

The US Army War College Quarterly: Parameters

Volume 17
Number 1 *Parameters* 1987

Article 5

7-4-1987

THE MILITARY AND TODAY'S CONGRESS

Frederick H. Black

Follow this and additional works at: <https://press.armywarcollege.edu/parameters>

Recommended Citation

Frederick H. Black, "THE MILITARY AND TODAY'S CONGRESS," *Parameters* 17, no. 1 (1987), doi:10.55540/0031-1723.1443.

This Article is brought to you for free and open access by USAWC Press. It has been accepted for inclusion in The US Army War College Quarterly: Parameters by an authorized editor of USAWC Press.

The Military and Today's Congress

FREDERICK H. BLACK

American defense policy is intimately tied to the Congress by the Constitution. Indeed, it is abundantly clear that civilian control of the military was important to our Founding Fathers, given that no fewer than one-third of the expressed powers in the Constitution relate to the military.

Article 1, Section 8 of the Constitution gives Congress the power "to raise and support armies . . . to make rules for the Government and Regulation of the land and naval forces . . . and to make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers." In view of the President's role as Commander-in-Chief, this almost ensures conflict between the interests of Congress and the President, reflecting as it does the constitutional concept of shared power and checks and balances. Conflict as a result of this arrangement is not new, but in recent times it has given rise to sharp policy disputes that indicate the Congress of today intends to be fully involved in its defense responsibilities.

In carrying out these responsibilities, Congress comes to mean many things to many people. To a soldier with a family to feed, Congress is the source of the next pay raise. To a company commander, Congress might mean an expedited reply to an inquiry about why a soldier has not written home. A battalion or brigade commander might think of Congress in terms of a group of congressional staffers inspecting ammunition storage and accountability procedures. To a senior officer on the Department of the Army staff, Congress might mean testimony to prepare and oversight hearings to attend. In these ways and countless more, Congress affects the lives of those of us in uniform and the military policy of our nation, and we have a professional responsibility to understand its workings and its effects.

We need to understand that Congress is not a static institution. Tremendous change has occurred in Congress in recent years, and several students of Congress have prepared excellent and detailed studies of the scope, direction, and significance of congressional change since 1974.¹ We also need to understand that Congress is not just a House of Representatives of 435 members and five delegates and a Senate of 100 men and women. Congress is also the committees and subcommittees where much of the work gets done, the support agencies, the staff members, the coalitions and caucuses, the leadership structure, and the party groups. More than ever before, Congress is a dynamic, evolving institution with enormous influence on all aspects of American defense policy. Accordingly, it is important for the professional soldier to understand the role Congress plays in defense decisionmaking, and to grasp the implications of the substantial changes that have occurred within the institution.

The Members

One significant aspect of congressional change is the characteristics of the members. At the start of the 92d Congress in 1971, 20 percent of the members of the House had been elected to at least ten terms. At the start of the 96th Congress in 1979, only 12.6 percent met the ten-term test, the lowest percentage since 1955.² The situation in the Senate was similar—58 percent of the 98th Senate in 1983 had joined the body since the election of President Carter in 1976.³ The continuing turnover of members is believed by some to be responsible for shifts in the partisan division, ideology, and sectional party affiliations of the legislature.⁴

In the election for the 100th Congress, of those with seats up for election 90 percent of the House members and 82 percent of the Senators ran for reelection. The reelection rates were 98.5 percent for the House and 75 percent for the Senate. The reelection rate for the House was the highest in history, and the Senate rate was the lowest since the election of 1980. Some might argue that this resurrects the former trend of establishing a career in the House, and the difficulty of doing so in the Senate.

