986.

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CHAPTER 1

INTRODUCTION

A better appreciation of Congressional oversight in national security issues can be gained by examining its Constitutional origins. The American revolution caused the thirteen colonies to unite in a confederation that reflected the supremacy of the individual states. Problems were experienced with the form of government embodied in the Articles of Confederation which existed between 1781-1789. The Philadelphia Convention was held in 1787 for the purpose of revising the Articles of Confederation. "Men like James Madison thought that the solution of the internal as well as the external problems of American government was to be found not fundamentally in the equilibrium between states and Union, even if that could be achieved, but in a properly organized and empowered American republic"¹. Hence, a group of Americans known as the Federalists proposed a new constitution which was the foundation of modern American government.

argued that the American people preferred the smaller state governments over a larger and more distant national government in order to ensure the existence of a responsive authority. In their view, the federal government was formed to defend the Union against foreign states and defend lesser states against the ambitions of larger states. Hamilton argued successfully for the new form of federalist government. He stipulated that "the advantages of the close-knit natural community in inspiring the trust and confidence of the people can be replaced by the attractive benefits of the more effective government of a larger republic".² The new constitution was ratified by nine states in 1788 after Anti-Federalists received assurances that a Bill of Rights would be added. This act signalled the end of the second American revolution which saw federal supremacy replace state supremacy. This peaceful transition was possible because the Federalists and Anti-Federalists were agreed that the government is properly directed to the pursuit of limited ends, namely strengthening America's ability to economically compete, ensure the common defense and protection of individual rights. This agreement, in principle, allowed the people of the United States to form a more perfect union which met its test of fire during the war between the states (1861-1865). Both the Federalists and Anti-Federalists felt the need to establish a government with

separation of powers. John Adams basic ideas in his book, "Works", assisted Madison in formulating this new structure. It went beyond the British example which maintained a composition of aristocracy, democracy and monarchy and established a unique American division of power "to provide faithful and regular administration and to prevent a union of governmental power, with all its dangers for the people".³ This new government was divided along the functional lines of the executive, legislative and judicial branches.

The constitutional framers drew heavily on their experiences with colonial state legislatures and governors in forming this new government. The sovereign power was to reside in the legislative branch which was divided between a representative house and a senate. The house would represent the people and the senate the states. Functionally, the senate was a concept modelled after the governor's council which existed in most states. The Senate represented a clear compromise toward states right advocates. The role of the executive was modelled after the state governor. Americans had a great mistrust of the executive, fearing there were possibilities that this office might evolve into a monarchy. However, the framers knew from the experience of the Articles of Confederation that without an executive, efficient and effective administration of legislative initiative would be impossible.

Clearly, the founding fathers rejected Hamilton's view of a strong British type executive. But Madison wanted a sufficiently powerful executive that could resist the widely fluctuating policies coming from successive Congresses. A major force that held this new government together was economic self-interest. The framers assumed that men would not be virtuous and so constructed Congress as a place where geographic and economic interest groups would compete and eventually compromise to achieve policy direction. it is indeed ironic that Hamilton used this greed factor to initiate programs like the First Bank of the United States which solidified the existence of the federal government and greatly enhanced the power and prestige of the executive.

"The Constitution grants Congress extensive powers to oversee and investigate the executive branch activities. The Constitutional authority from Congress to conduct oversight stems from the explicit and implicit provisions as:" 4 the power of the purse, the power to organize the executive branch, the power to make all laws for carrying into execution Congress' Article 1 enumerated functions and the functions assigned to the branches, the power to impeach and confirm, and the power to investigate

Historically, Congressional oversight and investigation was meant to provide legislators with the knowledge of how effective legislative programs are, how well they are being administered, and the extent of public support for such programs. Discussions with several Congressional staffers indicated that Congressional oversight is also used to formulate policy as well as monitor the effectiveness of programs.

The Congressional Research Service has drafted an unpublished manual on oversight which states "There is no uniform agreement on a definition of Congressional oversight ... The Comptroller General has said Congressional oversight is the "process by which Congress learns about the implementation, results, effectiveness and adequacy of its past legislative work, ..." Suffice it to say that Congressional oversight is on broad activity that can take many forms and on whose primary focus involves the monitoring of Federal agencies, programs, policies, and activities." 5

Interviews with Congressional staffers indicate that in a Congress that was constructed to represent divergent interests, it is hard to get Congressmen to band together to do something positive. It always appears easier to get Congressmen to rally around something that is negative. While this leads to a moderating influence on our policies in the manner Madison had conjectured in his Notes on the Constitutional Convention, it does little to

develop national consensus on what must be done.

