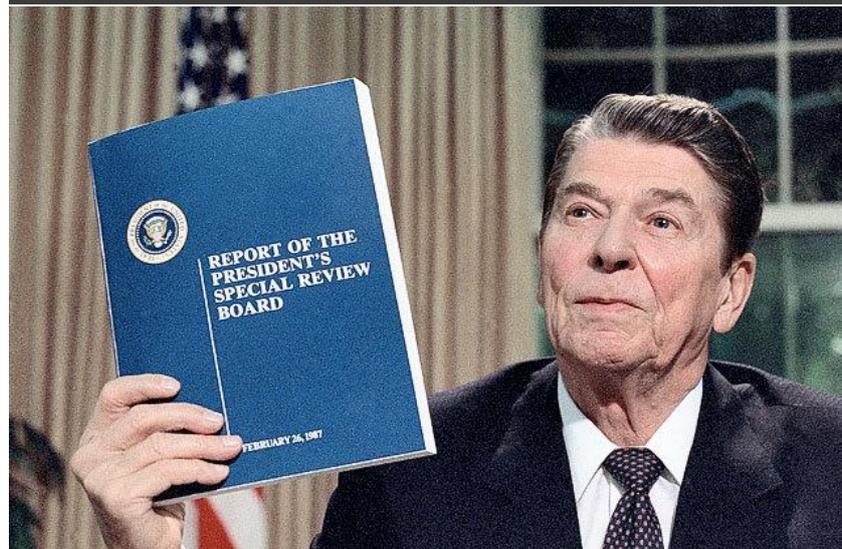


Congressional oversight during President Reagan's two terms: did it fail or was it no longer sufficient?



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## Abstract

This thesis discusses congressional oversight during the first and second term of Ronald Reagan's presidency. In the nearly 250 years since the Founding Fathers, the relation between Congress and the Executive has altered considerably. Most especially, over the course of the 20<sup>th</sup> century, the Executive has according to many become not only more powerful but *too* powerful relative to Congress. This thesis examines this relation on the basis of the Reagan administration's policy towards Nicaragua. The core research question is as follows: was President Reagan able to implement the Reagan Doctrine in Nicaragua due to Congress having too little power to correctly check and balance the Executive? Or did Congress have adequate powers but fail to properly apply them?

The relevance of this topic lies in the fact that the relationship between the executive and the legislative is no longer as the Founding Fathers had envisioned it to be, but has changed over the course of its existence. In the 1980s then, this became particularly clear when the Reagan Administration broke a multitude of laws in order to achieve its desired objective, which was overthrowing the Sandinista government of Nicaragua. This thesis explores the battle of the executive and legislative branch to gain, or retain the initiative regarding foreign policy making during that time, and in particular how Congress conducted oversight over the actions of the executive.

Keywords: congressional oversight, executive power, Reagan, interbranch rivalry, Nicaragua

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## Introduction

The United States of America is a democracy, within it a system of checks-and-balances and one of separation of powers between the three branches, the executive, legislative, and judiciary. These three branches in description may appear to be equals, crucially however, that is not the case. The Framers intended for the legislative, that is Congress, to be the dominant of the trifecta that make up the American political system. Indeed, according to Kaiser “the constitution grants no formal, express authority to oversee or investigate the executive or program administration, oversight is implied in Congress’s impressive array of enumerated powers” (2001), indicating that the legislative could check on and sanction the executive. This was how the system operated for a substantial amount of time, up until the late 19<sup>th</sup> century and early 20<sup>th</sup> century. Slowly but surely, it was the executive that gained more power, and turned into the dominant branch. Arthur M. Schlesinger (1973) describes in his book *Imperial Presidency* a number of presidents that were responsible for this shift. Theodore Roosevelt, Woodrow Wilson, Franklin Delano Roosevelt, Lyndon B. Johnson are prime examples of presidents who gave shape to their office beyond the scope of what the Constitution officially grants. Well-encapsulated by Hames and Rae, Congress then “ceased to be the active and dynamic element in the federal government, and instead became increasingly reactive and passive, responding to stimuli from the executive and judicial branches and ceding control over the political agenda to the White House” (97). FDR and his implementation of the New Deal is a prime example of this shift, that saw the presidency become the “chief legislator”, rather than Congress (Leuchtenburg par 8). Since the shift became notable, scholars have been debating fiercely whether or not this has been, and is, a favorable development, notably with regard to congressional oversight. Congressional oversight, in essence, should ensure that the executive cannot abuse its power, and if that does happen to hold the executive accountable. The intricacies of congressional oversight, however, are complex and may be difficult to fully grasp. An extensively debated topic is whether congressional oversight can still function properly after

this shift in power, or that the executive has become too powerful. One of the presidencies that raises this issue particularly strikingly is that of Ronald Reagan, who conducted his own covert war in Central America and exceeded the scope of his executive power. This thesis will attempt to shed light on how congressional oversight functioned, or failed to, during both terms of president Ronald Reagan. The core research question is as follows: was President Reagan able to implement the Reagan Doctrine in Nicaragua due to Congress having too little power to correctly check and balance the Executive? Or did Congress have adequate powers but failed to properly apply them?

After the impeachment of Nixon, which may be deemed the consequential zenith of congressional oversight, Reagan's administration too faced sanctions. The Reagan Doctrine, Reagan's fierce anti-communism stance, was implemented all over the globe, but the case study of Nicaragua proved to be worrisome. It will be argued that Reagan abused his power numerous times and for a long period of time, creating a clash between the executive and the legislative over who could dominate foreign policy. Furthermore, since it has happened not too long ago, it may be fortuitous to examine how said clash influenced the American policy system *ex post*, to possibly discover a trend. This thesis will not perform such research, but may be utilized as a framework and as background information in the future. Further relevance of this thesis lies in the fact that Nicaragua is still a troubled nation, with the same president today as it had during Reagan's presidency, Daniel Ortega. As this is written the nation is divided, and people are killed whilst protesting. This thesis will not claim the actions of the Reagan Administration are responsible for this, but the lasting effects of American foreign policy concerning Nicaragua in the 1980s are not widely researched. This thesis may serve as a foundation for scholars who are interested in conducting such research.

