

THE EVOLUTION OF LEGISLATIVE OVERSIGHT:  
AN EXAMINATION OF CONFLICTS OF POWER

THESIS

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## **CHAPTER I**

### **AN INTRODUCTION TO CONGRESSIONAL OVERSIGHT**

The founding fathers were determined to erect a system in which there was to be a separate legislature and president, independent of one another, in order to avoid the despotic government they despised. A strict reading of the Constitution outlines the few instances in which Congress and the President actually are to come into contact with one another. The President is mandated to, from time to time, advise Congress on the state of the union. The President is also required to nominate certain officials that require the consent and advice of the Senate. Yet another instance of contact between Congress and the President is mandated by the presence of the veto power. All of these constitutional mandates were put in place in order to limit the power of each branch through the use of checks and balances, but were left ambiguous outside of these mandates.

Today, it would appear that power is not separate, but rather shared by the executive and legislative branches of the United States Government. Over the past 231 years of independence, America has grown, not only geographically or in population, but in the size of its government. The bureaucracy has become a driving force in keeping the United States government up and running. This bureaucracy is where the new battleground for power lies. Controlling the bureaucracy has become a necessary task for Congress over the past sixty years. The question has become, how does Congress control

the power of a burgeoning and expanding executive branch? The answer has become their use of congressional oversight. Since the 1946 Reorganization Act, Congress has become increasingly more active in oversight procedures. This increase in oversight can only be seen as its attempt to control the power within the administrative branch of government.

It is the purpose of this project to review the pertinent scholarly literature and theories surrounding the use of the legislative oversight mechanism and to determine a viable operational definition for congressional oversight. Beyond operationalizing oversight, it is also the purpose of this project to provide the data presented in two separate studies and to determine if any of the theories provide a rationalization for the increased use of the oversight mechanism. Chapter II focuses on the relevant literature that has provided varying definitions and theories surrounding the use of oversight in Congress. Chapter II also provides the reconciliation issues surrounding the theories. Chapter III focuses on the trends of congressional oversight over the past sixty years by looking at the data provided by Joel Aberbach (1990) and Keith Weston Smith (2005) during their separate studies. Chapter IV attempts to apply the theories presented in Chapter II with the data provided in Chapter III. Finally, Chapter V concludes with a review of the findings, as well as provides any areas where further research is necessary.

## **CHAPTER II**

### **THEORIES AND STUDIES ON CONGRESSIONAL OVERSIGHT**

In a perfect world the interactions between Congress and the President would be limited only to those instances specifically enumerated in the Constitution. The real truth is that Congress interacts with the executive branch in ways that were probably never imagined by the founding fathers. Separation of power exists in theory, but reality has revealed that there is a separation of institutions that must share power (Davidson, 1988). One of those forms of interaction is the notion of congressional oversight.

While congressional oversight of the executive branch was not a common interaction during the first century and a half of America's existence, it has become a staple of the American government today. Becoming a serious form of interaction in 1946, congressional oversight has taken shape as one of the primary tools the legislative branch uses to not only control the bureaucracy, but to exude power and control over the executive branch as a whole. It is the purpose here to review the literature concerning legislative oversight and to determine what theories surround Congress' use of the oversight mechanism. It will be important to first review the operational definitions of congressional oversight. The study will then move to the theories and studies presented by the scholars in this particular field. It is the goal here to determine the progressive nature of Congress' use of the oversight mechanism, and to determine which theories are still valid in today's reality.

### **Congressional Oversight Defined**

There have been a number of definitions of Congressional oversight adopted by scholars of congressional power over the past forty-four years. Many of them are similar in nature, but all are definitely unique in their own right. Before concluding this segment, an overall definition of congressional oversight will be adopted for the remainder of this project.

The first definition is that of Seymour Scher (1963). Scher operationalizes congressional oversight by using the definition provided by the 1946 Reorganization Act. This particular definition states that it is Congress' responsibility to keep "continuous watchfulness of the execution by the administrative agencies concerned of any laws the subject matter of which falls within the jurisdiction of such committee" (Scher, 1963, p. 528). Scher adds that the "watchfulness" provided for in the definition above could be seen as investigations by the committee, or inquests of policies and procedures that occur incidental to the normal functions of the committee (Scher, 1963, p. 528). Ultimately, Scher is allowing Congress, and more specifically the 1946 Reorganization Act, to define what oversight actually means for the purpose of his 1963 study. The concern with this particular definition is that "investigations" and "inquiries" have no operational definition within the context of this study. What constitutes an investigation or an inquiry is never actually determined, leaving a lot to be desired when it comes to the definition chosen by Scher.

The second definition is that of Morris Ogul (1976). During the course of Ogul's 1976 study, he provides his own definition of congressional oversight. Ogul states, "legislative oversight is behavior by legislators and their staffs, individually or

collectively, which results in an impact, intended or not, on bureaucratic behavior” (Ogul, 1976, p. 11). There is an assumption in this definition that probably cannot be true across the board. The assumption made by Ogul here is that for an activity to be considered oversight, there must be some change in behavior on the part of the administrative agency. This assumption should not apply, simply because oversight does not necessarily mean that an administration is required to change. By including this requirement in his definition of congressional oversight, Ogul is potentially limiting himself to instances of administrative change that occurred due to congressional oversight. Would it be considered oversight if the agency changed incidental to a congressional hearing? What about the threat of the use of oversight? Would that force the agency to change? If so, would that be considered as congressional oversight? There are too many questions left unanswered because of Ogul’s assumption.

Leon Halpert (1981) followed Ogul’s lead and provided the field with another broad definition. Halpert states that congressional oversight “comprises activity that forces some patterned response by executive branch officials” (Halpert, 1981, p. 479). According to Bert Rockman’s analysis of this particular definition, almost any action taken by Congress could potentially be designated as congressional oversight (Rockman, 1984, p. 417). Allowing a broad definition such as this to be considered academically would defeat the purpose of studying congressional oversight. By operationalizing congressional oversight to include almost all legislative functions, it would become virtually impossible to produce a cogent, valid study of the use of the oversight mechanism within Congress.

Yet another definition of congressional oversight comes from Allen Schick (1976). Allen Schick defines congressional oversight as, “review after the fact” (Schick, 1976, p. 125). Schick follows this by stating that, “the main form of oversight is investigatory activity by Congressional committees” (Schick, 1976, p. 125). In this definition, Schick comes dangerously close to oversimplifying oversight. Schick wants to define oversight as only including, for the most part, the use of congressional committee investigations. Where Ogul and Halpert have overreached in their definitions, Schick is aiming too low.

While the Ogul and Halpert definitions were too broad, and Schick was too narrow, William Lyons and Larry Thomas (1982) attempt to find some middle ground. Lyons and Thomas stated that, “oversight encompasses all activities undertaken by a legislature to influence administrative behavior, during program implementation as well as afterwards” (Lyons & Thomas, 1982, p. 118). Here, Lyons and Thomas are attempting to reconcile the problems presented by the previous definitions. They keep it broad in terms of the activities of the legislature, but keep in play the required intention of Congress to influence administrative behavior. This definition is much closer to actually operationalizing congressional oversight than any of the other definitions provided thus far, but it is still missing some key components.

As stated above, Lyons and Thomas come much closer to providing a feasible definition of oversight than any other scholar before. There is another author who provides a feasible definition as well. Joel Aberbach (1979) provides his own definition of what constitutes congressional oversight. Aberbach says that congressional oversight is

Congressional review of the actions of the federal departments, agencies, and commissions and of the programs and policies they administer. This includes review that takes place during program and policy implementation as well as afterwards, but excludes much of what Congress now does when it considers proposals for new programs or even for the expansion of current programs (Aberbach, 1979, p. 494).

While Aberbach's definition is long, it provides many of the necessary characteristics that remedy the issues surrounding many of the other definitions. He defines oversight as congressional review, but is careful to exclude many of the day-to-day functions of Congress. Another big difference between Aberbach and many of the other scholars is his failure to include the word "committee." For Aberbach it is congressional review, rather than congressional committee actions. Aberbach makes sure not to limit himself within the definition, much in the same way the other authors have.

While there are many definitions to choose from, the majority of them would not be useful in a scholarly analysis. Some are too broad, while others are much too narrow to be considered for a relevant evaluation. The definition provided by Lyons and Thomas is viable but is still too limiting in its scope for the purpose of this project. Thus the definition provided by Joel Aberbach will be the definition operationalized in this evaluation.