Members of the House, on average, tend to be a few years younger than members of the Senate, and from 1970 to 1984 the trend was toward a slightly younger Congress overall. At the start of the 94th Congress in 1975,

Lieutenant Colonel Frederick H. Black is a Permanent Associate Professor in the Department of Social Sciences, US Military Academy. He is a graduate of the Command and General Staff College, holds a BA from Howard University, and received an MPA at Syracuse University. As an Infantryman, he has held command and staff positions in the 82d Airborne Division, the 2d Infantry Division, and the 25th Infantry Division.

the average age had dropped under 51 years for the first time since World War II. By the 98th Congress (1983), the average age had dropped to 47 years. This trend toward younger members was reversed in 1985, however, and the last election continued the movement back toward an older Congress. The overall average age is now 52.5, with House members averaging 50.7 and Senators 54.4. The average age is slightly higher for Democrats, slightly lower for Republicans.

More to the point, members of the House of Representatives now have much less military experience than in the past. One study of the military establishment reported that in the 88th Congress (1963-65), 66 percent of the members in both chambers were veterans of active, reserve, or national guard service.⁵ Today, while 70 percent of the Senate members have had such a military affiliation, only about 46 percent of the House members have. The following table shows the steady decrease in the number of House members with active or reserve military experience.

Members of Congress With Military Service

Year	House	Senate*
1971-72	316 (72.6%)	73
1973-74	317 (72.9%)	73
1975-76	307 (70.6%)	73
1977-78	313 (72.0%)	64
1979-80	242 (55.6%)	58
1981-82	269 (61.8%)	73
1983-84	229 (52.6%)	78
1985-86	215 (49.4%)	76
1987	200 (45.9%)	70

* Since there are 100 senators, the percentage is the same as the absolute number.

I know of no research to suggest that military veterans in Congress have a different political orientation from non-veterans or vote very differently on military matters. However, one can speculate that prior service experience may prove most critical when voting on defense issues, where the member's military experience may provide an emotional commitment to the military's position. As such experience becomes less prevalent, the military will no longer enjoy the benefits of a member's personal familiarity with such issues. The result may be a greater reliance on the committees and staffs for behavior cues. In a speech to the 1986 annual meeting of the Association of the United States Army, the Secretary of the Army described the trend in these terms:

Today in the House of Representatives, more than one half of the members have not had active military service, and that figure is increasing with every Congress. This is not a criticism; however, it points out that a basic frame of reference that was once shared by a large majority of the legislative body no longer exists. This makes the educational requirement for national security more important.⁶

The table above shows not only that the pattern of military experience has differed between the House and Senate, but that the swings in that experience in each chamber have occurred in different years. Today's Congress reflects the lack of participation in a broad-based military draft in the United States; it is now less likely that veterans will serve in Congress (and especially in the younger House) than was the case after World War II or the Korean War.

An additional distinction worth noting is that in 1985 the House Armed Services Committee's 46 members included 30 veterans, or 65.2 percent of the committee. Veterans composed 73.7 percent of the Senate Armed Services Committee, 14 of 19 members. On both committees, the Republicans had a higher veteran representation than the Democrats. On the House committee, 70 percent of the Republicans and 61.5 percent of the Democrats were veterans; on the Senate committee, 80 percent of the Republicans and 66.6 percent of the Democrats were veterans.⁷ So, even though the overall number of members with military experience is declining, veterans are well represented on military-related committees. And since committees are so critical to what happens in Congress, a high veteran representation on the military-related committees may increase committee interest and understanding of the complex military issues they face, to the benefit of the uniformed services.

One study of the 96th Congress (1979-80) pointed out a generational split with regard to prior military service, and a distinct departure from the way Congress had mirrored society after World War II. Members of Congress from the Vietnam generation were only half as likely as their national cohort to have served on active duty. Of the 103 members of Congress who were part of the Vietnam generation (born between 30 June 1939 and 30 June 1954), only 14 (13.6 percent) had served on active duty during the Vietnam War, while 28 percent of their generational group as a whole had served. More than 66 percent of the Senators born before 1939 had served on active duty, mainly in World War II, while only 33 percent of Senators and Representatives born after 1939 had served in any military capacity.⁸

In another matter of composition, the Congress in recent years has increased its female, black, and Hispanic representation, but that representation still does not come close to reflecting the makeup of the population. Two women and no blacks or Hispanics currently serve in the