This thesis will touch upon congressional oversight in a chronological manner. After the existing literature overview, chapter 1 will deal with the background of congressional oversight

provide a concise definition and what it entails. This chapter will function as a foundation for the two remaining chapters, for it explains how the status quo of Reagan's first election came to be concerning congressional oversight and the relation between the United States and Nicaragua.

Chapter 2 will touch upon the first term of Reagan. Major events will be discussed, as well as the reasoning behind Reagan's acting and whether or not he overstepped his boundaries concerning executive power. The mining of Nicaraguan harbors and the investigation that followed are a good example of a noteworthy event that will be touched upon. The back-and-forth shift of dominating policy will also be dissected.

Chapter 3 will be of the same nature as chapter 2, but will deal with the second term of Reagan and pay special attention to the Iran-Contra affair.

### [Literature overview](#)

There exists an extensive body of literature on Reagan's presidency and his foreign policy towards Nicaragua, as well as on congressional oversight. Sources date back to the onset of the United States, with Madison describing the nature of the system of checks-and-balance, and the Framers explaining how they envisioned the branches to cooperate.

As Kaiser (1988,2001) argues, Congressional oversight is not a given in the Constitution of the United States of America, the Constitution rather implies oversight. The implied powers, according to Aberbach (1988, 2002) and Johnson (2004) have grown since the 1930s and 1940s, and saw an influx again in the 1970s, but there is no absolute consent among scholars on how these oversight powers can best be performed, the nature of them, and how effective they are. Regarding effectiveness, Shimberg (1991) notes that congressional hearings are a rather weak tool, in contrast to Machalagh Carr, current member of the House of Representatives, who claims that it is the most powerful one, yet not always effective. Shimberg questions that "other than threatening to cut off funds or passing new legislation, what sort of oversight powers does

Congress have?” (1991). An additional stand on congressional hearings can be found in the work of Clinton, Lewis, and Selin (2014), who state that there is a “strong relationship between the number of committees involved in oversight and the lack of congressional influence relative to the White House”. Complementary to their work, Lewallen, Theriault, and Jones (2016), argue that hearings are paramount in the information-gathering process, and should be used more frequently.

Bibby (1968) and Kaiser (1988) argue that oversight has long been the neglected function of Congress, but the debate has matured. The majority of scholars of late argue that congressional oversight has not been neglected, but that Congress has done its job. However, few take objectivity, subjectivity, and different forms of oversight into account when Congress does perform oversight. Indeed, as can be read in Aberbach (2002), members of Congress choose what to oversee and what not to oversee. Contrary to believe, Aberbach argues, congressional oversight is subjective, rather than objective. Both political will and the pressure of reelection play big roles here. Strand and Lee (2011) argue for example that there will be less oversight if there is a partisan Congress, which they showed occurred under Bush. Lee (2013) conducted similar research to Aberbach regarding the time span of 2001-2013, and he too came to the conclusion that ‘patterns in congressional oversight of the president leave no doubt that partisan interests drive congressional behavior’ (787). McCubbins and Schwartz (1984) and McGrath (2013), unlike some scholars, distinguish two types of oversight, fire-alarm and police patrol, or ex post and ex ante, respectively. They too argue that Congress has not been neglecting its oversight duty, but has deliberately chosen the most effective form, which they argue is the fire-alarm policy. Aberbach (1988) however, argues the opposite. This discrepancy is intriguing and it will be examined which one was utilized during the Reagan Administration.

Concerning the case study at hand, both terms of Ronald Reagan, research too has been conducted. The aforementioned Scott (1997) discusses the “interbranch rivalry” between Congress and the Presidency. He elaborates on the importance of controlling the agenda and how both sides attempted to either gain or keep the initiative regarding this. Rothe (2008) and Dudas (2012) also touch upon this matter, although from a different perspective. Rothe examines “the war on Nicaragua through the lens of criminological literature on state crime” and follows “with a descriptive account of the events that occurred during the Reagan Administration’s dirty war and concludes with the analysis of the United States’ criminality”. Dudas too, explores the matter through a “law and order” lens. Their articles will then predominantly be utilized to see how the United States, arguably the president, stepped over its legal borders and how Congress did or could have responded to these actions. Pach (2006) discusses the multitude of political approaches concerning the Reagan Doctrine in numerous countries, among them Nicaragua. He concludes that “a zealous commitment to the contras produced a scandal that raised fundamental questions about the president’s judgment and his respect for congressional prerogatives”. Although Pach undeniably provides useful insights, his article lacks a description of congressional failure to keep the president in check, but rather chooses to focus on how the president ignored the prerogatives that did arise. Hager and Snyder (2015) aim “to explain why and how the United States and Nicaragua moved from cooperation to fierce antagonism”. Their article will predominantly be utilized to provide context for the case study at hand. All mentioned articles have strong arguments, but few to none combine the different approaches. This thesis will attempt to do so.

## Chapter 1 – Historical Background

### Historic overview of Congress' power and its relation to the executive

The political relationship between the executive, legislative, and judiciary has not always been the way it is now. Today there is an executive, legislative and judiciary, but that has not always been the case. As I am writing this it is almost the tenth of May, which would mark exactly 243 years since the Second Continental Congress convened in 1775. At the onset it was Congress who governed the newly formed nation, with no executive or judiciary in place. This form of government was constructed in the Articles of Confederation in 1776, became in effect in 1781 and was in place up until 1787. Under the Articles of Confederation Congress had little power and was unicameral. Each state was equally represented and had a right to veto the nation's actions. It was in 1787 that a number of states came together in what was known as the Philadelphia Convention to amend the Articles of Confederation, in order to form a stronger form of government. In that year the Founding Fathers worked on the draft of a new Constitution, which was ratified in 1788 and fully implemented in 1789. The most prominent feature was the adding of the executive and the judiciary, and the notion of separation of powers between the now three existing branches. It was also established that Congress became bicameral.

Congress dominated the early eras of American politics. Hames and Rea, in their book *Governing America: History, Culture, Institutions, Organisation, Policy*, state that “as far as the framers were concerned, it seemed obvious that the legislative branch would be the predominant branch of the federal government” (95). James Madison, known as the “Father of the Constitution,” described the system in Federalist No. 51 as establishing “subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner that each may be a check on the other” (Qtd. In Kaiser 2001), and Madison furthermore stated that “but it is not possible to give to each department an equal power of self-

defense. In Republican government the legislative authority, necessarily, predominates” (Qtd. In Hames and Rae 95). However, Hames and Rae argue that the framers were “fearful” (94) of the dominance of a popularly elected legislature that they divided Congress up into two chambers, also because of checking and balancing (94) and established the presidential veto as an extra check.