### **Theories of Congressional Oversight Studied**

#### **The Scher Observations**

There have been a relatively small number of theories concerning the oversight procedures in the United States Congress since the passage of the 1946 Reorganization Act. Seymour Scher (1963) was one of the first scholars to truly attempt a study of congressional oversight. Scher provided the following rationalizations as hypotheses,

with some supporting evidence for his study. First, he suggested that there must be reasons behind Congress' inaction when it came to oversight. Ultimately, this means the first theory surrounding Congress' use of the oversight mechanism explains why they chose not to use it. According to Scher's theory, members of Congress do not participate in, nor push for, oversight because of the large amounts of time it requires (Scher, 1963, p. 528). Scher did go a step farther, however, providing his own requirements for the actual occurrence of oversight.

Before exploring Scher's findings, it is important to discuss his methodology. In his paper, *Conditions for Legislative Control*, Scher made an attempt to discover the reasons for congressional oversight (Scher, 1963, p. 527). As part of this study, Scher reviewed the hearings and reports issued from 1938 to 1961 of two House committees and one Senate committee who were charged with overseeing a total of seven administrative commissions (Scher, 1963, p. 527). Scher also included interviews that were conducted with members of the congressional committees as well as the committee's staff (Scher, 1963, p. 527). In concluding his study, Scher arrived at two lists concerning legislative oversight between 1938 and 1961. The first of these lists discusses the reasons why members of Congress chose not to participate in oversight procedures, while the second list discusses the reasons for changing their minds in a few instances.

Before moving on to the reasons Scher provides for actually participating in the oversight procedure, it is important to see why Congress was mostly hesitant to pursue an active oversight agenda. The first reason provided by Scher is that members of Congress get more out of providing services to constituents and in participating in the basic

legislative process than they do out of participating in oversight (Scher, 1963, p. 531).

Scher expressed the answer provided by one congressman for the question of his lack in pushing for oversight. This particular (unnamed) congressman ultimately said he could not get reelected by spending all of his time participating in oversight procedures (Scher, 1963, p. 532).

Another reason provided by a congressman was that committees were too busy doing work on important legislation (Scher, 1963, p. 532). A third reason provided by Scher is that committee members view administrative agencies as barricaded so as not to allow anyone in, and that members of Congress simply do not have enough experience to risk the consequences of breaking through the barricades (Scher, 1963, p. 532). Basically what these members of Congress are afraid of is being grossly uninformed. Agencies are full of experts, and no member of Congress can compete with that level of expertise.

The fourth reason provided by Scher is that members of Congress who have relationships with agency members have no desire to put these bureaucrats in front of an oversight panel (Scher, 1963, p. 533). Because of the nature of legislating, it would be impossible for members of Congress to avoid meeting and getting to know people within the administrative agencies. The next reason is that members of Congress are more likely to use their own contacts within an agency rather than push forward with oversight hearings (Scher, 1963, p. 534). Basically speaking, if a member can fix a problem quickly with a phone call, what is the point of going forward with a congressional hearing?

Another reason for a lack of oversight provided by Scher is that Congress fears the consequences of the public's response to hearings, specifically those groups regulated

by the agency in question (Scher, 1963, p. 536). Members of Congress hoping to be reelected worry about the adverse effects a hearing will have on private, “powerful economic interests regulated by the agencies” (Scher, 1963, p. 536). The seventh reason provided is that members of Congress who believe they automatically receive credit for being with the President are not going to push for oversight of the executive agency (Scher, 1963, p. 537). Why would Congress want to anger a President that is providing them with vital electability credits back home? Scher provided the example that the Democratically controlled House Commerce Committee who investigated Eisenhower appointees from 1957-1960, had largely abandoned their investigations when Kennedy appointees began to serve in the top positions (Scher, 1963, p. 538). Scher is attempting to show that divided government had an effect on the amount of oversight. The eighth, and final, reason for Congress’ reluctance to participate in oversight is that congressional committees are simply unmotivated (Scher, 1963, p. 539). If someone is not there to push committee members to partake in oversight procedures, then it will probably never happen (Scher, 1963, p. 539).

The above are rationalizations provided by Scher for Congress’ reluctance to participate in the oversight process during the period of review, but what are the reasons behind the actual instances in which Congress did use the oversight mechanism? The first explanation found by Scher is the notion of divided government. Scher states that Congress will actually use the legislative oversight process if the controlling party in Congress believes they can cause embarrassment for a President of the opposing party while still benefiting their own party (Scher, 1963, p. 541). This is the ploy of the team who wants to be in the White House. The second reason provided by Scher is that

Congress uses legislative oversight when they believe that the typical day-to-day operations of Congress will not take care of the needs of their constituents (Scher, 1963, p. 542). This rationalization seems to go back to the question of electability. If constituents are not being helped through the normal process, then Congress will turn to oversight as a new method to get what they need. The third reason is the idea that, at times, Congress can feel threatened by the President. When this occurs, Congress is more likely to participate in the oversight process (Scher, 1963, p. 545). This is ultimately the case of the playground bully. If the bully pushes a kid down, then the kid is obligated to get his friends together and then confront the bully. The fourth reason is that there are occasions when Congress decides to revise agency policy. When this occurs, oversight is going to happen (Scher, 1963, p. 547). The fifth, and final reason is that Congress will likely use oversight in instances where administrative agencies are moving forward with plans in opposition to the interests of Congress (Scher, 1963, p. 548).

Scher's study provides the first hypotheses concerning congressional oversight. While his data is limited, it does support his hypotheses. He provided potential rationalizations for the use of the oversight mechanism. The question that remains, however, is how applicable are his hypotheses today? Have they changed? Continuing to the next theory in question will allow the answers to these questions to become clearer.

### **Destler's Observations**

In his article, *Executive-Congressional Conflict in Foreign Policy. Explaining It, Coping With It* (1981), I.M. Destler takes a qualitative approach towards providing a viable explanation for the use of congressional oversight. Destler asserts early in this

article that there are four major sources of conflict between Congress and the President. The first of those sources of conflict is the idea of substantive policy differences between the legislative and executive branches (Destler, 1981, p. 299). Destler cites a study by Richard Fenno, which states that members of the Foreign Affairs committee were more likely to be committed to something that is viewed as good policy, as opposed to other committees who seemed to be looking for power within Congress (Fenno, 1973, p. 9-13). Destler states that members of this committee are likely to have strong policy interests, which will tend to conflict with the interests of the executive (Destler, 1981, p. 299).

The second source of conflict is the electoral interests of the President and the members of Congress (Destler, 1981, p. 300). While the President is worried only about the national mood of the electorate, Congress must worry, not only about the national mood, but also about the mood of constituents back home. Because of this difference, the attitude in Congress towards policy is much different than that of the President. Yet another source of conflict is found in the institutional factors of Congress (Destler, 1981, p. 302). While Congress wants to be able to influence policy, it is virtually impossible for it to dictate the day-to-day operations of an administrative agency (Destler, 1981, p. 302). There are far too many agencies and programs for Congress to be concerned with the daily operations of each. The final source of conflict provided by Destler is the increased size of congressional staffs (Destler, 1981, p. 304). As cited by Destler, between 1947 and 1976, both personal and committee staff increased more than five times the original number (Ripley, 1977, p. 49). This is a very large increase in staff resources for, not only, individual members of Congress, but for committees as well,

which gives Congress even more tools to effectively and efficiently investigate the President.

So how do Congress and the President manage this conflict? When it comes to the substantive differences discussed above, there are only three ways in which conflict can be managed. The first of these is to compromise (Destler, 1981, p. 307). If the conflict is going to be resolved and the agenda of the committee is to avoid gridlock, it will be necessary for there to be a compromise. The second way to deal with conflict from the substantive differences is the art of persuasion (Destler, 1981, p. 307). One side could persuade the other side to join their team thus ending the conflict. The third, and final, way out of conflict is to seek to override the opponent (Destler, 1981, p. 307). The rules of Congress and the power of public opinion can aid in using this method to move beyond conflict.

When it comes to managing the conflict created by political interests, Destler provides two ways out. The first way is the use of credit sharing (Destler, 1981, p. 308). Sharing the credit for a successful policy allows all parties to win in the end. The other way out of conflict created by political interests is to put the entire focus of the conflict on the leader (Destler, 1981, p. 309). The purpose of concentrating the focus on one person allows the others to be protected from the conflict thus giving them a victory in the end. This could be seen as “taking one for the team.”

When it comes to managing the conflict brought on by institutional problems, Destler has provided a number of tools. The first of these resources is known as the “chicken approach” (Destler, 1981, pg. 310). In this instance, the President would set a policy in motion, without the consent of Congress. Even if Congress disagrees with the

policy, they will allow it to continue in order to avoid being the reason for the policy's failure (Destler, 1981, pg. 310). Another resolution for this type of conflict is known as consultation between Congress and the President (Destler, 1981, pg. 310). This would involve Congress and the President sitting down to lay everything out on the table.