Oversight, by its historical definition, is affected by public opinion. Prior to Vietnam, there was a consensus in this country on national security issues. Since then, there has been basic disagreement on national security issues which has complicated the oversight process in evaluating the effectiveness of national security programs. It is hard to imagine the feasibility of measuring the effectiveness of programs when people often cannot agree on the need for such a program.

"The House and Senate have always had the authority to investigate programs and agencies of the executive branch. The first Congressional investigation in American history occurred in 1792 and delved into the conduct of the government in the wars against the Indians."⁶ Since oversight involves the Congress and the executive, the evolution and growth of oversight is affected by changes in both institutions. First the paper addresses the subject of Congressional evolution.

CHAPTER 2

EVOLUTION AND GROWTH OF CONGRESS

"The Committee structure of Congress is both the chief source of strength in the Congressional system, and also a source of weakness".⁷ The committee system has been a part of the Congress from its very beginning. From 1789 until 1815, committees were temporary panels set up by the Senate and House to work the details on a previously debated issue where a majority opinion had been identified. These panels were given a clearcut directive and charged to report back legislation. These panels were then dissolved.

Standing committees arose first in the Senate and then in the House because of the growing number of Congressmen taking part in the process, the rising perplexity and quantity of issues and also, and perhaps most importantly, to increase Congress' ability to deal with the president's influence in shaping legislative agenda.⁸

Permanent committees changed the way Congress did business. They affected policy decisions caused authority to be distributed away from the party leaders. The Congress, in both houses, now reviewed and voted on

legislation coming from the committees. This organization encouraged oversight because now a select group of Congressmen specialized in an area and approved national policy.

In 1910, the progressives united to strip many powers from the Speaker of the House, Joe Cannon. The reform was undertaken to aid progressive legislative causes. The irony of this action is that it resulted in the exact opposite occurring. Committee chairmen inherited many of the powers once associated with the Speaker. The rural and more conservative populace continued to reelect their Congressional representative. The more urban and progressive populace did not. Hence, because committee chairmen were elected based upon their seniority, Congressional leaders tended to be conservative. In 1946, the Congress passed the Legislative Reorganization Act. "The act reduced the number of standing committees in each chamber and for the first time specified each panel's jurisdiction. These changes, however, resulted over the years in a proliferation of subcommittees, obsolete jurisdictions, unbalanced workloads, and far too many committee assignments for members to manage." 9. As an illustration, of how committee lines of responsibility have become blurred, consider the example of how the Armed Services Committees increased their scope of annual authorizations for the defense

budget in order to better execute their oversight responsibilities.

Growth in the Scope of Annual Authorization of the Defense Budget

- 1959 Authorization required for the procurement of aircraft, missiles and naval vessels
- 1962 Authorization required for all research, testing, or evaluation of aircraft, missiles and naval vessels
- 1963 Authorization required for all research, testing and evaluation carried on by the Department of Defense
- 1965 Authorization for the procurement of tracked combat vehicles
- 1967 Authorization for personnel strengthens of each of the Reserve components as a prior condition for the appropriation of funds for pay and allowances for the Reserve components
- 1969 Authorization for the procurement of other weapons to, or for the use of, any armed force of the United States
- 1970 Authorization required for torpedoes and related support equipment
- 1970 Authorization for the average annual active duty personnel strength for each of the components of the armed services
- 1982 Authorization for Operations and Maintenance Account
- 1983 Authorization for Other Procurement Account (includes items such as trucks and electronic gear, that affect the readiness of the forces) 10

Clearly, the motivation of the Authorization Committees was not only to better oversee the defense budget but also to reassert its standing with the Defense Appropriations Subcommittees.

The Congress introduced sweeping changes to its organization and process during the 1970s. In a book edited by Ms B. R. de Boinville entitled "Origins and Development of Congress" 11., several areas were targeted for change. These

areas were the legislative process (Legislative Reorganization Act of 1970), committee chairmanship assignments, subcommittee autonomy, opening up of the legislative process (sunshine legislation) and committee jurisdictional reform.