For most of the nineteenth century Congress played the role the framers had envisioned it to play, that is of the most dominant branch of the federal government. The two fundamental factors for this dominance were the limited size of the federal government and that power inside Congress was “highly concentrated and centralized under a powerful party leadership” (Hames and Rae 95). Although it was the House that was the most powerful early on, the Senate’s status rose after the Jacksonian revolution in the 1820s and the emergence of national parties (Hames and Rae 95). A big reason for the Senate’s increasing power was the admittance of new states, which caused the number of Senators, and thus the overall influence of the Senate, to grow. Hames and Rae also point out that “because Senators were selected by the state legislatures, powerful party bosses often secured US Senate seats for themselves from pliant state legislatures, so that they could direct federal patronage back to their local party organizations” (95).

In the period after the Civil War power in the House became more centralized under the Speaker, most notably in the period from 1890 to 1910. As can be read in Hames and Rae, this control the Speaker had derived mainly from “his dominance of the majority party caucus, through which he was able to control committee assignments, the Rules Committee, and the scheduling and debate of legislation on the House floor” (95). In 1910 however, the intricacies of the federal government became more complex. There was a “widespread climate of opposition to party machines and ‘bossism’ and the introduction of the direct primary, members of the House began to find that going along with the Speaker was no longer necessarily the best

guarantee of a lengthy House career” (95). The Speaker was stripped of a substantial amount of his power, namely his power “over committee assignments, the House rules, the legislative agenda, and floor debate” and “the age of the party bosses’ dominance was ended by the introduction of the direct election of Senators in 1913, and the impact of the direct primary” (Hames and Rae 95).

An additional factor that was paramount concerning the changing relationship between the legislative and the executive can be found in the work of Alderman (1990). In his book *Keeping a Watchful Eye*, Alderman agrees with the earlier discussed work of Hames and Rae, that is that Congress was the dominant factor from early on, but lost influence in the twentieth century. Alderman, in line with Hames and Rae, touches upon the role of the Speaker, but also calls attention to the increasing size of the federal establishment, which “made it more and more difficult for Congress to lay the rather comprehensive controlling role assumed for most of the nineteenth century” (21). The Framers then made their vision clear based on the United States’ scale at the time, but their model proved to be difficult to maintain once the United States grew in number.

Vitaly, as Hames and Rae point out, these changes were also part of a broader change between the executive and legislative (95). As they argue, Progressive reformers “sought to expand the scope of federal government activity, but had little time for legislatures which they regarded as entirely dominated by parochial concerns and irredeemably corrupt, instead placing greater faith on a powerful presidency and a bureaucracy of experts chosen on merit” (97). It was then the “sudden emergence of the presidency under [Theodore] Roosevelt and Woodrow Wilson from its late nineteenth-century hibernation [that] began the gradual reversal of the roles of Congress and the presidency in the political system during this century” (97). Well-encapsulated by Hames and Rae, Congress “ceased to be the active and dynamic element in the federal government, and instead became increasingly reactive and passive, responding to

stimuli from the executive and judicial branches and ceding control over the political agenda to the White House” (97). As Alderman states: “the growth of government in size and complexity, coupled with such factors as the influence of efficiency doctrines advocated by the progressive movement, led Congress to cede much of its influence over the bureaucracy to the president in the Budget and Accounting Act of 1921” (21).

Theodore Roosevelt and Woodrow Wilson had their impact on the political system, and it was Franklin Delano Roosevelt who subsequently altered the American political landscape. Franklin Roosevelt led his country through the Great Depression by implementing his New Deal and greatly expanded the scope of presidential power and responsibilities regarding foreign policy. As Leuchtenburg, professor Emeritus of History University of North Carolina, states, it was “under FDR's leadership, the President's duties grew to encompass not only those of the chief executive—as implementer of policy—but also chief legislator—as drafter of policy” (Par 8). Kirkland, of North Georgia College and State University, agrees and states that although “programs of the New Deal expose a serious weakness in the presidency: the lack of resources under direct presidential control, FDR then, “increases the membership of the cabinet, and seeks institutional mechanisms to better coordinate its activities through strengthening his institutional staff” (12). Roosevelt achieves his goal of expanding the office of the presidency, and his power, through the Reorganization Bill of 1938” (Kirkland 7), which saw an increase in White House staff and its responsibilities. In line with Leuchtenburg, Kirkland also argues that “the president [FDR] replaces Congress as the chief policy-maker within the federal government (8). FDR then has a major impact on the American political landscape, and set the tone for his successors.

An additional president that augmented the role of the executive was Lyndon B. Johnson. Comparable to FDR, this happened through the implementation of new programs. As Alderman notes “the establishment of many new programs under Johnson further imbalanced

the power of the two branches as the presidential role was enhanced” (26). Comparable to FDR, Johnson acted as chief legislator and made Congress the secondary component in the policy-making process.

Richard Nixon, during his presidency, attempted to govern without Congress, but rather through a means of Executive orders from the White House. As Hames and Rae note, had Nixon “not been impeded by the onset of the Watergate scandal in 1973-74, he might well have succeeded in effectively closing Congress out of the national government and in establishing important precedents for his presidential successor to follow” (100). Yet, they also state that “the fall of Nixon finally gave the supine Congress the opportunity to reassert its role in the national government” (100). Resulting of internal changes Congress “began to reassert its prerogatives in opposition to the so-called ‘Imperial Presidency’” (Hames and Rae 100). Indeed, as Alderman notes “the amount of oversight done by Congress increased greatly beginning in the 1970s, and the increase was linked to changes in the environment outside as well as inside Congress” (48). The outside factors being the executive and its scandals, the inside as Alderman argues “decentralization” of committee hearings and its structure (71). Since Theodore Roosevelt the executive had disproportionately grown compared to Congress, and it took Congress nearly 70 years to regain its position to a certain degree.