However, this particular method raises even more questions according to Destler. Who consults with whom? Is there a clearly defined desired outcome? How much time will this take? What about the use of the legislative veto (Destler, 1981, p. 310-311)? All of these questions would have to be answered for the consultation method to be effective.

The next method of conflict management is to make congressional leadership stronger (Destler, 1981, p. 311). When the problem is decentralized, there is no strong leader to step up and fight. If the leadership becomes stronger, it makes Congress as a whole more organized. Yet another source of conflict management for institutional problems is to make foreign policy committees more powerful (Destler, 1981, p. 312). It is important to remember, here, that the focus of this article is on foreign affairs conflicts between Congress and the President. Another management tool is to create joint committees that are concerned only with the national security of the United States (Destler, 1981, p. 312). The final method of managing conflict brought on by institutional problems is the use of personal political alliances (Destler, 1981, p. 312-313).

The final set of conflict management tools provided by Destler is concerned with the size of congressional staffs. Controlling conflict is done by simply reducing the size of congressional staffs (Destler, 1981, p. 313). By reducing the staff size of Congress, there would be fewer tools, or resources, for the purposes of oversight and

investigation. The second method is known as ratio fixing (Destler, 1981, p. 313). Basically, this tool would place a fixed ratio of staff members per member of Congress. The third method stated that the decentralization of power within the committees would lessen the conflict created by support staff that is taking their cues from members of the Senate who are advocating a specific position (Destler, 1981, p. 313). This seems to be in conflict with the management tool provided earlier that required greater centralization of power to control conflict. The final method of conflict management would be the strengthening of support staff institutions (Destler, 1981, pg. 313). These staff institutions would include the GAO, the Congressional Research Services, and the Congressional Budget Offices just to name a few. This method of conflict management also seems to conflict with Destler's tool of reducing the size of the congressional staff.

### **Ogul's Observations**

In 1981, Morris Ogul published *Congressional Oversight: Structures and Incentives* as a possible explanation of Congress' use of the oversight mechanism. Ogul's basic argument is that Congress dislikes oversight. While he mentions the 1946 Reorganization Act and its amendments of 1970 as a source providing Congress with the ability to partake in the oversight process, he stands by his assertion that Congress does not like oversight (Ogul, 1981, p. 318). Ogul found that the powers provided for by these congressional acts did have a very modest effect on the use of the oversight tool by Congress (Ogul, 1981, p. 318). Ogul asserts three hypotheses for the gap between expectations and behavior. The first of these hypotheses debunks the belief that members of Congress do not really believe in the oversight process (Ogul, 1981, p. 318). This is simply not the case according to Ogul. Ogul states that interviews performed with

members of Congress during the 1960's suggest that they do tend to believe in the oversight process (Ogul, 1981, p. 318). The second hypothesis concerns the nature of expectations. According to Ogul, all encompassing oversight is virtually impossible, which is what seems to be expected of Congress (Ogul, 1981, p. 318). The third hypothesis is that there are some outside factors that affect the behavior of members of Congress (Ogul, 1981, p. 319). As suggested by Ogul, those outside factors could include position within a committee or subcommittee, having more than one priority, or having a policy preference (Ogul, 1981, p. 319).

Ogul provided data that failed to support the idea that an increase in the size of the support staff of Congress would increase the usage of the oversight mechanism. According to his data, neither the quality nor the quantity of oversight was affected by an increase in the size of support staff (Ogul, 1981, p. 319). The same is true, according to Ogul, for increases in spending and informational resources (Ogul, 1981, p. 319). The conclusion reached by Ogul is that support staff, informational resources (i.e., GAO), nor the amount spent has any influence on oversight. Ogul also observes that members of Congress seem to prefer the use of informal oversight rather than formal oversight hearings (Ogul, 1981, p. 322). Methods such as back channel phone calls and messages seem to be the preferred method of controlling the administrative agency.

If spending is not a factor, and staff does not affect the use of the oversight tool, what are the causes of the lack of formal congressional oversight? Ogul provides three reasons that help to explain why Congress does not like to use this mechanism. The first reason provided is that Congress is simply too busy (Ogul, 1981, p. 325). Congress just does not have the time to deal with the bureaucracy because the members' day-to-day tasks

are all consuming. The second reason provided by Ogul is the desire to limit the scope of oversight (Ogul, 1981, p. 325). Individual members of Congress want to maintain their own personal power, and they want to further their own policy preferences (Ogul, 1981, p. 325). Ogul tells a story about Congressman Celler who was the chair of the Judiciary Committee during the 89<sup>th</sup> Congress (Ogul, 1981, p. 325). Celler was treated with great respect by the Justice Department in their attempt to handle matters concerned with civil rights. It was that power provided by the respect Celler received from the Justice Department that he enjoyed. Furthermore, it was Celler's policy preference that the Justice Department was handling the civil rights issues properly (Ogul, 1981, p. 326).

The third, and final, reason provided by Ogul is partisanship (Ogul, 1981, p. 326). Ogul provides the comment of a member of Congress who states that if he is of the same party as the President, then he really wants to avoid embarrassing the executive branch (Ogul, 1981, p. 326). Thus, what Ogul concluded here is that the structure of Congress has nothing to do with oversight. Oversight comes solely from the attitudes of the members of Congress (Ogul, 1981, p. 326).

### **McCubbins and Schwartz Observations**

In 1984, Mathew McCubbins and Thomas Schwartz set out to revolutionize the study of congressional oversight. McCubbins and Schwartz created a model that allowed Congress a choice in the type of oversight used, provided evidence from a number of other studies available to support the model, and finally concluded with the implications of bureaucratic discretion and regulatory legislation (McCubbins & Schwartz, 1984, p. 165). McCubbins and Schwartz coined the key phrases of "police-patrol oversight" and "fire-alarm oversight" during the course of their study. Before moving into the study

performed by these two authors, it is important to identify the definitions for each of these forms of oversight.

Police-patrol oversight is done by Congress, under its own initiative, in an attempt to find and remedy any problems within the administrative agency that goes against the intent of the legislature (McCubbins & Schwartz, 1984, p. 166). According to McCubbins and Schwartz (1984), police-patrol oversight is initiated by Congress' examination of a sample of executive activities. This examination could include "reading documents, commissioning scientific studies, conducting field observations, and holding hearings to question officials and affected citizens" (McCubbins & Schwartz, 1984, p. 166). This definition provided by the authors' shows that police-patrol oversight is not systematic and is not routine, but is rather selective and arbitrary, looking only at, what seems to be, a random selection of executive actions. Fire-alarm oversight is that oversight performed by Congress that occurs solely because of the complaints posed by individual citizens or interest groups who are actually checking the administrative agency (McCubbins & Schwartz, 1984, p. 166). In order for individual citizens or interest groups to pull the fire alarm, Congress makes information and the administrative decision-making processes available to the public (McCubbins & Schwartz, 1984, p. 166).

With oversight clearly separated and defined, McCubbins and Schwartz moved on to the creation of their model. This model had three very distinct assumptions. The first assumption is known as the technological assumption (McCubbins & Schwartz, 1984, p. 166). This technological assumption states that Congress can either include police-patrol oversight or fire-alarm oversight when they write legislation, and that they

can either hold hearings to patrol agencies, or wait for someone to make a complaint (McCubbins & Schwartz, 1984, p. 167). The second assumption is the motivational assumption (McCubbins & Schwartz, 1984, p. 167). This assumption states that members of Congress seek as much credit as possible when performing his or her duties (McCubbins & Schwartz, 1984, p. 167). This assumption is based on Mayhew's reelection model (1974), and Fiorina's blame-shirking model (1982), and would appear to be grounded in rational choice theory, which simply states that people's behavior is shaped by their calculation of the costs and benefits of their actions (Schutt, 1999, p. 37). The third and final assumption presented by the authors is the institutional assumption (McCubbins & Schwartz, 1984, p. 167). This assumption states that agencies who rely on Congress for funding and authorization are acting as agents of the legislature (McCubbins & Schwartz, 1984, p. 167). This assumption is based on the work of Baldwin (1975), Ferejohn (1981), Joskow (1974), McCubbins (1982), and Mitnick (1980). If an executive agency relies solely on a committee or subcommittee for funding, and ultimately for survival, then the executive department becomes an agent of Congress, acting in a manner that is suitable to those delegating the funds.