Senate. Women and blacks each compose about five percent of the House, while Hispanics make up about three percent. Of the general population, in round numbers women compose 51 percent, blacks 12 percent, and Hispanics five percent. As a point of comparison, the overall population of the Army is ten percent female, 26 percent black, and 3.5 percent Hispanic.⁹

Taken together, the changes in the characteristics of members of Congress may lead one to several generalizations. First, if military service will no longer be a "universal" experience in America, then it is highly likely that Congress will see even fewer veterans within its ranks. Where it was once believed that being a veteran was an advantage in an election, that may no longer be the case. Accordingly, if future members of Congress do not have military experience or lengthy congressional service, then military-related decisions will not be based on personal experience or that gained from many years in Congress. Additionally, a Congress that tends to reflect the makeup of the population may broaden the scope of the debate when hard choices in the not-too-distant future will have to be made in the area of manpower policy for the military.

The Committees

Another set of changes has influenced the structural role of Congress in policymaking and legislative oversight. Reforms that occurred in the mid-1970s included the operation of the committees and subcommittees as the workhorses of Congress, the design of a new budget process, and the availability of greater expertise from the staff assets and agencies of Congress.

Overall, Congress has experienced erratic growth in its committee system. Congressional committees grew from 242 in 1955 to 385 in 1975; by 1983 the number had dropped to 299. The greatest growth has been in the number of subcommittees, resulting in a shift of the center of power from the full committees to the subcommittees. The existence of more subcommittees has meant more demands on the members' time and energy, and has led to overlapping jurisdictions. Today, no fewer than 14 committees and 28 subcommittees regularly deal with military issues.

The congressional reforms of the 1970s also affected the traditions and operations of the committee system. The case of the House Armed Services Committee is an excellent example.¹⁰ During the 91st Congress (1969-71), only 12 percent of the committee's legislative agenda was referred to its subcommittees. Democratic chairmen L. Mendel Rivers of South Carolina and later F. Edward Hebert of Louisiana were known for their tight control over legislation, and the chairmen carefully selected the legislation that would go to the subcommittees, also of their choosing. The unnamed subcommittees were simply numbered and did not have fixed jurisdictions. This procedure stands in sharp contrast to that of the 96th

Congress (1979-81), in which 99 percent of all legislation went to functionally oriented subcommittees with fixed jurisdictions, budgets, and staff resources.

Another result of the politics of that congressional reform era was that powerful chairmen of the House Armed Services Committee like Hebert and his successor, Melvin Price of Illinois, could, in spite of their seniority, be challenged and actually replaced by the members of the committee. The recent challenge to House Armed Services Committee Chairman Les Aspin again indicates the growing power members can exercise over chairmen and the requirement that a chairman be responsive to the members in order to keep his gavel. Furthermore, the revolt against the seniority system that began with the 94th Congress in 1975 not only permitted committee members to obtain more power, it established the subcommittees and their chairmen as a powerful new congressional force.¹¹

With a more open system, dispersed power, and more powerful subcommittees, it is harder to treat those who ultimately influence military policy as a small, cohesive group. Today's realities mean that more energy must be devoted to better educate a larger number of members, and care must be taken to understand the conflicting pressures that affect congressional decisionmakers, who sometimes must trade off votes to achieve other purposes. The era in which centralized power was held by a few members of the defense committees has passed; that means that more detailed explanations and justifications will have to be made by the Defense Department in order to be successful with the defense-related committees.

Budget Procedures

Before the passage of the Congressional Budget and Impoundment Control Act of 1974, the dominant committees involved in military policy included the House and Senate Armed Services Committees and the Defense and Military Construction Subcommittees of the Appropriations Committees of both chambers. As the legislative process has become more complex and jurisdictional lines of responsibility have increasingly blurred, congressional involvement in the details of defense budgeting has also increased.