It is interesting that the same progressive coalition that led to the overthrow of Uncle Joe Cannon in 1910, joined together again in the House in 1975 to overthrow the powerful seniority system and democratize the selection of committee chairmen. Although great changes were introduced into the Congress in the 1970s these actions did not completely "clear the decks" for orderly government because jurisdictional and membership reforms amongst committees recommended (1974) by Congressman Bolling's special committee were not approved. When Congress itself found that it could not conduct integrated oversight, the Congress directed the Government Accounting Office in the 1974 Congressional Budget and Impoundment Act to assist the House and Senate committees in program evaluation.

Committees and subcommittees have dominated the legislative branch. They have set the legislative agenda and established the priorities for Congress. They have operated independently of one another and jealously guarded their prerogatives. Committees often recruited members of similar ideology or geographic interest.

The reforms of the 1970s promoted a dispersal of power in the Congress which has led to policy fragmentation and has made the job of consistent oversight more difficult. Committees, which were originally formed to deal with the growing complexities of government and allow the Congress to maintain the legislative initiative, have not achieved either goal very well. Congress needs to revisit the Bolling Committee recommendations offered in 1974.

Recently, Congress has increased its oversight activity. Sosaker (T. P.) O'Neill, Jr. released a report that "showed a 20 percent increase in committee oversight meetings in the first 11 months of 1979 compared to 1977; 39 percent of all hearings were for oversight, compared to 34 percent in 1977" 12 This trend is due to several factors identified below: heightened public dissatisfaction about government waste, fraud and abuse; Congressional assertiveness in response to Vietnam and Watergate; election of officials who are skeptical of government's ability to solve problems; proliferation of federal programs that affect more people; limited resources; greater numbers of interest groups; and the expansion of Congress into subcommittee government.

CHAPTER 3

EVOLUTION OF THE EXECUTIVE

Wilfred E. Binkley, in his book, "The Man in the White House", describes the modern president as a party leader, the chief legislator, the chief executive, the Commander-in-Chief, the chief diplomat and America's national symbol. Of course in Washington's time there were no political parties, as such. The Constitutional framers knew that a stronger executive was necessary from their experiences with the Articles of Confederation. An office was needed to take care that the laws be faithfully executed and that duty was to fall to the executive. His duties were modelled after those of the colonial governor. The idea of a president in 1789 was modest, compared to our concept today. Then, the founding fathers were looking for leadership as a conductor might bring to an orchestra. The president's duties are specified in Article 2 of the Constitution. They are general and vague for reasons explained below:

"A sound constitution, Marshall believed, must be the outgrowth of generations of political experience rather than wholly the product of a preconceived theory; it must allow room for the harmonious play of forces which bind individuals and institutions into one nation; and, above all, it must be flexible and adaptable to changing conditions, that is, it must not provide by immutable rules for circumstances which cannot be contemplated at its inception." 13.

Such is the case with the American constitution and the office of its chief executive. Washington took office in 1789. From that day forward, the original plans of the Constitutional framers began to be modified by experience. Binkley describes that in 1789, for example, war broke out between England and France. Americans supported the French peoples struggle. They, after all, did assist the Americans in their time of need. But President Washington made a proclamation of neutrality before Congress could respond to the pressure of the people. Some members felt that since Congress had the power to declare war, then only Congress had the power to declare peace. An outbreak of yellow fever in Philadelphia saved President Washington from the anger of the Francophiles and allowed his proclamation to stand. This precedent has been followed to this day, with presidents proclaiming neutrality without consulting Congress.

One of the first major change in the presidency began with the rise of political parties in 1628 and the election of Andrew Jackson. Although the Constitution set forth a process of electing a president through the electoral college, the framers thought that no candidate after President Washington would achieve a majority of the electoral votes (the free play of diverse interests). Rather, they thought, the nomination and selection would become the duty of the House of Representatives. Hence, the president would be

initially dependent upon the Congress. The House did elect two presidents, Jefferson and John Q. Adams. The rise of political parties and the popular demand for national conventions (first one in 1832) drastically altered the preconceived balance of power between the executive and the legislative branches.