The next step in their model brought them to their consequences. The first consequence provided by the authors is that Congress tends to prefer fire-alarm oversight because of the following reasons: first, if Congress exercises police-patrol oversight, they would spend too much time reviewing agencies that are doing nothing wrong; second, police-patrol oversight allows for only a small part of agencies to be reviewed; and finally, police-patrol oversight is too costly for Congress itself (McCubbins & Schwartz, 1984, p. 168). The next consequence provided by these authors is that

Congress will not disregard their responsibilities of oversight, but will choose to participate in fire alarm oversight rather than police-patrol (McCubbins & Schwartz, 1984, p. 168). According to McCubbins and Schwartz, Congress will not neglect oversight because the cost for the members is ultimately low (McCubbins & Schwartz, 1984, p. 168-169). The final consequence is simply a summary of the first two. “Congress will adopt an extensive and somewhat effective policy of fire-alarm oversight while largely neglecting police-patrol oversight” (McCubbins & Schwartz, 1984, p. 169).

From here these authors move on to the misperceptions that have been adopted by other scholars who have ventured into this field. The first misperception listed is the idea of complexity. According to many other scholars, public policy is far too complex for Congress, and thus should be left to the experts in the executive branch (Lowi, 1969; Ogul, 1977; Ripley, 1969; Seidman, 1975; Woll, 1977). McCubbins and Schwartz comment that when Congress was sufficiently motivated, they have had the capacity to take on complex issues (McCubbins & Schwartz, 1984, p. 169). The authors even cite Fiorina (1982) as evidence for this comment. Another misconception presented is the idea of good government (McCubbins & Schwartz, 1984, p. 169). This ultimately means that Congress granted power to these agency experts and should let them do their job, especially since Congress has the opportunity to be affected by interest groups (McCubbins & Schwartz, 1984, p. 169). McCubbins and Schwartz state that it is unreasonable to believe that an unaccountable bureaucracy is a good idea. The next misconception is found in decentralization (McCubbins & Schwartz, 1984, p. 170). The assumption has been that oversight committees are weak because they have no control over the decision making process in Congress (McCubbins & Schwartz, 1984, p. 170).

McCubbins and Schwartz state that at best, this overstates the situation and shows only a lack of centralization in oversight responsibilities (McCubbins & Schwartz, 1984, p. 170).

Because of these misconceptions, many other scholars have come to the conclusion that Congress does not like oversight, and thus does not participate in it unless absolutely necessary. The authors here hypothesize that the appearance of neglect is actually a preference for fire-alarm oversight (McCubbins & Schwartz, 1984, p. 170). Because of this hypothesis, McCubbins and Schwartz argue that fire-alarm oversight is more effective than police-patrol oversight (McCubbins & Schwartz, 1984, p. 171). The authors' argument relies on two specific rationalizations. The first of these is the idea that the intent of the legislature is at times too vague, which makes it difficult to determine violations unless the fire alarm is pulled (McCubbins & Schwartz, 1984, p. 172). The second rationalization is the idea that fire-alarm oversight will pick up more serious infractions on legislative intent than police-patrol oversight would (McCubbins & Schwartz, 1984, p. 172). Basically, when an individual or groups of individuals are harmed because of an administrative violation, they are going to pull the alarm. If police patrol is relied upon, it is unlikely that many of these instances would be found and remedied.

This model appears impressive, but what evidence does McCubbins and Schwartz present? The amount of evidence is substantial. The authors rely on the evidence of Dodd and Oppenheimer (1977), Fenno (1966; 1973), Goodwin (1970), Ornstein (1975), Ripley (1969), Huitt (1973), Matthews (1960), and Ripley and Franklin (1976) to show that the fire alarm is pulled to bring violations of legislative intent to the

attention of Congress (McCubbins & Schwartz, 1984, p. 173). The next piece of evidence is the fact that Congress has passed legislation that makes it easier for groups to pull the fire alarm (McCubbins & Schwartz, 1984, p. 173). According to McCubbins and Schwartz, Congress created new programs, such as the Legal-Services Corporation, that were designed to organize and represent the interests of individuals or groups who otherwise would not have a voice (McCubbins & Schwartz, 1984, p. 173). The third piece of evidence is the fact that congressional offices within specific districts have begun helping constituents work through their individual problems with administrative agencies (McCubbins & Schwartz, 1984, p. 173). Next is the fact that many fire-alarm oversight instances provide for the redress of wrongs by the court system. Finally comes the instance in which Congress has responded to fire alarms directly against the agency itself (McCubbins & Schwartz, 1984, p. 174).

### **Aberbach's Observations**

Joel Aberbach, as noted earlier, has provided the most comprehensive definition for congressional oversight. He reiterated his 1979 definition in his 1990 book, *Keeping a Watchful Eye. The Politics of Congressional Oversight*. The purpose of this study was to see if there had been an increase in the use of hearings as a form of oversight since the early 1970's (Aberbach, 1990, p. 14). Aberbach chose to review the total number of days a congressional committee spent in hearings and meetings dedicated solely to oversight during the first six months of each odd-numbered year from 1961-1983 (Aberbach, 1990, p. 35). (He did, however skip 1979) Along with this review of actual days spent on oversight, Aberbach also relied on personal interviews with senior staff and with actual members of Congress.

Aberbach found that the use of formal oversight hearings by Congress steadily increased throughout the years of his research (Aberbach, 1990, p. 189). He discovered that Congress has gone after information about the executive branch in a more active manner (Aberbach, 1990, p. 190). Congress became more active in participating in formal oversight.

Aberbach chose not to make the distinction between fire alarm and police-patrol oversight. Aberbach stated that reelection and self-interest are not the reasons behind sporadic uses of oversight. He maintained that oversight is no longer sporadic and has been increasing at a steady rate for two decades. The fundamental reason for this increase in oversight is this behavioral change.

But what caused Congress to change their behavior? Aberbach believes that this change occurred because of the following reasons. First, Congress changed their behavior because the general public was frustrated by the size of the government (Aberbach, 1990, p. 191). As the author explains, when the public got tired of the government growing, it was no longer in the best interest of Congress to keep creating new programs. It was therefore more beneficial to make the old programs run better (Aberbach, 1990, p. 191). The next reason was the public perception that resources were scarce (Aberbach, 1990, p. 191). According to the author, resources were not running out, but the demand for them was increasing. When the perception that resources were becoming scarce appeared, the chances for new program implementation began to decline. That made it necessary to protect the programs that were already running, which were important to the individual members of Congress (Aberbach, 1990, p. 192).

The third reason was the increased conflicts between Congress and the President (Aberbach, 1990, p. 191). It should be noted here that Aberbach failed to mention if there was a connection between the increased conflict and the presence of divided government. Aberbach cites issues with the Johnson Administration and the Vietnam War, as well as Nixon's impoundment of funds as sources of this conflict (Aberbach, 1990, p. 192). The final reason provided by Aberbach was the appearance of internal changes in Congress (Aberbach, 1990, p. 191). These internal changes were the implementation of more powerful subcommittees and larger staff resources. Aberbach relied on the hypothesis that the increased ability of the support staff and research offices of the legislature are crucial to the increased use of oversight procedures.

### **Reconciliation Issues**

The studies presented above are not without fault. None of them provide a definitive, or comprehensive, answer for the increase in the use of the oversight mechanism. The first study, performed by Seymour Scher is by no means a complete study. While it was the first of its kind, it only provides vague support for the hypotheses. Scher never actually reaches any conclusions concerning the use of congressional oversight during this 1963 review. I.M. Destler examines executive-legislative conflict. While he uses the term "oversight" throughout the article, he rests his hypotheses and conclusions on the idea of conflict. He makes the assumption that all instances of oversight are conflicts rather than simply good governmental practices. He looks only at foreign policy oversight. Morris Ogul, in his 1981 study, fails to provide the reader with any methodology of his study. Ogul also seems to be using broad generalities to explain the actions of all members of Congress. The McCubbins-Schwartz

study provides a bifurcated definition of congressional oversight. Much of what McCubbins and Schwartz provide refutes the theories presented by Scher, Destler, and Ogul. The one major problem with the McCubbins-Schwartz study, however, is that the authors seem to rely solely on anecdotal evidence. Finally, the Aberbach study seems to do the best job of using both empirical data and anecdotal evidence to provide an explanation for congressional oversight. By doing this, however, Aberbach has managed to dispose of every other theory concerning this topic.

