12 Reaching the inflection point

The Hughes-Ryan Amendment and intelligence oversight

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Introduction

Public acceptance of intelligence operations in a democracy requires trust in the government, including an acknowledgement of the government's right to withhold information from the public. Such trust requires at least some mechanism for oversight of such operations to ensure democratic accountability. The development of intelligence oversight in the United States has been driven by the executive-legislative relationship. The Hughes-Ryan Amendment to the Foreign Assistance Act of 1974 marked a distinct change in the conduct of intelligence oversight in the United States. The amendment affected foreign policy, covert action and presidential plausible deniability. It was the first sign the relationship between the executive and legislative branches was about to undergo a significant change regarding intelligence.

Public acceptance of intelligence operations in a democracy requires trust in the government, including an acknowledgement of the government's right to withhold information from the public. The constitution explicitly laid the groundwork for executive-legislative cooperation and competition in the area of foreign policy, but the relationship between the two branches regarding intelligence has developed largely in response to a changing threat environment and lawmakers' decisions regarding their oversight responsibilities. These two factors have created a state of tension, as the executive has ultimate control over the intelligence function, but Congress asserts oversight authority authorized through its constitutional prerogatives, and by the will of the public in bestowing its trust in their elected officials.

While scholars argue that there was some intelligence oversight in the early Cold War, it is generally held that prior to the Hughes-Ryan Amendment, oversight was a grudging responsibility (Barrett 2005; Marshall 2003). In the words of Senator Leverett Saltonstall, "The difficulty in connection with asking questions and obtaining information is that we might obtain information which I personally would rather not have, unless it was essential for me as a Member of Congress to

have it” (Stuart 2008, 271). Or in the self-exculpatory words of Director of Central Intelligence (DCI) William Colby in 1976:

The old tradition was that you don’t ask. It was a consensus that intelligence was apart from the rules . . . that was the reason we did step over the line in a few cases, largely because no one was watching. No one was there to say, ‘Don’t do that’.

(Johnson 2018, 104)

Some literature on intelligence oversight implies that the public, acting in response to the abuses described on the front page of the *New York Times*, catalysed the passage of Hughes-Ryan. This chapter, however, points to a series of congressional inflection points to explain why this amendment – the first serious intrusion on executive authority over covert action – took place when it did. It describes the political context of the amendment, how and why it was introduced and passed when it was, and then what the outcome was of this legislation, which challenged the concept of plausible deniability. It also explains why the shift that occurred, while definitive, was limited in scope, and introduces an analytical framework to help clarify how congressional activity can impact intelligence operations, an almost purely executive branch function.

Analytical framework

This chapter integrates three strands to offer a more robust way of understanding the passage of Hughes-Ryan. The first strand is the oppositional relationship of institutional development, whereby friction between the executive and legislative branches of government leads to institutional development (Lester 2015).¹ As Whittington and Carpenter argue: “[S]ustained conflict between legislative and executive actors lies at the center of institutional change in American political development” (Whittington and Carpenter 2003, 509). This conflict had already begun well before the Hughes-Ryan Amendment as Congress began to reassert its role in US foreign policy in the aftermath of the Vietnam War.

A second strand considers congressional behaviour regarding foreign policy, particularly after direct US involvement in the Vietnam War ended in 1973 and the foreign policy consensus that had existed since the beginning of the Cold War began to erode (Scott and Carter 2002, 153, 156). In 1974, that erosion was not yet evident because the full revelation of CIA abuses had not come to light. At that point, a less assertive Congress was still in play on foreign policy issues. Congress was “cooperating with the president to achieve foreign policy goals over which there is substantial consensus”, namely, countering the threat of communist expansionism (Scott and Carter 2002, 164, 165). The communist threat in the Western hemisphere was particularly worrisome to Congress and the executive branch since the Castro regime had seized control of Cuba. The election of Salvador Allende, a socialist backed by a coalition of left-wing political parties in Chile, was the precipitating event for US action to bring down

his government through a successful coup in September 1973, led by General Augusto Pinochet.