Recapitulating the time from 1776 up to and including Nixon, a lot has changed. It was Congress who dominated at the start, which remained the status quo for the majority of the 19<sup>th</sup> century. It were assertive presidents like Theodore Roosevelt and Woodrow Wilson who expanded the presidency, and made congress more passive and reactive, rather than active and dynamic. Franklin Delano Roosevelt and Lyndon B. Johnson are responsible as well for expanding the executive, and Nixon too had his fair share of governing with as little influence of Congress as possible. During the time of Nixon however, Congress regained some of the initiative, and it would attempt to continue that development during the presidency of Reagan.

Chapter 2 and 3 will touch upon Reagan's presidency, and how the battle between the executive and the legislative for the initiative unfolded and concluded in the 1980s.

### Congressional Oversight

The executive was the dominant branch in the 20<sup>th</sup> century, the legislative however, still had a plethora of ways to exercise its own power. To keep the president in check it could perform its oversight duties. This is important, for the president is an elected official, which has to be held accountable for its actions, one of the core aspects of a democracy. Indeed, as Ogul and Rockman put it: "the purpose of oversight is to ensure that those to whom authority is delegated remain responsive"(7). Although this desired responsiveness cannot be forced through constitutional prerogatives, Kaiser notes that that "Congress's oversight authority derives from its "implied" powers in the Constitution, public laws, and House and Senate rules" (2001). Kaiser furthermore elaborates on a number of overlapping objectives and purposes congressional oversight serves. Directly taken from his work, these entail:

- "Improve the efficiency, economy, and effectiveness of governmental operations;
- Evaluate programs and performance;
- Detect and prevent poor administration, waste, abuse, arbitrary and capricious behavior, or illegal and unconstitutional conduct;
- Protect civil liberties and constitutional rights;
- Inform the general public and ensure that executive policies reflect the public interest;
- Gather information to develop new legislative proposals or to amend existing statutes;
- Ensure administrative compliance with legislative intent; and
- Prevent executive encroachment on legislative authority and prerogatives" (2001).

Summarizing these points, congressional oversight entails the confirmation of executive compliance regarding congressional prerogatives, the evaluation of programs and informing the

public of possible wrongdoings. Comprehensively put, it serves as a means to check and balance the executive.

There is a number of ways in which Congress may conduct oversight and when it chooses to do so. Concerning the 'when' Congress may conduct oversight, there are two major strands in existing literature. McCubbins and Schwartz (1984), Alderman (1990), and Ogul and Rockman (1990) touch upon fire-alarm and police patrol forms of oversight. Taken from the work of McCubbins and Schwartz, these two notions are defined as follows:

Police patrol: "Analogous to the use of real police patrols, police-patrol oversight is comparatively centralized, active, and direct: at its own initiative, Congress examines a sample of executive- agency activities, with the aim of detecting and remedying any violations of legislative goals and, by its surveillance, discouraging such violations" (166).

Fire-alarm: "Analogous to the use of real fire alarms, fire-alarm oversight is less centralized and involves less active and direct intervention than police-patrol oversight: instead of examining a sample of administrative decisions, looking for violations of legislative goals, Congress establishes a system of rules, procedures, and informal practices that enable individual citizens and organized interest groups to examine administrative decisions (sometimes in prospect), to charge executive agencies with violating congressional goals, and to seek remedies from agencies, courts, and Congress itself" (166).

Congress then can determine which of these two methods it chooses, does it wait for the information to arise and acts upon that, or does Congress itself actively search for information and wrongdoings? This important discrepancy between active and reactive oversight is paramount for the very reason it provides the executive leeway in the case of fire-alarm, or it does not in the case of police-patrol. It may provide leeway for if Congress does not check up

on the executive, the executive can conduct its own policy without a ‘watchful eye’, as Alderman (1990) puts it.

With regard to the ‘how’, Alderman (1990) describes it as such: “some techniques involve the use of formal procedures or processes, such as committee hearings or program evaluations done by congressional support agencies”, but not all techniques are formal, however, for example “communication with agency personnel by staff or committee members” (130). In general, Alderman argues, there are three dimensions regarding oversight techniques. He states that “one groups the use of program evaluations and reports prepared by non-committee personnel, [...], the second dimensions is committee staff review and involves efforts (investigations and program analyses) conducted by the staffs of committee units to review agency programs and policies, [...], finally, piecemeal review techniques fit the stereotype of congressional approaches to oversight – a piece by piece, generally unsystematic, and superficial search for or scanning of information about the agencies” (143-144). Next to these processes, Congress can utilize staff communication with agency personnel and the legislative veto. In sum, Congress can opt for a multitude of processes to gather information, and can then decide what to do with that information.

## Chapter 2 – Reagan’s Rise

Ronald Reagan has had numerous professions, and most will remember him for his tumultuous and intriguing political career. From the onset, Reagan made it adamantly clear that he was an antagonist of communism, and he ran for president with such a message. Zooming in on the core aspect of this chapter, Reagan’s stance towards Nicaragua, one may have guessed how Reagan would have acted once president, judging by his campaign. During his campaign, it became clear that Nicaragua would play an important role in Reagan’s foreign policy. As Rothe professor of Justice Studies at Kentucky Univerisyt, explains, “it [Nicaragua] was used as a platform statement against Carter’s ‘soft’ humanistic foreign policy and Reagan pitched the Sandinista government as a communist Menace” (52). Indeed, as Scott elaborates, the platform on which Reagan ran “condemned the Marxist Sandinista takeover of Nicaragua” and pledged support for the “efforts of the Nicaraguan people to establish a free and independent government” (239). Nicaragua then, “became a test case of the Reagan Administrations for using low intensity warfare to reinstate US power domestically and internationally, which had been weakened from the Cold War and US actions in Vietnam” (Rothe 54). This thesis will show that the Cold War mentality of democracy versus communism would make Reagan go to great lengths in order to make sure democracy will prevail.

This chapter will first provide a brief synopsis of the Nicaraguan Revolution, which saw the rise of the Sandinista dictatorship the Reagan Administration attempted to overthrow. Subsequently, important actions by the Reagan Administrations during Reagan’s first term, will be analyzed in terms of legality, and how they related to Congress’ prerogatives. In essence, this chapter will describe the rivalry between the executive and the legislative to gain, or retain, the initiative regarding foreign policy making concerning Nicaragua. It will raise the core question of why it took Congress relatively much time to discover what the Reagan Administration was doing, and elaborate on how Congress acted once it did become aware. A main argument is that the trifecta of the American political system was too unbalanced, since

the executive kept the other two branches in the dark with regards to what it was doing, thus going beyond the scope of what it was allowed to do. It is interesting then to see how Reagan had a different view than Congress, and how he acted to accomplish that, since it is no rarity that the executive and legislative do not agree on certain matters.