### **Conclusion**

The scholars cited above have all contributed specialized, if sometimes contradictory, insights into the causes of congressional oversight. Congressional oversight was not studied systematically until after the 1946 Reorganization Act. Since that time, a few important studies have prevailed, bringing theories about what makes the United States Congress utilize the oversight mechanism. Starting with the first study in 1963, the theories have changed and grown, and will continue to do so as time goes on. There are many opportunities for continued study in this field. In fact, it appears that the Aberbach text of 1990 was the last major scholarly work concerned solely with legislative oversight. Many questions have developed since its publication. What happened after the midterm elections of 1994? What was Congress' role in the White Water Investigation? What about September 11<sup>th</sup> or the midterm elections in 2006? Many questions remain unanswered concerning the use of the oversight mechanism over the past seventeen years. These questions provide great opportunities for continued research.

## **CHAPTER III**

### **TRENDS IN CONGRESSIONAL OVERSIGHT**

In the previous chapter studies and theories concerning the use of the oversight mechanism by Congress were addressed and outlined. This chapter's goal is to examine the trends concerning the actual frequency of oversight instances. Has the frequency of congressional oversight increased, and if so, why? While I would like to be able to evaluate the number of oversight instances beginning during the first Congress, there is simply no data set provided for a review of that magnitude. Attempting to create such a comprehensive dataset falls well outside of the scope of this thesis project.

There are two prominent studies that offer empirical data in this field. The first of those studies was discussed earlier, and is that of Joel Aberbach (1990). His data results will be presented in this chapter, as well as those of Keith Weston Smith (2005). Smith completed his dissertation on this subject in 2005, using the hypotheses of some of the studies presented in Chapter II, along with one or two of his own, but providing empirical data that aims at offering an explanation for the increase in the use of the oversight mechanism by Congress. This chapter will provide only the findings of each of these studies. Chapter IV will present a meta-analysis of these two studies.

#### **Aberbach's Data**

Before moving into the actual numbers presented by Aberbach (1990), it is important to first understand what his methods were when he designed this experiment.

Aberbach chose to look at oversight in the form of committee hearings excluding the Appropriations, Rules, Administration, and Joint Committees (Aberbach, 1990, pp. 33-34). Aberbach chose to study only the first six months of every odd year (January 1-July 4), beginning with 1961 and ending with 1983, excluding 1979 (Aberbach, 1990, p. 34). This study aimed to compare the total number of days committees met during the predetermined time frame for any reason, with the total number of days “committees devoted to primary-purpose oversight” (Aberbach, 1990, p. 34).

While Aberbach fully admits that there are limitations to what his data show, his analysis was nonetheless compelling enough to demonstrate, in the area of congressional hearings, a serious change in the habits of Congress. Table 3.1 shows the results of Aberbach’s test using the parameters provided above. These data provide significant evidence that Congress began to exercise its investigative might more often than it had previously in history. The percentage changes are the key indicators for Congress becoming more active in utilizing the oversight mechanism. From 1961-1983 the total days committees met increased by only 30.3 percent (Aberbach, 1990, p. 34). During the same time frame, however, the number of days devoted to oversight in those committees increased by 302.1 percent (Aberbach, 1990, p. 34). Aberbach chose to briefly summarize these findings by showing that there were 149 days on average devoted to oversight between 1961 and 1965, 192 days on average devoted to oversight between 1967 and 1971, 290 days were devoted to oversight in 1973, and 1983 brought 587 days of oversight (Aberbach, 1990, p. 35).

Aberbach is quick to point out that oversight not only increased significantly in overall numbers, but that it also increased as an overall percentage of the total activity of

committees. From 1961-1965, oversight averaged 7.9 percent of the total activity, while between 1967-1971 it averaged 10.2 percent of the total activity (Aberbach, 1990, p. 37). In 1973 oversight accounted for 11.5 percent, and was 18 percent in 1975 (Aberbach, 1990, p. 37). 1977 saw a slight decrease, but in 1981, oversight accounted for 19.5 percent of the total activity, and in 1983 it accounted for 25.2 percent of the total activity (Aberbach, 1990, p. 37).

**Table 3-1 Hearings and Meetings of Congressional Committees, January 1-July 4, 1961-83**

Year	Total Days	Oversight Days	Oversight as percent of total
1961	1789	146	8.2
1963	1820	159	8.7
1965	2055	141	6.9
1967	1797	171	9.5
1969	1804	217	12.0
1971	2063	187	9.1
1973	2513	290	11.5
1975	2552	459	18.0
1977	3053	537	17.6
1981	2222	434	19.5
1983	2331	587	25.2
<b>Percent Change</b>			
1961-71	15.3	28.1	11.0
1961-77	70.7	267.81	114.6
1961-83	30.3	302.1	207.6

*Source* Joel D. Aberbach, *Keeping a Watchful Eye: The Politics of Congressional Oversight* (Washington D.C.: The Brookings Institution, 1990), p. 34.

### **Aberbach's Explanations for the Increase**

With the data collected, Aberbach found a significant increase in Congress' use of the oversight mechanism. Now, he wanted to know what caused the increase to occur.

Aberbach's first attempt at an explanation was done through a simple survey of top congressional staffers from both the House of Representatives and the Senate. Table 3-2 displays the results of Aberbach's survey. It is important to note, as Aberbach has in his

text, that the fields are displayed as percentages of those who responded with a particular answer, and that many of those surveyed responded with more than one answer (Aberbach, 1990, p. 41). This is why the percentages do not add up to 100 percent (Aberbach, 1990, p. 41).

According to the data presented in table 3-2, more than half of the top staffers from both chambers of Congress believed that the increase in the use of the oversight mechanism was attributed to an increase in the size and complexity of the federal government (Aberbach, 1990, p. 41). This was the only answer that a majority of both chamber's staff actually agreed upon as a cause of an increase in the use of the oversight tool. The next highest percentage found was that of the increased size of the support staff. Twenty seven percent of both sets of staffers believed that an increase in the oversight mechanism was attributable to this growth in the support staff (Aberbach, 1990, p. 41). In some instances, however, it was the low numbers that offer up explanations. There seemed to be very little belief that new members of Congress were interested in oversight or that oversight provided more publicity than it had in the past (Aberbach, 1990, p. 41).

Aberbach also showed a parallel between the increased size in support staff over time and an increase in the use of the oversight mechanism. According to his text, Aberbach stated that as the size of the support staff increased, the number of days spent in oversight increased at an almost even rate (Aberbach, 1990, p. 43). Figure 3-1 shows the data compiled by Aberbach. It is important to note, however, that Aberbach was quick to admit that this correlation could be coincidental, and that it was possible that one was not the cause of the other (Aberbach, 1990, p. 43).

**Table 3-2 Top Staffers' Explanations of Why Oversight Has Increased (Percent)**

Explanations	All Top Staffers	Top House Staffers	Top Senate Staffers
<b>External Factors</b>			
Increasing size and complexity of government	55	52	57
Negative reactions to the executives accrual or abuse of power	22	24	20
Increased publicity value of oversight	7	7	6
Influx of new members interested in oversight	5	7	3
<b>Internal Factors</b>			
More or better staff, support agency personnel	27	24	31
Impact of internal congressional reforms	17	26	6
Other (miscellaneous)	14	17	11
N	(77)	(42)	(35)

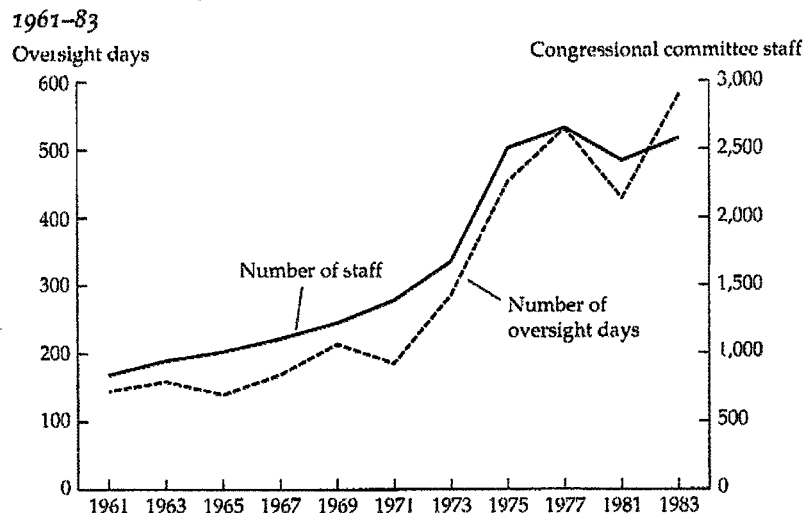
Source Joel D. Aberbach, *Keeping a Watchful Eye: The Politics of Congressional Oversight* (Washington D.C.: The Brookings Institution, 1990), p. 41.

While performing a separate test on the data collected, Aberbach found one other compelling discovery. According to his findings, divided government did indeed have an impact on the number of oversight instances in Congress (Aberbach, 1990, p. 59).