A third strand investigates what slows the process of institutional change. In the case of change in Congress, process and rules, as well as powerful individuals whose interests align with the status quo can and are incentivized to act to obstruct change. “The institutional drag hypothesis” posits that “institutions through their inertia and rigidity retard” change or structural innovation, but there are other related factors, such as the seniority system, where “loyalty to the congressional institution is *the* [emphasis in the original] necessary leadership trait” (Meeus and Oerlemans 2005, 64). As one commentator noted regarding Congress,

For generations, the House was a secretive, hierarchical, tradition-bound institution that gave little regard or influence to newcomers. Power was concentrated so assiduously in the handful of committee chairs that even the elected leadership hesitated to challenge the old men with the gavel.

(Lawrence 2018)

In this chapter’s discussion of the passage of the Hughes-Ryan Amendment, the three strands of the framework explain how, when and why the amendment passed. Individual action occurred within the context of inter-branch friction, which both supports and inhibits development. We see policy entrepreneurs acting within this context with the intention of advancing their agendas, while both institutional drag and the behavioural norms tied to maintenance of the status quo slow change. Ultimately, against the odds, progressive activity was successful. While the Hughes-Ryan Amendment was rather small in scope, it had an outsized impact on oversight, laying the foundation for the later development and institutionalization of intelligence oversight.

US policy and Chile

In March 1972, columnist Jack Anderson uncovered information about communications between the Nixon administration and the International Telephone and Telegraph Corporation (IT&T) regarding the company’s interest in financially supporting potential attempts to prevent the inauguration of the democratically elected Chilean president, Salvador Allende. Anderson claimed he had documents that showed the CIA planned to disrupt the Chilean economy to the point where a military coup would occur (New York Times 1972).

In response, the Senate formed a subcommittee in May 1972 to determine whether there had been an attempt to plot Allende’s downfall, questioning whether CIA had been involved and focusing on the broader issue of how multinational corporations may have sought to influence US foreign policy generally. The CIA attempted to have the issue of IT&T’s involvement transferred to the Senate’s Armed Services Committee, where it believed the issue would be protected from scrutiny (Subcommittee on Multinational Corporations 1973, 193). In September 1973, after the Chilean military had overthrown the Allende government, Senator

Edward Kennedy (D-MA), joined by Senator James Abourezk (D-SD), pushed for constraints on US support to the government of General Augusto Pinochet. They asked for a resolution denying Chile foreign aid, and requested that hearings be held regarding the junta's known human rights abuses (Johnson 2005, 197). Rumours began to circulate in the US and international press that the CIA had been involved in the coup (Time 1973, 38, 45, 46; Paterson 1987). With the Nixon administration under fire over the Watergate scandal, the balance of power between the two branches was shifting in favour of Congress, particularly to the liberal members who launched what was referred to as an "oversight revolution" (Paterson 1987, 161).

On April 22, 1974, Congressman Lucien Nedzi (D-MI), chairman of the House Armed Services Committee's Special Subcommittee on Intelligence, held a closed session on US covert operations in Chile with DCI Colby, testifying. Colby informed Nedzi and the Armed Services Committee's chief counsel, the only other person present, about the political actions that the CIA had taken against the socialist government of late President Allende. Off the record, Colby informed Nedzi that CIA involvement comprised other activities, including plans to help foment a coup. Colby, however, assured Nedzi that the CIA had nothing to do with the September 1973 military coup that brought down the Allende government and led to the leader's death. The CIA's plans for a coup had ended when the Chilean military opposed it. Further, Colby informed Nedzi that his testimony was available to all subcommittee members if they were interested in reviewing it. Nedzi made it known confidentially that the transcript would be made available to any member of the House who wanted to examine it as was allowable under House rules (Miller 1974; Prados 2003, 291; Snider 2008, 273).