From 1832 until 1921, several presidents exhibited extraordinary leadership. Lincoln persisted in maintaining the supremacy of the union during the civil war period. T. Roosevelt brought flair and dynamism that buoyed the nation through the Spanish American War and Woodrow Wilson exhibited great statesmanship throughout the First World War. These presidents dramatically but temporarily changed the power of the office. Congress, oddly enough, first changed the institutional balance by passing the Federal Reserve Act in 1913 which delegated to the Federal Reserve System, the power to coin money and regulate its value. The power to pay the debts and to borrow money on credit of the U.S. was delegated by Congress to the Treasury Department under the two Liberty Bond Acts of 1917. Some say the birth of the powerful modern American presidency occurred in 1921, when Congress initiated a drastic shift of power by passing the Budget and Accounting Act of 1921 and made the president the chief legislator.

Why did Congress give up its constitutional power and forego its intended leadership role? Howard Shuman's book, "Politics and the Budget", explains that such transfers of power occurred as a "result of perilous times or new conditions, ... preceded by a period of study, appointment of commissions, and political bargaining until a solution was reached" 14.

"These conditions were brought about by the panic of 1893-94, the increase in government because of the second wave of immigrants, the flowering of the industrial revolution and the growth of such businesses as steel and railroads, the cost of the Spanish American War, and the increase in funds for the Civil War veterans and their families. The world was more complex and Congress found difficulty in dealing with the new issues that were brought about." 15.

John Marshall's perception in perceiving that a sound constitution must be an outgrowth of political experience was indeed farsighted.

President Harding signed the Budget and Accounting Act of 1921 into law. Now presidents are expected to initiate budgets and draft suggested legislation. Congress authorized the president a Budget Bureau to assist in the initiation and integration of a budget. The Act also instituted the General Accounting Office to act as Congress' watchdog.

" During the 1930's Congress delegated much of its power over the right "to borrow money on the credit of the United States" to a variety of established and new executive agencies such as the Farmer's Home Administration, the Federal Housing

Administration, the Rural Electric Association, and dozens of others. By the 1980s the funds provided through direct loans, guaranteed loans, and loans by government sponsored enterprises equaled the total amount of spending in the annual budget." 16

In 1946, with a greatly increased war economy and with millions of military men returning to the civilian market place, Congress passed the Employment Act of 1946 which gave the president more responsibility over the economy. These actions, passed by the Congress, altered the balance of power in the decided favor of the executive and were not anticipated by the founding fathers. The men of 1787 shaped the powers of the Congress along the lines of the colonial legislatures. If this new executive needed power to ensure that the laws were faithfully executed, then experience taught them that Congress would have to retain the power of the purse to protect against a sovereign usurping too much power. Finally, the basis of the union envisioned many voices being raised, each defending their regional interests and each compromising to get a workable policy.

Congress was finally prodded into action after the Vietnam War and the Watergate events and in 1974 passed the Budget and Impoundment Control Act. The Act required Congress to set budget limits for itself and created budget committees in each house to accomplish this task. It also created The Congressional Budget Office to provide facts and estimates on fiscal matters

independent from the executive branch. The Act establishes new timetables for acting upon the budget and finally provided legislative responses to executive impoundments of appropriated funds. It is ironic that President Reagan used features of the Act to his advantage in 1981 to motivate Congress to legislatively achieve his fiscal policies.

Throughout this tumultuous century, Congress has continued to use oversight to ensure ^{the} legislated programs were being effectively ~~executed~~ ^{implemented}. Congress has also used oversight to question the validity of programs proposed by the executive and approved in the annual appropriation. At times, Congress seeks to use oversight to alter or completely change policy issues. Oversight is a tool used by Congress for many purposes (e.g. effectiveness, efficiency, policy change/cancellation, balance of power). Congress uses many techniques to conduct oversight and these will be discussed in the next chapter.

CHAPTER 4

CONGRESSIONAL OVERSIGHT

A Senate Armed Service Committee report states that "The Congress has a central role in the overall planning and management of the Nation's security." 17

Congressman Aspin, of the House Armed Service Committee indicates that "A second role that Congress performs (the first being a conduit for constituent views and the third acting as guardian of the processes of government) is as general overseer of government policies and resource allocation. In this role it acts not unlike a board of trustees. With very few exceptions, Congress is not the place where policy is initiated... (Committees)... do not initiate legislation in this area, but simply modify, if necessary, and ultimately give their approval to what the Executive is proposing to do." 18. Many authors reach the conclusion that Congressional decentralization and fragmentation make that body a better touchstone for establishing national consensus on security policies. Congress is conducting its oversight responsibilities when it monitors and analyzes the administration's national security policy. Earlier in the paper, oversight was defined as a process by which Congress learns about the implementation, results, *effectiveness* and adequacy of its past legislative work. Oversight can also be defined as an information gathering activity focused on the need to establish

entirely new legislation.