Regarding the history of Nicaragua, I will rely heavily on the work by Peace (2012), for its more recent and comprehensive work on the matter, and Hopkins (1987) for his expertise. Regarding the clash between the executive and the legislative, there exists an extensive body of literature. Predominantly Sobel (1993), Scott (1997), Rothe (2008), and Pach (2006) will be utilized for their core knowledge. Key aspects and insights of their work will be combined to make an argument as to how the clash between the executive and legislative came to be and its nature during Reagan's first term.

### [Succinct history of Nicaragua](#)

Nicaragua has been a tumultuous nation on many occasions. Relevant to this thesis is the period from 1960 up to 1990, which is defined as the Nicaraguan Revolution. An influential family during this period was the Somoza one, which already had been in power since 1937. Their dictatorship was characterized by increasing inequality and political corruption. Many dissented with said regime, and a new movement arose. The Sandinista National Liberation Front (FSLN) was "founded in 1961 by Carlos Fonseca, Silvio Mayorga, and Tomás Borge and was inspired by the Cuban Revolution, Marxist-Leninist philosophy, and the anti-imperialist example of Sandino, the three Nicaraguans embarked on the Herculean tasks of bringing down the Somoza government and replacing it with a socialist government that would presumably serve the people" (Peace 10-11). Argued by Hopkins, "their 'project' is one of 'national unity', which seeks to further the interests of peasants, workers, small and even large businessmen, provided only that they share the Sandinistas' anti-imperialist, anti-oligarchic aims" (30). In the ensuing years after its establishment, it grew in number and by the 1970s, the coalition was powerful

enough to launch a military effort against the Somoza regime . The 1970s was a chaotic decade. In 1972, support for the FSLN grew, when it became known that much of the aid meant for victims of an earthquake ended up in Somoza's profit-making businesses (Peace 11). The situation escalated in 1978 with the murder of Pedro Joaquín Chamorro, a Nicaraguan journalist and publisher, on January 10, presumably by Somoza's "thugs", which "marked the beginning of an eighteen-month insurrectionary period that ended with the triumph of FSLN revolutionary forces"(Peace 12). In early 1979 the Organization of American States supervised negotiations between the FSLN and the Somoza regime, but these broke down when it became apparent that the Somoza regime had no intention of allowing democratic elections to take place. The FSLN continued its fight and by June had taken over most of the country, except for the capital, and on 17 July 1979 president Somoza resigned, giving full control of the government to the revolutionary movement. Somoza himself was exiled to Honduras.

The early years of the new FSLN regime were rather positive. Illiteracy dropped from 50 to 13%, many people were given land and man and woman became more equal (Peace 12-14). When Defense minister Tomás Borge announced the existence of thirty-two counter-revolutionary camps in Honduras, however, "the FSLN government began to take a harder line toward its political opponents, fearing conspiratorial ties with the contras or the CIA" (Peace 16). Furthermore, the FSLN's ties with the Soviet Union became stronger, already indicating the communistic aspects that would define its regime (Hager and Snyder 2015). The exiled dictator Somoza had not lost support, and a movement against the FSLN arose along the border with Honduras. The people from this movement were called Contras, and were against the revolution that had taken place. Many of the initial contras were former members of the Somoza regime's National Guard. In the 1980s the FSLN and the contras would fight one another in order to rule Nicaragua.

The stance of the United States under Reagan's predecessor, Jimmy Carter, was one of non-intervention. Carter, in 1977, outlined his vision in multiple speeches, declaring that he envisioned "a foreign policy based on protecting human rights, pledged to end the tradition of U.S. interventionism in Latin America, and offered to support the development of democracy through multilateral cooperation" (Office of the Historian Par. 2). Carter "criticized Somoza's abuses but carefully avoided any encouragement of the FSLN because of its Cuban ties and the Marxist orientation of its leaders" (Office of the Historian Par Par 3). Carter held meetings in the White House with Nicaraguan officials and provided aid funds, but never intervened militarily. Carter "wanted to support the regime because he saw this as a way not only to keep Nicaragua from becoming another Soviet or Cuban client state but also to serve humanitarian goals" (Hager and Snyder 9). As mentioned, Reagan deemed this "soft", and would walk a quite different path than his predecessor to make sure Nicaragua would not become an additional Cuba.

### Reagan's First Term

Nicaragua was a key focus regarding the foreign policy of the United States. Reagan, once elected, acted assertively and took measures to ensure that Nicaragua would become a safer, more democratic nation. This project was dubbed "Project Democracy", and correlated well with Reagan's policy toward communistic governments. His stance became known as the Reagan Doctrine, although not until a few years later. Two months after Reagan's State of the Union address in 1985, a columnist for *Time Magazine* coined the term, when he declared that "he found a grand statement of foreign policy hiding in plain sight" (Qtd. In Pach 75).

As can be read in the work of Rothe (2008), said measures "included economic isolationism, supporting the Contras indirectly and directly, and militaristic covert interventions" (54). In the beginning of 1981, US economic assistance was terminated for Nicaragua. The Reagan Administration began anti-Sandinista paramilitary training in Florida,

California, and Texas (Walker in Rothe 54). Rothe elaborates on the first *Presidential Finding on Central America*, submitted to Congress on March 9, 1981, which “was used as the predicate for congressionally approved financial support to be used for the clandestine assistance of anti-Sandinista paramilitary groups” (54). Reagan then, in December 1981, “signed another Finding providing \$19 million for covert CIA financial and logistical support for the exiles conducting paramilitary raids against the Sandinistas from their Honduran base camps” (Sobel 29). Some months earlier, however, in March, Reagan had already signed a proposal, brought forward by the National Security Planning Group. As can be read in the work of Scott (1997) “CIA Director William Casey, Secretary of State Alexander Haig, National Security Adviser Richard Allen, Secretary of Defense Caspar Weinberger, and UN Ambassador Jeane Kirkpatrick met and produced a plan to support domestic opposition groups in Nicaragua and anti-Sandinista forces gathering in Honduras, with a \$19.5 million covert program” (241). Scott describes how the National Security Planning Group, specifically Central Intelligence Agency director William Casey “brought the vague finding to the House and Senate Intelligence Committees, where he described it as a political and propaganda program in Nicaragua and a regional effort to stop the flow of weapons into El Salvador” (242). This is then intriguing for the very reason the White House oversaw a program that it described differently to the House and Senate intelligence Committees than it was in reality. The Reagan Administration thus circumvented Congress and executed foreign policy as itself saw fit. Indeed, although “some members of the Congressional Intelligence Committees opposed the idea of the United States covertly supporting a guerrilla force in Nicaragua [...] CIA director William Casey promised the committees that the scope and purpose of the Nicaragua operation would be limited to interception of Sandinista arms ships” (Sobel 29-30), which in reality was not the case.