Aberbach used regression coefficients to show that when government is divided (i.e., Congress is held by a different controlling party than the Presidency), there was 26.2 percent more oversight between the years of 1961 and 1977 (significant at  $p \leq 0.05$ ) (Aberbach, 1990, p. 60).

### **Aberbach's Limitations**

As stated earlier, Aberbach offered his self proclaimed, potential limitations for these data he presented in his book. Aberbach described four possible limitations concerning this data. The first of these limitations was the chance that the

**Figure 3-1 Oversight Days and Number of Congressional Committee Staff, 1961-83**

Source Joel D. Aberbach, *Keeping a Watchful Eye The Politics of Congressional Oversight* (Washington D.C.: The Brookings Institution, 1990), p. 44.

data was incomplete (Aberbach, 1990, p. 231). Because this data set was compiled from the *Daily Digest* and the *Congressional Record*, there was a chance that the data were incomplete. According to Aberbach, the data found in these publications is self-reported by the committees. If, for any reason, a committee failed to report activity, then the data would automatically be incomplete for that time frame (Aberbach, 1990, p. 231). This ultimately means that there is a chance that for the early years of this study, there was an error in reporting, rather than a significantly small number of oversight hearings in the committees.

The second limitation described by Aberbach was that some of the descriptions in the sources named above were not always clear (Aberbach, 1990, p. 231). Aberbach stated that he tried to remedy this problem by double-coding any of the entries into the publications listed above that he was unsure about (Aberbach, 1990, p. 231).

The third limitation for Aberbach's study was that these data only provide the numbers for formal committee hearings (Aberbach, 1990, p. 231). By including only formal hearings within the committees, Aberbach is ultimately missing staff investigations or other tools used that are considered by his own definition to be oversight (Aberbach, 1990, p. 231).

The fourth, and final limitation described by Aberbach was that oversight could occur as an added bonus within congressional hearings, whose main goal was not to be an oversight hearing (Aberbach, 1990, p. 234). The sources used by Aberbach only described committee meetings by their primary purpose, thus missing these instances in which oversight was a simple by-product of a normal hearing (Aberbach, 1990, p. 234). This could mean that the numbers provided in the data were very low compared with the actual number of oversight instances.

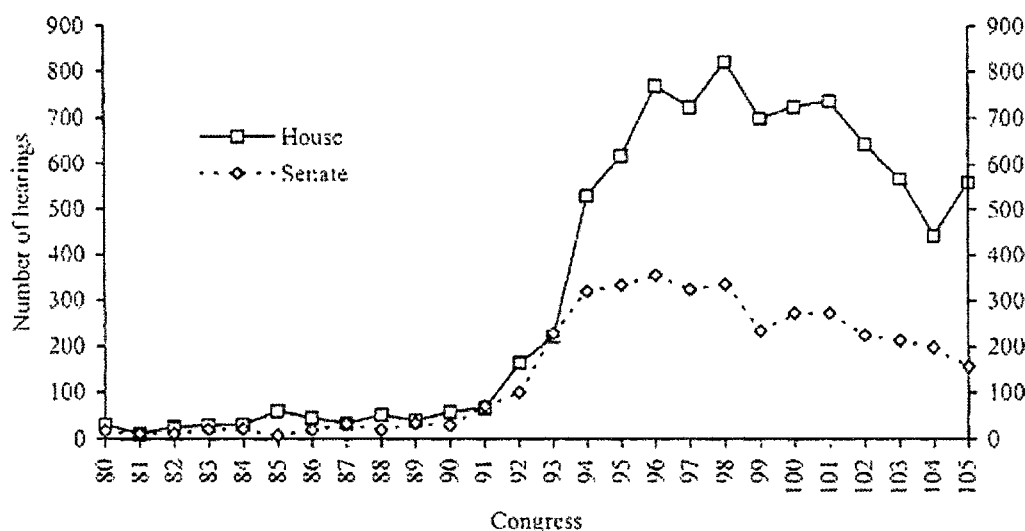
### **Smith's Data**

In the fall of 2005, Kevin Weston Smith completed his dissertation titled *Styles of Oversight: Congressional Committee Oversight of the Executive Branch* at the University of California, Berkley. Smith had hopes of creating the first empirical study of any worth concerning the use of the oversight mechanism since Aberbach's text was published in 1990. Like Aberbach, Smith chose to focus on the number of days congressional committees spent on oversight from 1947 through 1998, which extends fifteen years past the data presented by Aberbach. Smith ventured away from Aberbach, however, in his approach to gathering the data. He chose to, "perform a content search on the CIS Index and the CIS Historical Index for the terms 'oversight,' 'implementation,' and 'public administration'" (Smith, 2005, pp. 61-62). Smith then

combined these data with the Agendas Project Hearing dataset from the Center for American Politics and Public Policy at the University of Washington (Smith, 2005, p. 62). This, he believed, gave him a better, more comprehensive dataset than that used by Aberbach because it did not leave out specific instances of oversight that fell after the six month interval of Aberbach (Smith, 2005, p. 61).

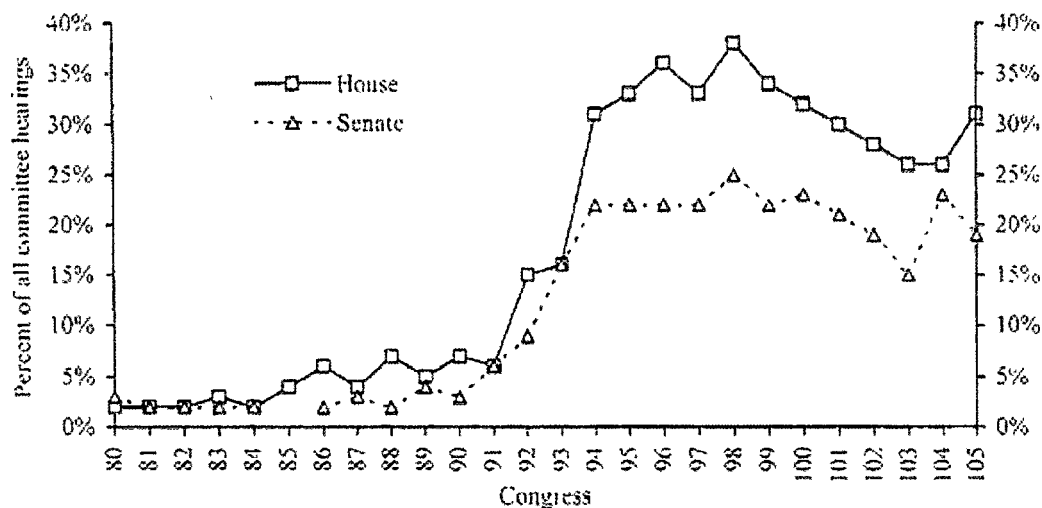
While Smith chose to attempt a different route when it came to collecting the data, and his dataset was more comprehensive, his findings concerning the trends in congressional oversight were very similar. Just as Aberbach had found, Smith concluded that there was a time of relative stagnation in oversight early in the study, which was followed by a time of steady increases (Smith, 2005, pp. 20-21). This period was then followed by a time of sharp increases, which ultimately led to a relative decline in the number of oversight instances (Smith, 2005, pp. 20-21). Figure 3-2 displays the results of Smith's research.

**Figure 3-2 Number of Oversight Hearings House and Senate, 80<sup>th</sup> to 105<sup>th</sup> Congress**



Source Kevin Weston Smith, *Styles of Oversight Congressional Committee Oversight of the Executive Branch* (Ph.D. Dissertation, University of California, Berkley) p 20

**Figure 3-3 Percentage of Oversight Related Hearings, House and Senate, 1947-1998**



Source Kevin Weston Smith, *Styles of Oversight Congressional Committee Oversight of the Executive Branch* (Ph D Dissertation, University of California, Berkley) p. 21.

Also in the same manner as Aberbach, Smith chose to highlight the fact that this trend held strong for the actual numbers of oversight instances, and also held when it came to the percentages of total time (Smith, 2005, p. 21). Figure 3-3 shows the data collected by Smith showing this trend in percentages.