The objectives of oversight often vary from committee to committee. The focus may be on promoting administrative efficiency and economy in government, protecting and supporting favored policies and programs, airing an administration's failures or wrongdoing, or its achievements, publicizing a particular member's or a committee's goals, reasserting congressional authority vis-a-vis the executive branch, or assuaging the interests of pressure groups. 19.

Mr. Dleszek suggests that oversight was formalized by the Legislative Reorganization Act of 1946 into three areas: authorization, fiscal management and fraud, waste and abuse. Dleszek does not mention policy as an area deserving its own notice, but is included here to reflect the importance the author attaches to broad Congressional oversight. It is this type of oversight that has the potential to crystallize consensus on national security issues.

Congress has many techniques at its disposal to facilitate the attainment of one or several oversight objectives mentioned above. Dleszek enumerates these as follows: hearings and investigations, legislative veto, authorization and appropriation processes, nonstatutory controls, General Accounting Office audits, requirements for executive reports to Congress, Ad Hoc groups, Confirmation process, program evaluation, casework, support agency studies and oversight by individuals. A note of explanation on each of these techniques follows. Hearings and investigations seek to gather information. They can

involve executive and private sector people as well as Congressional staff and support agency people. Watergate hearings is a example of a Congressional effort that evoked great interest in Washington and in the national press. Obviously, not all hearings attract this kind of attention in the public. The legislative veto is a technique that allows Congress to delegate legislative power to the executive (e.g. the power to reorganize the bureaucracy) but still reserves the right to approve or disapprove the intended action by majority vote of one or both houses of Congress. A recent Supreme Court decision, however, has put the validity of this technique in jeopardy by ruling that it is unconstitutional to ^{provide for a} ~~pass~~ legislation with one house ^{and} ~~avoiding~~ the possibility of executive veto. Oversight is conducted in both the authorization and appropriation process. Money makes policy and hearings conducted to authorize and appropriate money are a form of oversight. Thus, the budget committee work at establishing appropriate fiscal limits for national security matters must also be mentioned in this same context. Nonstatutory controls are exercised by various Congressional expressions of intent that fall short of being legally binding on the executive. These may include statements made in hearings, debates and reports. This informal means is also extended to include phone calls and letters from Congressmen and their staff. Informal means is also extended

to reports from informational groups (like the Democratic Study Group) and caucuses. Congress also exercises oversight by legislatively tasking the executive departments to submit various reports on matters of interest. Confirmation hearings, program evaluations, casework and support agency studies are all further examples of other techniques available to Congress to conduct oversight.

James L. Sundquist, in his book "The Decline and Resurgence of Congress"²⁰, discusses Congressional oversight exercised before and after the fact. Before the fact oversight is more restrictive than after the fact oversight and includes such things as Senate confirmation hearings and possible legislation that affect administrative process. An example of this is the Senate Armed Service Committee report and subsequent hearings on defense organization and the need for change. After the fact legislation is virtually unlimited and permits the Congress to review and investigate all that the executive does, or is supposed to do. Executive privilege is an area of possible exclusion.

A student of Congress can analyze oversight from many perspectives. I will comment on oversight from the vantage point of power, time, scope and quality.

Many Washington observers comment that the annual budget and the money it provides creates both policy and power. Congress delegated much of its power to

the executive in 1921 when it changed the President to initiate the annual budget. The Congressional Budget and Impoundment Act of 1974 sought to restore the budget discipline in the Congress and allowed Congress to resume much of its powers lost to the executive in 1921. The move toward annual authorizations for the armed services was motivated by the need to better control the defense budget and also to restore the power to the Armed Service Committees who perceived to be out done by the Defense Appropriation Subcommittees. Annual authorizations achieved these objectives but better oversight of the defense budget has resulted in blurred jurisdictional lines between the Armed Service Committees and the Defense Appropriation Subcommittees. Detailed authorizations now appear just like annual appropriations. "Congressional 1984 appropriations language occupied a total of 503 pages while Congressional authorization language covered a full 856 pages." 21.