In early 1982 then, Project Democracy had taken shape. The Contra forces repeatedly attacked constructions and people in Nicaragua. As Rothe argues, these attacks “reflected the

Reagan Administration's idea that fear must be implanted in the general population to weaken existing Sandinista support, and all of the social and economic structures should be targeted to bring down the government" (54). Again, this is not the objective Casey stated before the House and Senate Intelligence Committees.

Recapitulating, the Reagan Administration dominated foreign policy regarding Nicaragua for the first two years. Concerning congressional oversight, one can argue then that Congress chose the fire-alarm option of conducting oversight, rather than the police-patrol one. It approved a bill for the Reagan Administration, but failed to observe how the money was actually utilized, something that may have come to light had Congress conducted oversight in the police-patrol manner. The Reagan Administration kept Congress in the dark regarding what it was truly doing, thus creating the fundamental problem for Congress that it was incapable of conducting oversight, for it did not know what to oversee, highlighting a major flaw in the fire-alarm strategy. Furthermore, the meetings the Intelligence Meetings did conduct, were not effective, for the CIA lied or was evasive in its answers.

In November 1982 the White House was no longer able to sail its own course. *Newsweek* published an article that "revealed the extensive details of US participation in the unofficial dirty war" (Burns in Rothe 55). With publicity concerning the activities in Nicaragua growing, Congress started acting. Indeed, as can be read in the work of Rothe and Scott, a result was that "Democrats in Congress began to be concerned about the Contra aid they had previously authorized based on arms interdiction against the Sandinistas (Rothe 55), and that the attention "prompted members of Congress to voice opposition to such activities and to use the institution's oversight powers to begin attempts to restrict American policy" (Scott 245). Congress first step was to "attach classified language to the Intelligence Authorization Act prohibiting the use of CIA funds to overthrow the Nicaraguan government (Scott 244). This was later added to the Boland I amendment, which "prohibited the use of military equipment,

training, advice, or other military activities for the purpose of overthrowing the Nicaraguan government” (Dickinson 1997). It passed 411-0. This development shows that Congress, once aware, can create legislation in an attempt to restrict the White House. However, as Rothe argues “the Amendment lacked teeth or enforcement mechanisms [which resulted in] an intensification of state-sanctioned covert activities and violence” (55). Indeed, “Boland I left a loophole that the Reagan administration quickly utilized – as long as the U.S. itself did not intend to overthrow the Nicaraguan government, the U.S. could support the Contras under a different guise such as humanitarian aid or by the solicitation of money from third-party funds and private actors” (Hunter 8). Also explained by Parry and Kornbluh (1988), “by using outside groups, the administration circumvented legal bars against executive branch lobbying and domestic propaganda. Those laws prohibit the administration from financing grassroots campaigns to pressure Congress, from covertly funding domestic propaganda efforts, and-in the case of the CIA and the USIA- from playing any role in influencing U.S. public policies” (15). Thus, Congress attempted to restrict the Reagan Administration, but failed to do so adequately and made it possible for the Administration to continue its set course.

These developments indicate that congressional oversight was active, but not effective. It took Congress nearly two years to find out, through a newspaper, that the White House was not adhering its set prerogatives, and when it tried to restrict the White House, its ways lacked adequate enforcing mechanisms. The fact that Congress found out rather late, was partially due to CIA directors Casey being evasive about the truth, and arguably due to Congress choosing to conduct oversight based on the fire-alarm notion, rather than actively investigating of its own.

When it became publicly known that Contras were fighting and attempting to overthrow the Sandinista government Reagan stated: “we do not seek [the government of Nicaragua’s] overthrow. Our interest is to ensure that it does not infect its neighbors through the export of

subversion and violence.” (Scott 245). This was, however, not convincing. A part of the granted funding was utilized to “outfit in 1983 a mother ship that launched small mine-laying boats off the Nicaraguan coast. Mines were actually placed in some Nicaraguan waters, and several foreign freighters ran afoul of them (Currie 192). This was done by the CIA which had the approval of the president (Rothe 56). This decision “was taken without congressional consultation, in defiance of congressional restrictions and concerns [and] occurred without a proper briefing of the intelligence committees” (Scott 248). As a result “administration claims about moderate objectives in Nicaragua became increasingly unpersuasive” (Pach 84). An interesting aspect of this act is that the CIA had instructed Contra forces to take the blame for the placement of mines (Scott 248). This is then interesting for the very reason that if the CIA, and thus the Reagan Administration, was acting properly and righteously, it could have taken credit itself. The fact that it did not, may indicate it was rather aware it was in the wrong.

### Public Opinion

Congress can choose what to oversee and what to neglect, but there are incentives that influence its decisions. One of these is the public opinion, an important aspect of a democracy. Since members of Congress are chosen, they must take their constituent’s stances into account. An important aspect for this is that members of Congress are focused on reelection, and must thus carefully choose how they act (Alderman 2002). Throughout Reagan’s terms the public opinion about United States’ involvement in Nicaragua would be negative (Sobel 22-28). Indeed, after “civil strife once again rent Nicaragua, many Americans, fearful of “another Vietnam”, opposed the commitment of U.S. military forces” (Pach 83). Regarding the democratic feature, well-described by Petress and King: “in a democracy the power of a government depends upon a public perception of legitimacy because according to the democratic myth all power resides in the people, and the only legitimate action is that which is authorized by the people” (15). One might assume then that, broadly speaking, Congress would pay close attention to public opinion

and act on it, in this case utilizing its oversight powers to intervene and for the Administration to moderate its policies due to the negative public opinion, the reality is far more complex. The public is not a single entity, rather a complex mix of constituents, each with their different opinion on how certain matters should be handled. Each member of Congress then has their own constituency that they have to take into account. Indeed, as Alderman explains: “the political nature of the body and its members' preferences do not inhibit, or even much limit, the occurrence of oversight in its many manifestations, but they tend to shape what occurs. Members of Congress want to know and do know more than one might naively suspect, but naturally enough they want to know more about some things than about others” (200). It is then incredibly difficult to predict what influence a negative public opinion will have, whilst a favorably public opinion can only strengthen the cause.