Representative Michael Harrington, a Massachusetts Democrat and member of the House Foreign Affairs Committee, was the only congressman to request permission to review the classified transcript. In June, Nedzi granted him access, after discussing the request with the Armed Services Committee chairman and obtaining Colby's consent. Surprisingly, Colby stated that Nedzi could act as he saw fit, as he viewed the matter as an internal congressional affair. Harrington was appalled at what he read in the transcript. Subsequently, in a lengthy July 18 letter to Thomas Morgan (D-PA), chairman of the House Foreign Affairs Committee, and J William Fulbright (D-AR), chairman of the Senate Foreign Relation Committee, Harrington outlined Colby's testimony and requested a comprehensive investigation into the US role in the overthrow of the Allende government. His appeal to Morgan proved futile, although Senator Fulbright responded that he appreciated Harrington's exasperation. The Senate, Fulbright admitted, "at least has been unwilling to exercise control over the CIA" (one estimate is that more 150 such proposals had been rejected by Congress in the past) (Miller 1974). He believed a potential solution was the establishment of a joint congressional committee with authority to "exercise control" of the agency. He also offered to work with Harrington on proposed legislation (Miller 1974; O' Leary 1974b).

Undaunted, Harrington persisted in his efforts to bring attention to the Nixon administration's Chile policy, and to the more immediate problem of congressional

oversight of CIA covert operations. The same month, he introduced two bills aimed at strengthening congressional oversight of the CIA. One of the bills Harrington introduced called for the establishment of a “15-member House Committee on Intelligence Operations”. The committee would meet monthly to review intelligence operations and require members of the Foreign Affairs Committee to participate. Harrington contended that the House Armed Services Committee’s five-member panel was not conducting adequate oversight of the CIA’s activities (New York Times 1974a).

One month later President Nixon resigned over the Watergate scandal, and Vice President Ford was confronted with an ugly fact when on the same day he pardoned Nixon – September 8 – *New York Times* journalist Seymour Hersh claimed that US officials may have misled Congress when they claimed that the CIA was not involved in the overthrow of Allende (Hersh 1974a; New York Times 1974b; Wicker 1974).

Hersh based his reporting on the letters Harrington sent to Morgan and Fulbright, in which the Massachusetts’ legislator described Colby’s testimony in an “account from memory” (Wicker 1974). Harrington had informed Morgan that Colby testified that the Nixon administration had spent \$8 million in covert activities directed against Allende. In particular, \$500,000 was approved in 1969 and 1970 to help Allende’s political opponents, and \$350,000 went to bribing members of the Chilean Congress to vote against certifying Allende’s election. Later, another \$5 million was approved for “destabilization” activities in Chile, and in 1973, \$1.5 million was furnished to assist anti-Allende candidates for municipal offices (Wicker 1974). Hersh also quoted Colby testifying that the Nixon administration, to include Secretary of State Henry Kissinger, spent these funds for covert activities in Chile between 1970 and 1973. Colby stressed that the agency had no role in the military coup that deposed Allende (New York Times 1974b; Wicker 1974).

Hersh’s reporting ignited a firestorm. The next day, Harrington called for a public hearing into the CIA’s covert operations. He stated he would formally request the Foreign Affairs Committee to call for Kissinger and Colby to testify on the matter. Harrington complained that senior members of Congress were unwilling to investigate, fearing Kissinger (Hersh 1974b). Fulbright turned down Harrington’s call for an investigation, telling him that there was “no useful purpose” in his committee re-examining US policy towards Chile (Hersh 1974b). Morgan, on the other hand, vowed to take up the issue (Miller 1974). Some House members blamed Harrington for leaking the information to the newspapers, which he denied.

Harrington did admit that with the authorization of Nedzi, he had read Colby’s classified testimony transcript in June and characterized it as “the most direct, unambiguous and to the point I’ve ever seen”. His reaction to the information was one of “profound shock” (Hersh 1974b). Representative Donald M Fraser (D-MN), chairman of a House Foreign Affairs Committee subcommittee, felt similarly, “The executive branch had deceived the Congress as well as the public with respect to its involvement in the overthrow of the Allende regime” (Stern 1974a).