The level of detail and the technical nature of the defense programs have placed enormous time requirements ^{on} for Congressmen and their staff. The democratization of the Congress, which occurred in the 1970s, has led to a very decentralized and time consuming organization. Randall Ripley, in his book on "Congress, Process and Policy" 22., states that during the 96th Congress

Senators were assigned to an average of 10.4 committees and subcommittees. Representatives were assigned to an average of 5.8 committees and subcommittees. When one considers that Congressional business is conducted from Tuesday through Thursday of each week and that time must be allotted for constituency needs and roll call votes, one readily perceives that there is not much time left for complicated legislation. Oversight requires a good deal of research and can produce more questions than it answers. Congressmen lack positive incentive to conduct oversight hearings.

Secretary of the Navy John Lehman has stated that what is needed is not more oversight but better accountability. Responding to the question of whether legislative oversight has become anarchy, Secretary Lehman responded, "Yes. How? Ten years ago four committees wrote legislation on Defense. Today, 24 committees and 40 subcommittees oversee Defense." 23. Several reasons for this growth are: increased Congressional staff, more committees and subcommittees getting involved through blurred jurisdictional lines of responsibility and greater public awareness of defense waste, fraud and abuse. An example of the growth of Congressional staffs is shown below:

Personal staff	Senate	House	
1967	1749	4055	
1980	4281	8667	
Committee staff			
1965	509	571	
1980	1108	1918	Note 24.

Much effective oversight is done in Congress but blurred jurisdictional lines have caused a great many committees to become involved in oversight and this can result in confusion.

Oversight tends to focus on the details of programs rather than form the basis for broad policy guidance. Policy oversight requires detailed scrutiny, perspective, and time. Congressmen do not have a large share of time to invest in oversight. Congressmen's political objectives are limited by the necessities of biennial elections. Hence, representatives have little incentives for oversight. The greatest incentives for oversight occur when such efforts are short term and the perception of high payoff exists.

Finally, there is no consensus in Congress on standards for effective oversight. Even if some agreement were possible, Congress does not have any mechanism to control the quality of its oversight. During one of the interviews

that helped establish the basis for this paper, one Congressional staffer observed that oversight is people and national security oversight takes on the interests of the people and institutions that conduct oversight hearings and investigations. Congress has made attempts to define a standard method or process for accomplishing oversight. The Comptroller-General report to the Congress of November 22, 1977 entitled "Finding Out How Programs Are Working: Suggestions For Congressional Oversight" and a formerly mentioned unpublished Congressional Research Service manual on Congressional Oversight of February 1984 provide details. Nonetheless, oversight is ultimately a very subjective interpretation of how well the executive is implementing the intent of legislative laws. "Simply to intensify oversight, as the Congress has done and is still striving to do, without attention to quality control may, if anything, impair the mix." 25. Congress and the political climate are encouraging members to increase oversight. Junior staffers, without the experience and background, can quickly engage the executive bureaucracy in a harried and rather unproductive debate. Increased oversight, without quality control, may have the opposite of its intended effect. It may detract and discourage the executive from management of an effective program.

If all this discussion of oversight seems negative, it is not intended to

imply that oversight is not working or needed. Solutions are at hand which can be legislated that will ease the situation described above. All that is required for implementation of these ideas is a national will. The following suggestions are offered in regard to the issues raised. Broad policy oversight can be institutionalized in Congress by creating an agency to assist in long range evaluation and planning. Such an agency might report to the Senate Armed Service Committee, which by its political tenure, seems to take a higher view of national security issues. Political incentives for the conduct of oversight can be increased by creating oversight subcommittees on each legislative committee. This would necessitate the disestablishment of some other subcommittee. This action would be difficult but not impossible. Biennial budgets can ease the work of Congress and allow more time for oversight. Adoption of a multiyear perspective would stabilize programs, enhance oversight and lead to better results. Clearer delineation of committee responsibilities can be made. Sunrise legislation which is the concept "developed and advocated by General Accounting Office ... emphasizes laying the groundwork for oversight in the authorizing legislation itself." 26. Each authorizing bill would include oversight guidance evaluation goals and questions on which the executive must respond. Such an approach is fraught with the danger that the process might get out of hand and

create a paperwork nightmare.

Oversight is definitely growing in quantity and my forecast is that it will continue to grow. The expanding bureaucracies of the Congress and the executive permit and demand that oversight increase. The blurred jurisdictional lines of responsibility amongst committees with their associated fragmented organization will continue to encourage competition and thus serve to increase the use of oversight as a balance of power tool. The trend is clear as one author states, "In both houses, committees and subcommittees were devoting more than one-sixth of their hearing and meeting days to oversight in 1975, compared to about one-ninth two years ago." 27.