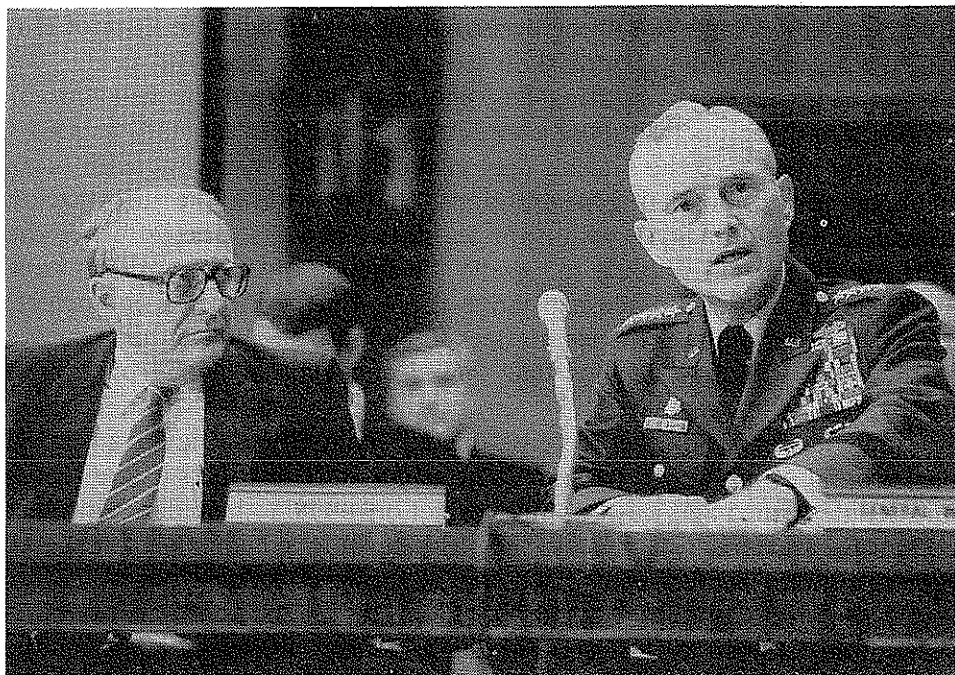
Before 1959, the Armed Services Committees normally authorized an activity or program once, and the Appropriations Committees would fund it annually. Since 1959, Congress has required the majority of defense budget items to be authorized annually by the House and Senate Armed Services Committees. A 1973 law (PL 93-155) also required that authorization must precede appropriations or expenditure of funds for the armed forces. This procedure has meant that the Appropriations Committees of both chambers no longer necessarily take their initial cues from the Armed Services Committees. In reality, the Appropriations Committees,

with their own defense and military construction subcommittees, now behave much more independently.

One consequence of these changes is that defense officials now spend more time preparing reports and presenting testimony before the multitude of committees and subcommittees with interest in military policy. A recently published Senate Armed Services Committee staff report demonstrated the extent to which the House and the Senate have become micromanagers involved in day-to-day defense functions. In 1970, Congress requested 31 studies or reports from the Department of Defense; in 1985, the number was 458.¹²

The Budget Act of 1974 was also significant as a major institutional change because it created a Budget Committee in each body responsible for setting the overall federal budget ceiling guidance. The law also required concurrent budget resolutions each year, and some believe the resolutions have had the effect of limiting overall defense spending. These new "participants," in the form of two new committees (note that the House Budget Committee also has a Defense and International Affairs Task Force), have become major players in defense programs and issues that were once left principally to the Armed Services Committees.¹³

The cycle for the defense budget process in Congress today is to budget, authorize, then appropriate. Given that the cycle has never been



Courtesy Soldiers magazine. Sgt. Bert Conlitt

“Defense officials now spend more time preparing reports and presenting testimony before the multitude of committees and subcommittees.” Shown here testifying are Secretary Marsh and General Wickham.

completed in the timely fashion required by the 1974 law, the annual budget process has created management problems for the Department of Defense. To solve the problem, a suggestion has been made to institute a biennial budgeting cycle. Such a plan might mean that less time would be spent by defense officials in preparing the budget and defending it before Congress.