Shortly thereafter, an undisclosed source stated that the CIA had censored a book by two former intelligence officials that included detailed information about the agency's activities to prevent Allende from assuming the presidency in 1970. The rationale for the censorship was "national security concerns". According to the source, the authors quoted Kissinger as saying, "I don't see why we need to stand by and watch a country go Communist due to the irresponsibility of its own people", at a June 1970 meeting of the interagency "40 Committee", which was responsible for reviewing and authorizing CIA covert activities overseas, prior to presidential approval. Kissinger, the committee chair, refused to comment on these reports, but he told the Senate Foreign Relations Committee that the CIA had nothing to do with the coup "to the best of his knowledge and belief". Other government witnesses, such as the former US ambassador to Chile, denied any attempts to subvert members of the Chilean Congress (Hersh 1974d; Wicker 1974; O'Leary 1974a; Prados 2003, 290–1).

While Fulbright was disinclined to hold hearings, his Idaho colleague, Democratic Senator Frank Church, chairman of a Foreign Relations subcommittee, had no aversion to deeper scrutiny. Church believed executive branch officials had deceived Congress, as they had done with the Vietnam War, and promised to refer disingenuous testimony to the Department of Justice for investigation into potential perjury, claiming that he was "incensed" by the recent allegations. Subcommittee staff members were poring over the hearing transcripts to determine which officials may have lied under oath about CIA covert activities. Church believed there had been a serious attempt to at least mislead Congress, stating he would request Colby's April 1974 testimony before the House Armed Services Committee's subcommittee on intelligence as anonymous officials confirmed that this classified testimony included specific information about the cash payments the CIA made and their purpose. He intended to request Fulbright conduct a full committee hearing and review the "propriety" of clandestine activities against constitutionally elected leaders (Hersh 1974e; Mills 1974).

The State Department was now in the crosshairs, but also committed to supporting the senior officials who had testified before both chambers in previous hearings. However, Senator Kennedy, chair of a Judiciary Committee subcommittee, supported a complete investigation of the inconsistencies that existed in Nixon administration officials' testimony concerning US intervention into Chilean politics. He claimed that State Department officials had lied on at least three occasions in statements before Congress regarding US endeavours in Chile (Stern 1974a; Hersh 1974c; Mills 1974). He followed with a letter to Kissinger asking him on what basis were the CIA activities implemented without notifying Congress since the executive branch shared with it the conduct of US foreign policy (Stern 1974b; Mills 1974).

This line of discussion broadened to questions regarding what constituted the appropriate role of government's covert incursions in the activities of foreign, sovereign nations. Further, there were rumblings about reopening Kissinger's confirmation hearings as secretary of state. Once again, he was being accused of lying – as when he had misled senators regarding wiretaps on journalists and some

members of the administration. However, as one unnamed official pointed out to Hersh, if covert activities directed against a foreign government are approved, then high-ranking officials have to "lie about them. Lies are part of the business" (Wicker 1974). Tom Wicker, a *New York Times* columnist, disparaged that argument as misguided. He questioned whether the United States had "any legal or moral right to conduct covert operations abroad", and whether any administration had "the constitutional authority to order . . . money spent for clandestine warfare against the legitimate government of a sovereign country". These issues necessitated "full and open debate" because "gangster schemes of bribery, violence and even assassination are being carried out, in the name of the great American people" (Wicker 1974).

On September 13, Colby appeared on a panel at a conference in Washington, DC, where he told the attendees that the National Security Council had authorized the operations and the CIA had kept the chairmen or members of the appropriate committees in Congress informed. Harrington, a fellow panellist, challenged Colby on this point as did Abourezk. Abourezk was unconvinced that the CIA was providing Congress sufficient and current information about its covert operations. Both lawmakers called for the agency to undergo more intensive oversight, to which Colby expressed concern as to whether Congress could be relied upon to keep classified information safe, given recent leaks (Hersh 1974f).