CHAPTER 5

SIZE AND FRAGMENTATION

As we have seen, Congress and the executive branches have grown in size, and complexity. There has been both an increase in bureaucratic specialization and in fragmentation of work and policy-making. The Congress has responded to these modern (last 60 years) occurrences by redistributing authority and thus power to the executive branch. The result of these actions has been a tremendous lack of balance of power in our federal government. The Congress *struggled to* restore this balance of power during the reforms of the 1970s.

Power shifts in Congress down to the subcommittees level have increased the problem of coherent and disciplined oversight. Increased participation by the influential and moneyed political action groups with demonstrated ability to swing election votes further complicates Congress' ability to control its own destiny. Issues such as these compound Congress' ability to formulate consistent oversight policy and thus maintain steady and effective policy guidance to the executive. In this context, it is not surprising to see Congress continuing to reinforce divisions in the bureaucracy to better enable

themselves to control policy issues (see page 9 discussion of annual authorizations by service as opposed to function). Use of Congressional oversight, however, in an attempt to influence policy decisions after the fact as oppose to before the fact is counterproductive and can meet with only marginal success.

Congressional response to size and fragmentation that led to a large giveaway of Constitutional prerogative has also had its effects on the internal workings of Congress. Ever since 1837, the House and since 1650 in the Senate, a two step authorization then appropriation process was necessary to fund programs. Up until 1950's, most federal programs were permanently authorized. Since then, authorization committees have passed laws requiring annual or limited authorizations. They did this because they wanted greater control and oversight over the executive's programs. They also wanted to have a greater influence on the appropriation committee. Lastly, authorization committees have achieved greater parity with the appropriation committee through "backdoor spending" initiatives such as borrowing authority, contract authority and entitlements.

Randall B. Ripley, in his book "Congress, Process and Policy", suggests that there are three major consequences of Congressional fragmentation in policy

discussions. First, fragmentation leads to stable policy. Second, most domestic policy is initially distributive in nature or becomes distributive over time. Third, fragmentation in Congress leads to minimal and sporadic concern with overseeing the bureaucracy. There is a danger with oversight that does not have a quality control feedback loop. This danger is that oversight can degenerate into simply getting [^]life-minded people together with the expectation that only minor deviations will be recommended.

...making
...about

CHAPTER 6

LACK OF CONSENSUS

Our government has always been characterized by internal disagreements and the pursuit of self-interests. Several authors have noted, though, that disagreements tended to stop at the waters edge until 1965. Since that time, consensus on national security issues has been difficult to achieve. Some suggest that the administration needs to better articulate a strategy for national security. Others argue that the threat is evident in the Soviet Union and what must be done is properly match the threat to avert war. Since World War II, the U.S. role in world leadership has changed and this has affected our perception of national security issues. The American populace have perceived these changes, but they have understandable questions on just how much national security is enough. Agreement becomes harder when resources become more competitive.

Oleszek cites factors which affect Congress' ability to achieve consensus on oversight. First, there is no clearcut consensus on how to measure oversight, quantitatively or qualitatively. Second, some legislators formulate oversight

objectives that appear impossible to achieve. Third, many Congressmen feel oversight has only marginal effect. Fourth, oversight sometimes generates more questions than it answers. Fifth, Congress seeks to shape executive actions to its own objectives rather than simply conduct neutral evaluation. Oversight, then, becomes part of the legislative/executive balance of power equation. Further complications arise when one considers that legislators, involved in many committee and subcommittee appointments, do not have the time to devote to the demanding job of oversight. Finally, there is little tangible political reward for consensus building that could help Congressmen get reelected.

CHAPTER 7

CONCLUSIONS

"Constitutional guarantees, and narrowly specified and rigidly drawn powers, ... are no real protection against the abuse of power: they might most likely produce the opposite effect. The wisdom and discretion of the legislature, held responsible by a politically sophisticated and mature citizenry, are the most basic restraints upon which a people can rely in all representative governments."²⁸ These words are ^{attributable} to John Marshall and remain applicable to our modern day government. Process can never substitute for consensus hammered out in our political and societal establishments.