Committee Staffs and Congressional Staff Agencies

Since the Legislative Reorganization Act of 1946, staffs in Congress have increased in size, influence, and specialization. They are now better paid and less hidden from public view, and play an increasingly significant role in the development and oversight of legislation.¹⁴ The staffs of both the House and Senate Armed Services Committees have grown markedly: in 1947, each of the two committees had ten staff members; by 1985, the House committee's staff had grown to 59, the Senate committee's, to 44. While the number of congressional members on both committees grew 43 percent from 1947 to 1985 (44 to 66), the staff increase for the same period was 415 percent (20 to 103).

This increased staff resource for the committees and their subcommittees has played a fundamental role in the congressional decision-making process and has been responsible for providing technical expertise in the area of the committees' jurisdiction. Few would deny that staff members are now a key component in the decision process and come to Capitol Hill armed with analytical and other skills that make them a powerful asset.

This increased staffing has significantly altered the behavior of members and the operations of committees.¹⁵ Not only do staff members inject new ideas into the system, they also can spend their time with oversight activities, conducting negotiations, and providing the information critical to decisionmaking within the legislative process. The influence the staff possesses and its ability to expand the agenda of the committees have made staffers a formidable legislative force. Furthermore, a competent, expert staff has allowed the committees to be more aggressive than reactive in the kind of policy debates that the executive branch may once have dominated.

Staffers on the defense-related committees have a mixed background of military experience. The senior staff members of the House and Senate Armed Services Committees not only tend to be older than other committee staffers in Congress, they also include a higher percentage of retired military professionals.¹⁶ Of the 34 top-level staffers on the House Armed Services Committee of the 99th Congress in 1985, half had served in the military (most as officers), about a quarter were retired from the military, and at least three had received service academy educations. On the Senate Armed Services Committee, seven of the top 23 staffers had served in the military.¹⁷

Stephen K. Bailey's observation in 1950 that the "increasing importance of . . . staff assistants in the whole field of policy formulation is one of the most significant developments in Congress"¹⁸ is even more true in the mid-1980s. The same can be said for the institutional support agencies, consisting of the General Accounting Office, the Congressional Research Service, the Congressional Budget Office, and the Office of Technology Assessment. These agencies play significant roles in national security affairs through their monitoring, analysis, and reporting functions.

As the use of policy analysis in providing advice to members has grown in popularity, the support agencies of Congress have become major advisors to both members and committees. In military affairs, the support agencies have increased their involvement and have devoted more personnel resources to defense matters. The GAO, for example, prepared 17 percent of its total reports in fiscal year 1984 on the military, representing a significant increase over previous years. Today, about a fourth of the GAO's 4000 auditors and analysts are involved in Department of Defense reviews. Previously, more audits were completed by internal Department of Defense agencies, but concerns with waste, fraud, and abuse have caused the GAO to become more involved.¹⁹

The evolving role of the committee staffs and the support agencies has been a result of the demand for information by Congress and the desire to have independent, expert analysis available. Such resources also help Congress compete with the powerful resources of the executive branch agencies and serve to motivate members to a higher level of activity than they might exhibit otherwise.²⁰

Other sources of information also have become critical to Congress. The growth in prestige and power of congressional organizations like the Defense Reform Caucus and regional caucuses, as well as the think tanks that strive to influence Congress with independent studies and proposals, have in effect extended the resources of Congress. In combination, such resources potentially can be the spark for member action and provide the justification for the competing positions taken by members on a wide range of military issues.

Change in Congress—Implications for the Military

The changes in the modern Congress have produced an institution that could potentially become bogged down in its own intricate processes. Today, it is a more decentralized institution that is beset with fragmentation. Some argue that there is too little institutional deference to congressional leaders, too many rewards for "showoffs," too few incentives for hard workers, and too many decisions driven by special interests.²¹ Today's more independent members of both chambers obtain power earlier in their careers, have more personal identity than ever before, and enjoy a

greater opportunity to influence the business of Congress than did their predecessors. With less emphasis on seniority and less party discipline, Congress has more separate power centers such as the subcommittees, and has experienced a reduction in the power of the full committee chairmen.