Kissinger did not escape the furore unscathed. Hersh, citing anonymous former administration and current congressional officials, wrote that Kissinger had been the impetus for the economic sanctions that the United States imposed on Chile after Allende's election, thereby preventing the Chilean government from obtaining loans from the World Bank, the Export-Import Bank and private banks. The Nixon administration had denied that it took such retaliatory steps, but Hersh reported that Kissinger controlled this step as well as the covert activities (Hersh 1974g; Goodsell 1974).

Hersh kept up the pressure. His next article informed readers that the CIA spent the last 18 months of Allende's presidency sowing strife by secretly funding striking labour union members and trade groups to undermine the Chilean economy. Meanwhile, Kissinger had been called to testify before the Senate Foreign Relations Committee in closed session the same day. Kissinger emphasized that the covert activities were not intended to subvert the Allende government. The funds had been used to strengthen opposition parties and news media from threats by the Allende government, a position Ford similarly proclaimed at a news conference. Hersh also reported that Colby's claims that the agency had briefed Congress had been confirmed. Colby had briefed the Senate Foreign Relations Committee's subcommittee on Western Hemisphere Affairs and the House Armed Services Committee's Subcommittee on Intelligence (Hersh 1974i; Miller 1974). The same day, Church's subcommittee staff members provided Church with a memorandum recommending perjury charges against Richard Helms, the former DCI who apparently had not been truthful in prior testimony about CIA involvement in Chile. The report accused Kissinger of deceit in his testimony about the "scope and objective of CIA operations in Chile". Three other high-ranking US

government officials involved in Latin American affairs were cited for misleading testimony (Miller 1974; Hersh 1974c).

In early October, Abourezk introduced an amendment to the foreign aid bill that would have stopped all CIA covert operations, which he likened to an “arm of the government conducting a secret war without either the approval of Congress or the knowledge of the American people” (Washington Post 1974a). Abourezk was allegedly “under no illusion” that his amendment would pass. However, he had forced the issue to be debated when many lawmakers had “traditionally averted their eyes” (Washington Post 1974b). His amendment was defeated 68 to 17.²

At this point, Senator Harold E Hughes (D-IA) introduced an amendment (amendment 1948 to S. 3394) to the Foreign Assistance Act of 1961 (sec. 662) on the Senate floor with the following language: “No funds may be expended by the Central Intelligence Agency for operations in foreign countries, other than those intended solely for obtaining necessary intelligence, unless the President makes specified findings and reports to specified Congressional committees”(US Department of State 2014, XLII).³ The amendment required the president to give explicit approval through a presidential finding for each action and state that this action was important to national security (US Department of State 2014, XLII).⁴

The amendment carried on a voice vote the same day. Hughes was particularly satisfied with the outcome, arguing it was a step towards a degree of control over intelligence operations overseas. The CIA did not respond officially to this amendment’s passage, but one anonymous official viewed the legislation as “unprecedented” and said that if it was enacted, “it would put a ‘condition’ not on the C.I.A. but on the President’s right to order clandestine activities” (Hersh 1974j).

Given the new attitude on the Hill, the administration agreed to have the CIA brief the House Foreign Affairs Committee on all the agency’s operations that could affect US foreign relations. This development resulted from a meeting a week earlier between Ford, Colby, Kissinger and House and Senate leaders. In the future, according to Nedzi, “any matters involving the CIA which affects foreign policy – including 40 Committee decisions – will be related to the House Foreign Affairs Committee”. He intimated that these briefings would occur before a covert operation began. Nedzi said that these briefings were similar to the ones that his subcommittee had been receiving since he had been chairman. Harrington, however, viewed the announcement as insufficient. The step, he grouched, “only contributes to the illusion of oversight; it doesn’t solve the problems as they are”. Further, the change would not lead to comprehensive investigatory hearings on US policy towards the Allende government and potential administration lying, which he had been pressing Morgan to undertake (Hersh 1974h; 1974j; Miller 1974).