The White House was quite aware of the importance of having public approval. Even when there was no public record about US intervention in Nicaragua, it already “began a verbal assault on Nicaragua to generate a foundation of support for the insurgency in preparation for the time the paramilitary operation became public” (Scott 244). When it did become public, Reagan “tried to regain the political offensive by casting the issue in Cold War terms, railing against the Cuban-Soviet menace, and threatening to blame Congress for losing Central America if it did not acquiesce to his demands” (Reagan qtd. In Sobel 31). Thus, as can be expected, “rather than making policy consistent with public opinion, officials attempted to bring opinion into support of contra policy” (Sobel 11). Reagan did not use small terms in his attempt to accomplish this goal. Throughout the years the Contras were describes as “the moral equal of our Founding Fathers” (Pach 84), “our brothers”, and “freedom fighters” (Scott 249). These are strong terms for a group that tries to overthrow a government, regardless of that governments nature. One may only assume then that Reagan truly believed in his

implementation of his doctrine in Nicaragua, for he was willing to break the law for those he described as moral equals to the Framers.

### The Senate Select Committee on Intelligence

The Senate has a Senate Select Committee on Intelligence, to which the Central Intelligence Agency is charged by law to inform of its current and future endeavors. Regarding future endeavors, the committee can vote on the propositions brought to them, and for example allow funding. This committee then serves as a tool for conducting oversight, for it gathers information on which Congress can act. In the early 1980s, however, it did not run smoothly, nor was it rather effective. There was dissent concerning whether or not the Central Intelligence Agency had informed the Senate Select Committee on Intelligence about its actions regarding the mining of harbors. As mentioned earlier, in scholarly work by Parry & Kornbluh (1988), Currie (1998), Pach (2006), and Rothe (2008), it is argued that the decision to mine harbors was “taken without congressional consultation, in defiance of congressional restrictions and concerns [and] occurred without a proper briefing of the intelligence committees” (Scott 248). The Central Intelligence Agency claimed the opposite. In an article in the *New York Times* in April of 1984, a spokesman was quoted: “in accordance with existing statutes, and Presidential directives, the C.I.A. has the specific responsibilities to keep appropriate Congressional committees fully and currently informed of agency activities,” and “the agency strictly adheres to these directives. Reports that the C.I.A. has violated those directives in connection with Central America are untrue” (Gwertzman par. 2). Vice chairman of the Senate Select Committee on Intelligence at the time, Senator Daniel Patrick Moynihan, resigned as a sign of protest for “what he said was the failure of the Central Intelligence Agency to inform the committee “properly” about the scope of United States involvement in the mining of Nicaraguan harbors” (Gwertzman par. 1). Furthermore, Moynihan “felt his resignation would be the best way to put pressure on the Reagan Administration to improve its relations with the intelligence committee”

(Gwertzman par. 2). It may have been detrimental if more of these protest-resignations occurred for the Administration, for it would show the public that Congress strongly disagreed with how the executive was handling foreign policy regarding Nicaragua.

Interestingly enough, the CIA had informed the Senate Select Committee on Intelligence regarding the mining of harbors. Paramount in the statements of Scott and Moynihan, however, are the words 'proper briefing' and 'to inform the committee properly'. Moynihan "acknowledged that [the CIA's claim that it had informed the committee] was factually correct, from reading the transcripts of the committee's meetings on March 8 and 13 with Mr. Casey, that the mining was mentioned. But he contended, as have some others on the committee, that it was too slight a reference to something as sensitive as the mining of another country's harbors" (Gwertzman par. 3). Indeed, there was only "a single sentence of 27 words in a 138-minute briefing that ran 84 pages", Moynihan said, it was mentioned that "magnetic mines have been placed" but the implication was that this was being done by the Nicaraguan rebels by themselves (Gwertzman par. 3). Thus, "it was surely there, but it was not flagged for the attention of the members and staff" (Currie 192). Barry Goldwater, Senate Intelligence Committee Chairman, wrote a letter to Casey, stating: "I am pissed off... Bill, this is no way to run a railroad... this is an act violating international law. It is an act of war. For the life of me, I don't see how we are going to explain it" (Qtd. in Scott 248). Regarding the Senate then, there was lots of dissent with the CIA's acting.

This course of events is intriguing, for the very reason that the CIA, acting under the president, can put a small sentence in a large document, and then claim it had acted properly. The briefing by the CIA however, "was in no event 'full,' 'current' or 'prior,' as required by the Intelligence Oversight Act of 1980" (Moynihan qtd. In Gwertzman par. 8). An additional intriguing fact is that the House intelligence committee had been informed at January 31<sup>st</sup>. According to Edward Boland, chairman of said committee, "the C.I.A. had informed his group

on Jan. 31 about the mining and he had no complaints about C.I.A. compliance with the reporting requirements of the law” (Qtd. In Gwertzman par. 8). Casey, director of the CIA, had planned to inform the Senate around the same time, but the Senate itself postponed until March 8, for then Secretary of State George P. Shultz could then attend as well. Interestingly then, one chamber was properly informed, but bicameral speaking, with the common objective of conducting oversight, there was no equal knowledge on and of the matter. Arguably then, had the one sentence in the briefings regarding the mining been given more thorough discussion, and had both intelligence committees communicated more thoroughly, the mining of harbors would have been known to all, which may have prevented, in hindsight, an unnecessary resignation. If Congress as a whole has the objective to conduct oversight, but its internal parts fail to cooperate, the executive may more easily do what it desires without the fear of facing repercussions.