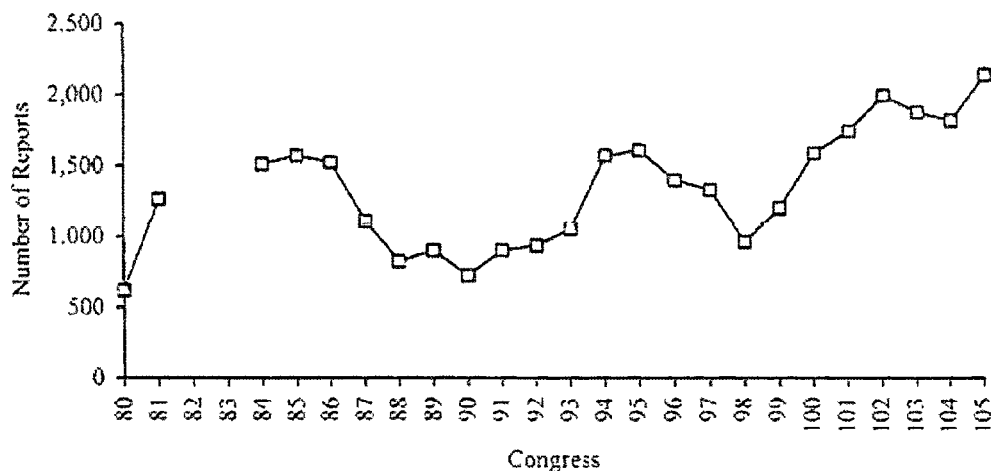
Once again, similar to Aberbach, Smith also looks at the size of the supporting structures for Congress. While Aberbach compared oversight with the size of the support staff in Congress only, Smith chose to view another form of oversight as the number of Government Accountability Office (GAO) reports issued, as well as the size of the congressional support staff (Smith, 2005, pp. 23-24). These reports from the GAO support structure, offers evidence that while the number of hearings held by congressional committees has been on a slight decline, the amount of oversight, overall, is still climbing. Figure 3-4 shows the results of Smith's research of the number of GAO

reports issued, while figure 3-5 shows Smith's numbers on the size of the congressional support staff.

### **Smith's Variables**

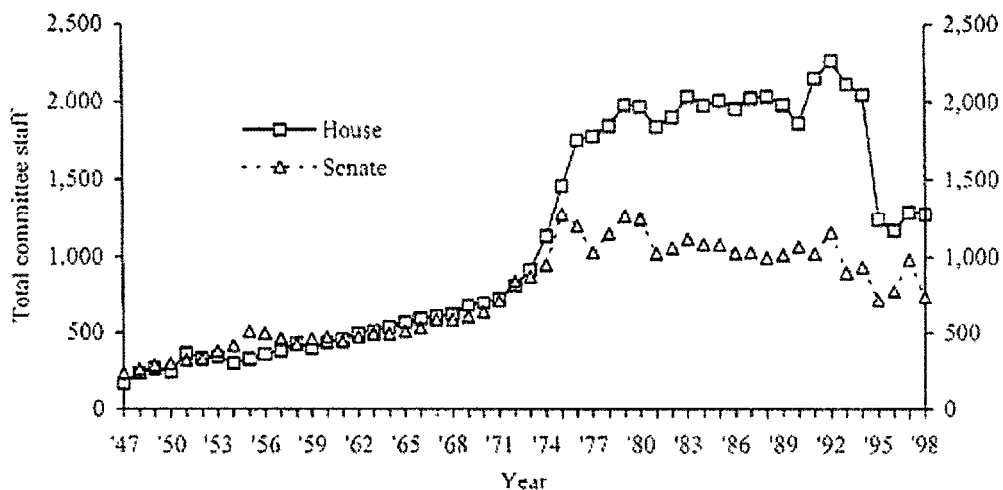
It is important to note that because Smith has employed multiple independent variables, and has used only one dependent variable, he has performed a multiple regression analysis. Smith's dependent variable is simply the number of days of oversight. His independent variables, however, include some of those hypothesized in Chapter 2, and a few of his own. Smith's independent variables included the size of the congressional support staff, level of decentralization, and the presence of a subcommittee bill of rights (Smith, 2005, p. 106). Another independent variable provided by Smith is, in his terms, the presence of political cohorts. Smith hypothesized that it may not be a change in the costs and benefits when it comes to the increase in the use of the oversight mechanism, but might just be a change in the attitudes of the members of Congress (Smith, 2005, p. 80). Smith calls this his political cohort variable that is defined as the idea that members of Congress, and their colleagues (i.e., cohorts) simply want to perform more oversight than past members of Congress have. The basic results of Smith's cross-sectional, time series design analyses are found in table 3-3. In the table, the term "yes" indicates that a particular variable is associated with an increase in congressional oversight, while "no" shows no relationship. As noted earlier, Chapter 4 will apply the theories provided earlier. This chapter is merely for data presentation.

**Figure 3-4 Number of Published GAO Reports, 80<sup>th</sup> to 105<sup>th</sup> Congress**



Source Kevin Weston Smith, *Styles of Oversight Congressional Committee Oversight of the Executive Branch* (Ph D Dissertation, University of California, Berkley) p 24

**Figure 3-5 House and Committee Staff, 1947-1998**



Source Kevin Weston Smith, *Styles of Oversight Congressional Committee Oversight of the Executive Branch* (Ph.D. Dissertation, University of California, Berkley) p 32

**Table 3-3 Summary of Findings**

	House	Senate
<i>Institutional Hypotheses</i>		
H1: Committee staff	Yes	No
H2: Decentralization	No	Yes
H3: Subcommittee Bill of Rights	No	Maybe
<i>Environmental Hypotheses</i>		
H4: Divided government	No	No
H5: Policy disagreement	No	No
H6: Size and complexity	Maybe	Maybe
H7: Salience	No	No
<i>Fiscal Hypotheses</i>		
H8: Deficit	Yes	No
H9: Discretionary spending	Yes	No
<i>Member Hypothesis</i>		
H10: Political cohorts	Yes	Yes

*Source* Kevin Weston Smith, *Styles of Oversight Congressional Committee Oversight of the Executive Branch* (Ph.D. Dissertation, University of California, Berkley) p. 106

### **Smith's Limitations**

Smith presents two different limitations to his data. Those two different limitations are common errors that occur when using time series, cross-sectional analysis methods, and event count issues (Smith, 2005, p. 76). These limitations will not be discussed, but are mentioned here only to show that the author understood the limitations and possible points of error for the type of study he performed.

### **Conclusion**

Both Aberbach and Smith have presented empirical evidence that has shown an upward trend in the use of the oversight mechanism by Congress. While each of these studies were performed using different methods, the results in the overall numbers of oversight instances, as well as the percentages of time spent in oversight are similar. Aberbach chose to use a survey of the top staffers in both chambers of Congress to

determine what the causes of the trends he found really were. Smith, on the other hand, used a cross-section, time series analysis for each of his independent variables to determine relationships between the variables and the trends found in the use of the oversight mechanism. While neither of these studies presents a perfect opportunity to come to a conclusion on what have been the causes of the oversight trends in Congress, they offer the best opportunities to date to determine causal relationships. Chapter IV will apply the data presented by Aberbach and Smith to the theories provided in Chapter II.

## **CHAPTER IV**

### **THEORY APPLICATION**

The focus of this chapter will be the application of the theories provided in Chapter II with the data presented by Aberbach (1990) and Smith (2005) in Chapter III. Before applying the theories, however, a brief recap of the theories and hypotheses provided by the experts in this field will be provided. This chapter will conclude with a discussion on which theories provide the best rationalization for the trends in Congress' use of the oversight mechanism.

#### **Theory Recap**

Each of the authors discussed in chapter II had their own theories and hypotheses about what has been the cause of Congress' decision to use oversight. The first person discussed was Seymour Scher (1963). Scher hypothesized that Congress actually disliked oversight, and therefore chose not to participate in oversight very often (Scher, 1963). The only conditions, Scher theorized, in which Congress actually chose to use oversight was during times of divided government, when Congress believed that the day-to-day operations of the institution did not take care of constituents, when Congress felt threatened by the President, when there was a policy that needed to be reviewed, or when an executive agency was moving forward with a plan that was against the wishes of Congress (Scher, 1963).

The next author who provided a theory was I. M. Destler (1981). Destler hypothesized that there were three sources of conflict between Congress and the President. Those sources of conflict were serious substantive policy differences, the different electoral interests of Congress and the President, and an increase in the size of congressional support staff and institutions (Destler, 1981). For Destler, oversight really only occurred because of these conflicts. Oversight was the product of either some policy argument, a need to get reelected, or the increased size of those institutions that make oversight easier.

The third author discussed was Morris Ogul (1981). Ogul initially started out with the theory that Congress hated oversight, but soon changed his mind after speaking with a number of members. Ogul stated that oversight was caused by individual members of Congress who desired oversight and who at the same time held multiple legislative priorities or who held a particularly powerful position in a committee or subcommittee (Ogul, 1981). Ogul also theorized that oversight is caused by the policy preferences of the members of Congress (Ogul, 1981). Ogul further stated that he believed the size of the congressional support staff, the number of informational resources, or the amount of money spent have no causal relationship on the amount of oversight performed by Congress.