The Senate’s actions on the foreign aid bill (S. 3394) included more than just concerns about the CIA’s activities and it was recommitted to the Foreign Relations Committee for further consideration (Raiford 1976). Nonetheless, the Senate action forced the House to confront the issue as part of the conference committee’s action on the Senate resolution. Representative Leo Ryan (D-CA) introduced an amendment

in a House Foreign Affairs Committee meeting on October 9, 1974. Similar in language to Hughes' amendment, Ryan's amendment specifically included the House Foreign Affairs Committee as an oversight body. Ryan's amendment, which he viewed as a step towards improved oversight within the committee's jurisdiction, was modified slightly by a floor amendment. Subsequently, it became part of the House version of the foreign aid bill (H.R. 17234), and was reported in the House at the end of October (Raiford 1976; Johnson 2005, 219).⁵

By December, the Senate had reported its foreign aid bill and its version passed in the Senate on December 4. The House followed a week later when it considered S. 3394 and passed the bill in place of its version. The conference committee completed its work on December 17, and the Foreign Assistance Act of 1974 included a modification of Ryan's amendment language. The Senate voted in favour of the Conference Report that day and the House followed a day later. President Ford signed the bill into law as Public Law 93–559 on December 30 (Raiford 1976; Kaiser 1978).⁶ The final language placed the following limitation on intelligence activities indicating that no appropriated funds could be spent by the CIA for operations overseas other than for activities needed for obtaining intelligence, and could only be done so when the president found that US national security necessitated such an operation. The president was also obligated to report that operation in a timely fashion to designated committees, which now included the Senate Foreign Relations Committee and the House Foreign Affairs Committee (Select Committee on Intelligence 1994).⁷

Analysis

In the police patrol/fire alarm model that has customarily been used to analyze congressional oversight, the Hughes-Ryan amendment could be understood to be an example of the fire alarm (McCubbins and Schwartz 1984).⁸ The model defines police patrol as driven by congressional interest in agency activities; this model assumes that Congress will discover and remedy any infractions. The police patrol is also – as the name reflects – intended to play a deterrent role. In contrast, fire alarm oversight involves Congress responding to the call to investigate an issue that has been brought forward, generally, by interest groups or other external observers (McCubbins and Schwartz 1984). Extending that metaphor, what happens when the patrols are largely perfunctory and the alarm sounds but no one responds?

This model does not accurately explain the events that led to the passage of the Hughes-Ryan amendment. Instead, this chapter offers an alternative explanation using the three strands mentioned previously. In this case, Harrington does pull the fire alarm, but the method he uses, his letters to the chairmen of the foreign affairs committees, are silent alarms. He does not make the letters' contents known for several months and only when they are leaked to the *New York Times* and the *Washington Post*. Until this disclosure occurs, his communications have no impact on the two chairmen: neither holds hearings in response. In fact, Morgan does not react to Harrington's letter and Fulbright underscores that the

likelihood of hearings or a change in jurisdiction regarding CIA oversight is pointless based on his past experience. Thus, there is no rush on Morgan or Fulbright's part to sound further alarms until the public revelation occurs.

The fire alarm or police patrol metaphor also does not fit as this model assumes that Congress, both chambers, is moved to act. That is not valid in this instance. The hearings held in the aftermath of the newspaper stories were token and more concerned about the leaks than the CIA covert operations (Miller 1974). To understand this reluctance requires more than counting the number of hearings or other quantitative methods; it demands attention be paid to the internal politics of the two chambers and the important members with a stake in the outcome.⁹ Institutional drag – our third strand – the unwillingness of an institution to change or innovate, can be understood as a means by which individuals or groups, such as committees, “lose their original vision of service to people, and become instead of self-serving mechanisms first of all” (Maxwell 1978, 120). Moreover, institutional drag is abetted by long and deeply held traditions and constituencies.

Values and norms (loyalty to an institution as an example) are involved as well, and in view of the powerful, no “upstart” is going to tamper with institutional practices. These factors are not dismissed quickly, but take intensive and continual initiative and attention to overcome (Mount Jr. 1990, 32). As one ethicist has pointed out,

An example of the dangers of institutional drag is the temptation for us to devote total loyalty to an institution, especially when the institution stands for noble ideals and becomes the chief or only definer of a person's identity. In such cases, loyalty to the institution becomes idolatrous. The institution is vested with the god-like prerogative of what is good and right.