Congress still retains great power and can, if properly motivated, express will and determination. The general perception is that the executive has evolved into a more dominant policy making force. The danger that I perceive in all this is that in the absence of a strong consensus and with the aid of blurred jurisdictional responsibility amongst committees, Congress can send the executive inconsistent policy guidance or no broad policy guidance at all. This would clearly be counterproductive to the aims of Congressional oversight.

In order to achieve a politically sophisticated and mature citizenry, a prospect many of the founding fathers found doubtful, leaders will have to emerge that can educate the people through our free press in a similar fashion as Publius did in 1787-89. Our enlightened people will then have to hold the legislature responsible for their actions.

The growing size and complexity of our national defense issues has complicated these matters. Fragmentation of the executive and the Congress has adversely affected the public's ability to focus on who is really accountable. Both branches of government seem incapable of disciplining themselves and creating a clear line of accountability. Issues will not get any simpler and the public will become more assertive as resources become more scarce. Policy decisions will have to be made in the aggregate from the top down. Working details from the bottom up to broad policies has not seemed to work. Order and discipline must be restored. Where should this redirection take place? The founding fathers desired it be done in Congress where all interest groups are represented and practical compromises can be attained. Practice has proven Congress unable to accommodate this initial view. Positive leadership and good old fashioned politics can restore this role.

Speaker of the House O'Neill indicated that the public has voiced concern over the fact that Congress has over legislated. If such opinions persist, our future will see less lawmaking and more oversight. The effectiveness of more oversight will depend upon the purpose it is intended to serve. For the executive the consequences are clear. Prepare to face more oversight. The success or failure of the executive will depend upon his/her ability to anticipate this future possibility and, through positive leadership techniques, begin the sharing of information that is necessary to develop consensus. Such challenges will face the future executive. His/her initiatives will have to stand the rigors of criticism from the fragmented bureaucracies in both the executive and congressional branches and the cellular interest groups that support them. Congress must certainly revisit the issue of committee jurisdictional reform. Our future ability to construct rationale defense policies, in light of critical resource constraints facing the nation, demands that the effort be made.

NOTES

1. Herbert J. Storing, What The Anti-Federalists Were For, (The University of Chicago Press, Chicago 1981), p 38.
2. Ibid., p 42.
3. Johnathan Elliot, The Debates of the State Conventions on the Adoption of the Federal Constitution, as Recommended by the General Convention at Philadelphia in 1787 2nd ed. (Philadelphia 1866), pp 218-219.
4. Congressional Oversight Manual, CRS, February 1984, p 4.
5. Ibid., p 8.
6. Walter J. Oleszek, Congressional Procedures and the Policy, (Congressional Quarterly Inc., Washington D.C. 1984) p 226.
7. Roger H. Davidson and Walter J. Oleszek, Congress and its Members, (Congressional Quarterly Inc., Washington D.C.) p232.
8. Ibid., p 231.
9. Ibid., p 230.
10. Robert J. Art, Congress and the Defense Budget: Enhancing Policy Oversight, (Political Science Quarterly), Summer 1985, p230.
11. Barbara R. de Boynville, Origins and Development of Congress, (Congressional Quarterly Inc. Washington D.C. 1982) p178.
12. Oleszek, p 236.
13. Ralph A. Rossum and Gary L. McDowell, The American Founding, Politics, Statesmanship, and the Constitution, (National University Publications, Kennikat Press, Port Washington, N.Y., 1981) p 137.

14. Howard E. Shuman, Politics and the Budget: The Struggle Between the President and the Congress, (Prentice-Hall Inc Englewood Cliffs, N.J. 1984) p21

15. Howard E. Shuman, Congress and Budgeting, Unpublished Paper, National War College, Ft. McNair, Washington D.C. 1986) p 5.

16. Ibid., p 6.

17. U.S. Congress, Senate, Committee on Armed Services, Defense Organization: The Need for Change, (Staff Report) October 16, 1985, p. 569

18. Art, p. 243.

19. Dleszek, p. 227.

20. James L. Sundquist, The Decline and Resurgence of Congress, (Brookings Institute, Washington D.C. 1981) p. 315.

21. Art, p. 232

22. Randall P. Ripley, Congress, Process and Policy, (Ohio State University, 1983) p. 171.

23. John Lehman, What Defense Needs: "De-organization", (Washington Post 26 May 1985) p. C-7.

24. Ripley, p. 262.

25. Sundquist, p. 343.

26. Ibid., p. 342.

27. Ibid., p. 327.

28. Rossum and McDowell, p. 137.

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