With more staff resources and support agencies, the Congress has more expertise and the capacity to conduct analysis independent of the executive branch. Greater concern with oversight has produced more hearings and investigations, and the tendency to become micromanagers of agencies and programs. The desire of members to exert influence has also fostered a growth in the role of special caucuses, coalitions, informal groups, and state delegations. Electoral concerns and the changing pattern of fund-raising from other than party sources has resulted in more attention to placating constituents and interest groups, and meeting their special needs and concerns.²² Clearly, American politics has changed, and the trends of the last several years have demonstrated the desire of some in the new Congress to conduct business in new ways.

What are the implications for the military professional? Without a doubt, a congressional membership with less tenure and with less military experience could lead to a Congress with less familiarity with the military, thus requiring a more intensive effort to explain defense or service positions. The military must help Congress better understand the military: the resources required for an effective defense establishment, the sacrifices soldiers make, the impact of deployments, the family separations, the pressures—in short, the true cost of defending the country.

A less “militarized” Congress could lead to a more “politicized” military—not in the sense of a “man on horseback” to be feared as a threat to democratic institutions or our traditional patterns of civil-military relations, but a military with a more open and vigorous role in defense debates, one that makes greater and more sophisticated use of organizational expertise and resources in order to shape political decisions.

Military policy issues may well play a more important role than they previously have in congressional politics. Fewer fiscal resources and the changes in Congress may mean that members will increasingly find themselves having to justify their military-related decisions to their constituents. Members may also find that military issues will be more critical during tight election campaigns.

The lack of a national consensus on military strategy may mean that debates between Congress and the military leadership on strategic issues will intensify. Electoral pressures as a result of these complex and emotional debates may make it harder for members of Congress to remain focused on the goal of national defense instead of pork-barrel defense.

Materiel production and procurement, military construction, and the overall impact of military installations on the economic health of individual congressional districts may result in additional pressures on the

congressional decisionmaking process. The recent conflicts over the decision on where to base the Army's new light infantry divisions and over the production of the Beretta pistol serve as excellent examples of problems that may appear more frequently.

The military professional should expect to see Congress continue to exercise its constitutional role as an activist in defense policy and management issues, and not necessarily always as supportive of the defense position. The recent Joint Chiefs of Staff reform legislation is but one example of a highly visible congressional initiative that overcame intense Defense Department opposition.

In a period of fiscal constraint, with a need to cut back somewhere, the services also should expect the budgetary process to remain complicated and should expect the military to experience greater difficulty in obtaining resources. The membership of the new Congress and the trends in its composition make such difficulties a certainty. It will become even more necessary to reassure skeptics that resources are used wisely and that each dollar spent on defense enhances overall security.

More centralized Department of Defense management and less service dominance of the policy process is likely to continue to be the will of Congress. More joint-service thinking about mission, research and development, and procurement will be demanded by committees that increasingly become more specialized and better informed. By understanding and acting on the expectations of Congress, the military has the opportunity to lead the change process, rather than merely reacting to congressionally directed changes that have been based on little or no military input.

As military professionals, we should want to see the members of Congress expand their familiarity with the military. We should have them in the field more often to personally observe soldiers, for the soldier traditionally has had a great impact on the opinions of members. The military must also continue to interact on a professional basis with the growing staffs and agencies that execute much of today's congressional oversight. Our liaison staffs must continue their efforts to enhance communications. The staffers can then build on the military's expertise and experience, and probably gain a healthy respect for the military professional.

Given the rate of congressional change in the last several years, one should expect the changes to continue. To be effective advocates, the military must stay abreast of congressional developments and have a grasp of the problems and interests of Congress. Military trainers must also ensure that service schools at each level continue to increase the amount and sophistication of the instruction relating to Congress and its role in the national security policymaking process.