(Mount Jr. 1990, 32)

Some of the most powerful members of the House and Senate, committee chairmen, were in danger of losing power by ceding control to other committees.

By June 1974, Fulbright is in his final few months as a senator. He has lost the Democratic primary to a challenger, former Arkansas government Dale Bumpers, who will ultimately win the general election. Fulbright is a lame duck with waning power (Binder 1974; Gwertzman 1974). Fulbright was equally demoralized about any attempt to rein in CIA covert activities by Congress. Senator John Stennis (D-MS) was another obstacle as chairman of the Senate Armed Services Committee and more importantly, chairman of the CIA subcommittee. The disclosures in the newspapers surprised and embarrassed him publicly and were solid evidence that he had not been conducting rigorous oversight of the agency (Stern 1974c; Paterson 1987, 162; Congressional Quarterly 1975, 538). Additionally, he preferred the arrangement in place whereby only his committee and the Appropriations Committee were cognizant of CIA activities and budgets. Adding the Foreign Relations Committee, with its liberal members, was outrageous to him and signalled a potential diminution of his power.

When Stennis assumed chairmanship of the Armed Services Committee in 1972, he conducted the subcommittee's activities differently from his predecessor, Richard Russell. Russell had occasionally invited senior Foreign Relations Committee members to attend CIA oversight sessions. When Stennis became the chairman, he stopped inviting his Foreign Relations Committee colleagues and oversight sessions became rare. The floor debate regarding Hughes' amendment shows clearly his attempts to thwart the passage of the amendment (Washington Post 1974a; Snider 2008, 32–3).¹⁰ The CIA knew it had allies in Stennis and Henry "Scoop" Jackson, another senior Armed Services Committee member, whom the agency preferred lead the Senate investigation into the CIA's relationship with IT&T in order to produce a result advantageous to the agency (Johnson 2005, 196).

Senator Church could have played a more prominent role in this issue, but he did not. Likely his run for re-election to the Senate monopolized his time. His seniority on the Foreign Relations Committee was such that he would have been stymied in using the committee to further a reform agenda. In fact, his relationship with Fulbright was now strained and publicly evident because of their disagreement over how to handle the Chile inquiry (Miller 1974). There were sufficient senators with clout that could push reforms, such as Edward Kennedy, Walter Mondale (D-MN), Howard Baker (R-TN) and the so-called new internationalists, such as Abourezk, but they were not members of the committees involved in the jurisdictional wrestling match (Johnson 2004, 10; Paterson 1987, 162; Miller 1974).¹¹ Mike Mansfield, the Senate majority leader, did allow amendments to the foreign aid bill, which provided Abourezk and Hughes a means of promoting increased oversight that would not require the expenditure of political capital. The timing of disclosures proved beneficial as reformers could offer amendments to the foreign aid bill, already under fire because of other issues. Thus, in the Senate, Hughes used a floor amendment with compromise language, not a committee bill, to advance enhanced CIA oversight.

The situation in the House is similar to that of the Senate. The chairman of the House Armed Services Committee, F Edward Hébert (D-LA), did not conduct hearings into the CIA covert operations, but instead held hearings regarding the leak of classified material and Harrington's involvement. Nedzi, like Stennis, was embarrassed by the newspaper articles, but did not conduct hearings. The Foreign Affairs Committee, of which Harrington was a member, took little action. In fact, when Harrington raised concerns about CIA involvement in Chile in light of the IT&T incident, the chairman of the Western Hemisphere subcommittee, Dante Fascell (D-FL), stated he did not intend to hold hearings (Miller 1974). In response, Congressman Leo Ryan fashioned language acceptable to them as an amendment to the foreign aid bill, essentially mirroring the Hughes amendment, ensuring its passage in the House. The Hughes-Ryan amendment was not only a compromise but it was also a warning sign that the "Senate barons" were losing control of their power (Snider 2008, 32–3).