Matthew McCubbins and Thomas Schwartz (1984) also provided theories concerning the use of the oversight mechanism. McCubbins and Schwartz hypothesized that Congress has not avoided their duty to perform oversight, and that the complexity of issues has never scared Congress away from performing oversight (McCubbins & Schwartz, 1984). They also took issue with those who believed that oversight depended

on how centralized power was in Congress (McCubbins & Schwartz, 1984). These authors believed that this had no bearing on Congress' use of the oversight mechanism. Finally, McCubbins and Schwartz stated that, not only did Congress not hate oversight, but that they actually liked it (McCubbins & Schwartz). They simply preferred one method of oversight to another method (i.e., fire alarm to police-patrol).

The final author discussed in Chapter II is Joel D. Aberbach (1990). Aberbach created four separate hypotheses surrounding Congress' use of the oversight mechanism. The first of those hypotheses is that Congress performed oversight because the general public was frustrated by the size of the government (Aberbach, 1990). His second hypothesis was that there was an image that resources were scarce, which meant that individual members of Congress had to protect their programs that were already running (Aberbach, 1990). Aberbach's third hypothesis was that oversight occurred because of increased conflict between Congress and the President (Aberbach, 1990). The final hypothesis presented by Aberbach was that oversight occurred because committees and subcommittees were becoming more powerful, and because congressional support staff and institution sizes were increasing (Aberbach, 1990).

### **Data Application**

#### **Application of Aberbach's Data**

Table 4-1 displays a reference point for the theories presented in chapter II and above. While Aberbach (1990) presented data that showed a trend in Congress' use of the oversight mechanism, he relied mostly on a survey of top staffers from each chamber of Congress to provide a rationalization. The survey results show that the only point to which a majority of the staffers from each chamber could agree upon was the idea that

Congress participates in oversight because government has become too big and too complex. Twenty two percent of both chambers did agree that oversight was caused by some struggle for power between Congress and the President.

**Table 4-1 Theory List**

Number	Theory
1	Congress avoids oversight
2	Divided Government
3	Help Constituents
4	Conflict between President and Congress
5	Policy Review
6	Policy Differences
7	Electoral purposes
8	Increase in size of support staff and support institutions
9	Powerful individual members who want oversight
10	Congress does not avoid oversight, has a preference one type
11	Frustration of general public on size and complexity of government

The only other measure of real significance is the fact that 27 percent of those surveyed from both chambers agree that oversight has increased because of the increased size of the congressional support staff. The other area in which Aberbach provides data was the correlation between the number of congressional committee staff and the number of days spent on oversight. This, correlation, matched with the survey information, would tend to show a relationship between the size of the congressional support staff and the amount of oversight. The last significant statistic provided by Aberbach was that produced by his test of divided government. When government was divided, Aberbach found that Congress performed 26.2 percent more oversight.

Based solely on the numbers presented by Aberbach during his initial research, the theory presented that states Congress avoids oversight can possibly be removed from the list of viable candidates. The trends in congressional oversight found by Aberbach

from 1961-1983 show that, if Congress was attempting to avoid oversight, they were not doing a very good job. Not only were the instances of oversight hearings on the rise, but so was the amount of time Congress was spending on these oversight hearings.

The only real conclusions that can be drawn from the comparison of the hypotheses and Aberbach's data are as follows. First, while there is no data to support it, a majority of the top staffers in both chambers of Congress believed that oversight was caused by the complexity of the government. Second, the correlation of oversight days in Congress, provided in Figure 3-1, and the number of support staff matched with the 27 percent of those top staffers surveyed shows that it is possible that the size of the support staff affected the amount of oversight. Third, the avoidance question is removed from the list. Finally, Aberbach provided numbers that support the divided government theory. This still leaves a significant number of questions without answers.

#### **Application of Smith's Data**

As stated earlier, Smith (2005) took a slightly different approach to determining what caused the trend in legislative oversight. Did he answer the questions left behind by Aberbach? Like Aberbach, Smith's data showed a steady increase in the number and percentages of oversight occurring in Congress. Because of this upward trend, the avoidance question, discussed above, can be removed from here as well. Once again, like Aberbach, Smith also provided a correlation between an increased congressional support staff, the number of GAO reports published, and the amount of oversight performed by Congress.

Smith used his time series, cross-sectional multiple regression model to determine if any other hypotheses could show causality for the trend in congressional oversight.

The findings, as outlined in table 3-3, have provided the following results, but have not provided the strength of these relationships. The size of the support staff did have an effect on the amount of oversight performed, but only in the House of Representatives. The Senate showed no relationship between the size of the support staff and the amount of oversight performed. The placement of power in each of the chambers of Congress (i.e., centralized or decentralized) had no effect in either the House or the Senate.

Smith even found that divided government showed no causal relationship in either the House or the Senate. Smith's analysis also found no relationship between the amount of oversight and a policy disagreement between the President and Congress. Smith did find a potential relationship between the size and complexity of government and the amount of oversight; one of the few instances in which Aberbach had support as well. Smith's test did find that a relationship was present between oversight and the size of the deficit, and the amount of discretionary spending, but only in the House of Representatives. The one and only variable that was significant in both the House and the Senate, was that of political cohorts. According to Smith, the political cohorts variable was defined as the idea that member's valued and performed oversight more than they had in the past (Smith, 2005, p. 80).

### **Conclusions**

Between the Aberbach (1990) and Smith (2005) studies presented above, there seems to be some support for the idea that oversight is affected by the size of the congressional support network. It also appears that there is a relationship between the amount of oversight performed and the size and complexity of the government. This was the number one answer on Aberbach's survey, and a variable that showed that there was a

potential relationship with Smith's analysis. There is also a significant amount of support, as shown by Aberbach and Smith, for the idea that Congress does not avoid oversight.

Smith's analysis did not find support for the theories concerned with a presence of conflict and substantive policy differences. The divided government theory appears to have some relevance, as Aberbach found a potential relationship, while Smith found none. Unfortunately, this still leaves more than a few theories without application. There was no analysis performed in either of these studies that searched for a relationship between oversight and a member of Congress' desire to help their constituents. There was also no test performed to look at oversight and the review of existing policies. Furthermore, no test was performed to determine if oversight was linked with the question of electability.

## CHAPTER V

### CONCLUSION

While many questions are still left unanswered, a few potential causes for the increasing frequency in congressional oversight were found. First, there is some support for the idea that the size of the congressional support network has an affect on the amount of oversight performed by Congress. Second, a significant amount of evidence has been displayed to put to rest the theory of some that Congress avoids oversight at all costs. This is simply not the case. Next, there is some support for the idea that the amount of oversight has been affected by the size and complexity of the government. Finally, at least one important study lends support to the theory of divided government. In an age of increasing partisan polarization, this theory would seem plausible.

There are a few instances in which the results of the data presented in the provided tests were surprising. It was expected that the presence of conflict between the President and Congress would have a significant impact on the amount of oversight performed by Congress. This simply was not the case according to the numbers provided by Smith. As noted above, there was also an expectation that the presence of divided government would be a significant factor, no matter what study is discussed. The presence of divided government may in fact be more significant than Smith's data showed, because he provided no data after 1998. There was also an expectation to find more comprehensive studies performed on the trend of congressional

oversight than is actually available. The majority of the studies available give anecdotal evidence at best to support the theories of the authors. Aberbach and Smith did an admirable job of pioneering the studies provided.

There are many opportunities for an empirical study of congressional oversight available. The theories listed that have not been tested could be explored to determine if they hold the answers to the questions about the trends of congressional oversight. There are variables that have been neglected as well. Has the invention of the 24-hour news cycle, or the proliferation of the internet had any effect on the amount of oversight performed? Has the War on Terror or Operation Iraqi Freedom created a change in the trend in oversight shown by both Aberbach and Smith? Each of these suggestions provides a wealth of opportunities for further research in the area of congressional oversight.

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## **VITA**

Robert Kenneth Sammons was born in Troy, Texas, on February 22, 1979, to Nancy B. Sammons. Robert spent his entire childhood in the Troy Independent School District before graduating from Troy High School in May of 1997. Upon completion of his high school work, Robert matriculated to the University of North Texas in Denton. Robert received a Bachelor of Arts from the University of North Texas in Political Science in May of 2005. Since completing his work at the University of North Texas, Robert has been working as a professional with the YMCA of Greater San Antonio, where he is an aquatics expert. In January of 2006, Robert entered the Graduate College of Texas State University-San Marcos.

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