Congress has always been deeply involved in affairs concerning the nation's armed forces, and it is likely that Congress will become even more

involved in defense matters in the future. The military professional must remember that congressional involvement and activism in US defense policy cannot be rejected out of hand as unwarranted or as an evil to be avoided. Congress has a legitimate role to play.

The participation of Congress in military affairs links the military to the American people—to those who fund it, who hold varied opinions about the military, and whose sons and daughters join the armed forces. Constitutional authority has and will continue to ensure congressional involvement. The Founding Fathers wanted it this way, and in this “Year of the Constitution” the military professional should want nothing less.

NOTES

1. See, for example, Thomas E. Mann and Norman J. Ornstein, eds., *The New Congress* (Washington: American Enterprise Institute, 1981), ch. 11; and Lawrence C. Dodd and Bruce I. Oppenheimer, eds., *Congress Reconsidered*, 3d ed. (Washington: Congressional Quarterly Press, 1985), ch. 1-3.
2. Dodd and Oppenheimer, p. 34.
3. Norman J. Ornstein, Robert L. Peabody, and David W. Rohde, “The Senate Through the 1980s: Cycles of Change,” in Dodd and Oppenheimer, p. 13.
4. *Ibid.*, p. 14.
5. Adam Yarmolinsky, *The Military Establishment* (New York: Harper and Row, 1971), pp. 45-46.
6. Army Public Affairs Update, Speech File Service, No. 87-2, remarks by John O. Marsh, Jr., to the Association of the United States Army, Washington, D.C., 13 October 1986 (Washington: Department of the Army, Office of the Chief of Public Affairs, 1 November 1987).
7. These data were collected from information contained in Michael Barone and Grant Ujifusa, *The Almanac of American Politics, 1986* (Washington: National Journal, Inc., 1985).
8. James Fallows, *National Defense* (New York: Random House, 1981), pp. 136-37.
9. This discussion is based on Steven S. Smith and Christopher J. Deering, *Committees in Congress* (Washington: Congressional Quarterly Press, 1984), pp. 134-35.
10. For a discussion of the impact of the changes, see Roger H. Davidson, “Subcommittee Government: New Channels for Policy” in Mann and Ornstein, ch. 4.
11. US Congress, Senate, Committee on Armed Services, Staff Report, *Defense Organization: The Need for Change*, 99th Cong., 1st sess. (Washington: GPO, 1985), p. 592.
12. An excellent discussion of the changes in the budget process is provided by Allen Schick, “The Three-Ring Budget Process: The Appropriations, Tax, and Budget Committees in Congress,” in Mann and Ornstein, ch. 9.
13. Harrison W. Fox, Jr., and Susan Webb Hammond, *Congressional Staffs* (New York: The Free Press, 1977), p. 3.
14. These data were compiled from *CQ Report*, 8 November 1986, p. 2861; and US Department of Defense, *Defense 86 Almanac* (September/October, 1986).
15. Smith and Deering, p. 225; and Michael J. Malbine, “Delegation, Deliberation, and the New Role of Congressional Staff” in Mann and Ornstein, ch. 5.
16. This information is based on a survey of the biographies found in *The Congressional Staff Directory, 1985*.
17. An analysis by *Armed Forces Journal* in 1977 showed the same pattern (Paul Seidenman, “The ‘Other’ Congress,” *Armed Forces Journal*, 114 [February 1977], 20-32).
18. Stephen K. Bailey, *Congress Makes A Law* (New York: Columbia Univ. Press, 1950), p. 64.
19. “The Common Defense: A New Role for Congress,” *Defense Monitor*, 15 (No. 6, 1986), 4.
20. Lawrence C. Dodd and Richard L. Schott, *Congress and the Administrative State* (New York: John Wiley and Sons, Inc., 1979), pp. 248-62.
21. David S. Broder, “Who Took the Fun Out of Congress?” *The Washington Post National Weekly Edition*, 17 February 1986, pp. 9-10.
22. Norman J. Ornstein, “The House and Senate in a New Congress,” in Mann and Ornstein, p. 377.