With respect to the first strand, influential congressmen believed the president had complete autonomy regarding intelligence operations. Given that stance, there

was minimal challenge to executive authority when it came to the issue of covert action. Senator Carl Hayden, the Appropriations Committee chairman, held that congressional intrusion into intelligence activities “would tend to impinge upon the constitutional authority and responsibility of the President in the conduct of foreign affairs” (Whittington and Carpenter 2003, 505). Russell had told his colleagues that “we must take some matters on faith”, in beseeching his colleagues not to strengthen oversight requirements (Whittington and Carpenter 2003, 505).

Consequently, the second strand occurred: “Congress did not develop the institutional capacity to set its own policy interests or to ensure that the intelligence agencies adhered to those concerns”. In essence, Congress acquiesced to presidential leadership in this issue area. The oversight subcommittees faded “into near inactivity during most of the postwar period”. Members who may have objected to executive decision-making without consulting the relevant committees “were simply kept in the dark” (Whittington and Carpenter 2003, 505). Harrington’s complaint is indicative of this concern about “autonomous executive power” and “presidential hegemony” (Whittington and Carpenter 2003, 505).

Conclusion

While major change in terms of covert action and accountability was stymied by the forces described earlier, the Hughes-Ryan Amendment contributed a change that had a serious impact on the relationship between covert action and accountability. By requiring the president to notify Congress in the form of a presidential finding when a covert action was being planned, presidents were forced to acknowledge their role in covert activity and thus plausible deniability – the ability of the president to deny awareness of these types of activities – was at an end. In the words of intelligence scholar, Loch Johnson: “The objective of plausible deniability was to brush away footprints in a covert operation to prevent anyone from following the tracks back to the United States and particularly to the Oval Office” (Johnson 1985, 58). Those “tracks” would now be visible.

Other events would also spur the major reforms that Harrington envisioned. As noted earlier, Watergate was a catalyst, followed by Ford’s pardon of Nixon and the December 1974 revelations in the newspapers about the CIA’s domestic spying activities and attempted assassinations of foreign leaders. The November 1974 mid-term elections, another result of the Ford pardon, brought in a new class of members in both chambers, reformers that sought to wrest power from the committee leaders and begin a period where subcommittee chairs were in control. Even more importantly, Senate and House leaders could no longer avoid a full investigation into CIA activities, especially covert action.

While the Hughes-Ryan Amendment itself was rather limited, it not only ensured presidential responsibility for covert action, but it also broadened congressional activity in this executive-dominated arena. The notification requirement provided the basis for a framework of legislative oversight that would develop over subsequent decades. Lastly, the legislation empowered Congress, ultimately through the establishment of permanent committees a few years later, to share the

control – and responsibility for intelligence operations – a significant shift in the oppositional relationship between the two branches of government. While factors distinctive to the United States shaped the form of the legislation, Hughes-Ryan has broader significance as a milestone that marked a greater demand for transparency from the intelligence community that has only intensified in the succeeding years.

Notes

- 1 For an early discussion of this dynamic, see Whittington and Carpenter (2003).
- 2 120 Cong. Rec. 33482.
- 3 Foreign Assistance Act, Pub. L. No. 93–559 (1974).
- 4 120 Cong. Rec. 33487–33491.
- 5 See also 120 Cong. Rec. 39165–39165–39166.
- 6 120 Cong. Rec. 39165–39165–39166. See also Kaiser (1978).
- 7 Foreign Assistance Act, Pub. L. No. 93–559, 88 Stat., 22 USC 4222. See also Select Committee on Intelligence (1994, 4).
- 8 See also Deering (2003) and Johnson (2005).
- 9 This has been a common approach to gauging the efficacy of oversight. See Aberbach (1989) for a seminal text using this methodology.
- 10 120 Cong. Rec. 33489–33490.
- 11 120 Cong. Rec. 33491. See also Johnson (2005, 190–241) and Snider (2008, 33).

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