As discussed earlier, the public opinion for members of Congress matters, yet it is difficult to expect or predict how Congress will act due to the many different motivators for members of Congress. Senator Leahy, properly briefed about the mines, stated that there were senators who changed their opinion as a result of public opinion, when it came to allowing funding for the CIA or not. He stated: “[b]ut there were senators who voted one way the week before,” in support of the covert aid, and “a different way the following week, who knew about the mining in both instances,” and “I think they were influenced solely by the public opinion and I think that's wrong and that's a lousy job of legislative action” (Qtd in Gwertzman par. 9). Thus, when public opinion is not in favor of the US actions concerning Nicaragua it can become more difficult for the CIA and the president to continue its set course, or so it should be. In this particular case then, the CIA did not receive funding, for Senators changed their approval to disapproval due to taking public opinion into account. As explained before however, this will

not always be the case, since public opinion is made up from a variety of different constituents and each member of Congress has different motives to vote the way they do.

### Final Two Years of Reagan's First Term

In November of 1983, Congress approved funding, \$24 million was granted for military assistance to the Contras, but “as a compromise to their concerns over the non-compliance of the Boland Amendment, they eliminated the CIA contingency funds previously used to procure the covert activities” (Rothe 56). As Rothe explains this was the “first congressional approval for funding to overthrow a sovereign state, thus transforming the covert-funded operations to an openly funded illegal ‘war’” (56). Although Reagan approved the National Security Council’s proposal “to escalate the operations against the Nicaraguan government in December 1983 [...] even with the extensive damage and loss of innocent lives, the CIA admitted the Contras still could not defeat the Sandinista government at that time’ (Rothe 56).

After the explained mining of harbors and the briefings that had occurred, the House and the Senate “overwhelmingly adopted resolutions condemning the act” (Scott 248), even though the Reagan Administration opposed such measures. On 25 May, 1984 the House voted 241-177 on a bill to bar any military or paramilitary activities against Nicaragua, which the Senate accepted in the summer and which was attached to a popular jobs bill (Scott 248). In October a resolution passed both houses that included Boland II. According to Edward Boland himself “the Amendment ends U.S. support for the war in Nicaragua” (Qtd. in Scott 248). Thus, the Reagan Doctrine was now without vital funding, and Congress was the dominant branch regarding policy making.

The Reagan Administration battled hard to regain the initiative. The earlier discussed attempt to reform the image of the Contras in “almost daily presidential speeches and phone calls” (Scott 249). It was however, rather unsuccessful. After the mining of harbors, Nicaragua’s foreign minister, Miguel D’Escoto Brockman, stated “at all events, those acts

amount to the imposition of a military blockade in addition to the attempts as an economic and political blockade of Nicaragua in which your government is engaging, in open violation of international legal norms” (Qtd. in Rothe 56-57). There were also ten commercial vessels that had struck the CIA’s implanted mines, from various nations, such as Japan, the Netherlands and the Soviet Union. Thus, the Administration’s plan to “demonize and destroy” the Sandinista government was condemned by Congress, the US public and international political actors (Rothe 57). Chapter 3 will touch upon alternative methods the Reagan Administration tried to utilize in order to achieve its set objective of overthrowing the Sandinista government during Reagan’s second term.

### Recapitulating Reagan’s First Term

Recapitulating Reagan’s first term, Scott’s article title of ‘interbranch rivalry’ is fitting. For the first two years the executive had the initiative, for Congress was kept rather in the dark. Once newspaper articles shed light on the activities of the Reagan Administration in Nicaragua, Congress responded. It used one of its most powerful tools, the treasury, to either grant or not approve funds, and by doing so forced the Administration to either continue with Congress’ approval, or to moderate its course so Congress would approve. Yet, the House and the Senate Intelligence Committees did not effectively communicate whilst conducting oversight. It is no rarity for the Senate and House Intelligence Committees to be on separate pages. In a news article just three months ago, for example, one could read that “according to a member of the Senate Intelligence Committee, the Senate body and its counterpart in the House have basically ceased working together on anything” (Kranz par. 1). Although it was not so severe in the 80s, both committees conducted their own interviews, and the shown evidence indicates that there were different outcomes, rather favorable ones for the Reagan Administration.

In the Senate, the CIA could put one sentence about mining harbors into their file, which would have made a difference had it been discussed. Had, for example, Senator Moynihan

known about it he “would have voted on April 5 against providing the C.I.A. with \$21 million in additional funds for covert activity in Nicaragua” (Qtd in Gwertzman par. 3). After that, the Administration tried to make public opinion in favor of its policy, hoping Congress would follow, but was unsuccessful to accomplish this. At the end of Reagan’s first term, his foreign policy regarding Nicaragua was condemned by Congress, the US public and a multitude of nations.

## Chapter 3 – Reagan's Second Term

Ronald Reagan comfortably won the election of 1984, defeating Democratic candidate Walter Mondale in 49 out of 50 states. With regards to foreign policy concerning Nicaragua, the reelection of Reagan appeared a formality, since the status quo of Reagan's first term in office continued during his second; the rivalry between the executive and the legislative continued, and increased the further Reagan's second term progressed. Interestingly then, although public opinion was not in favor of Reagan's policy towards Nicaragua, it did not prove to be a road block to Reagan's reelection, nor did it receive substantial coverage during his campaign.

The Iran-Contra affair, however, did receive substantial coverage and congressional attention. The illegal arms trade, both for hostages and money that was allocated to the Contras, may well be deemed the nadir of Reagan's presidency. This chapter will touch upon said affair, along with important events and moves made by both the executive and legislative from 1985 up to 1989. The relevance of this affair is that is indicated that the Reagan Administration was willing to go to extreme resorts in order to achieve its objectives, breaking a multitude of laws and congressional prerogatives in the process. It furthermore shows how Congress deals with such a situation, and whether or not that approach can be deemed effective.

Three notions will be touched upon. First, Congressional oversight was effective, for the Executive had no alternative option than to break the law. Second, the executive was willing to do so. And third, Congress possessed the adequate tools to address this illegality and was able to partially hold those responsible accountable.

This chapter, predominantly the part discussing the Iran-Contra affair, will rely heavily on the scholarly work by Currie (1998), for its comprehensive and clear elaboration of the affair; on Petress and King (1990), for their elaboration of the significance of congressional hearings and why the outcome of the Iran-Contra affair hearings was unexpected; and on Rothe (2008) and Scott (1997), for their clear, more general overview of Reagan's second term and the fact that this is more recent conducted research in the case of Rothe.

Each of these scholars, in their own fashion, have emphasized the illegality of the Iran-Contra affair. Building on the discussion, this chapter will combine the main points to create a clear overview, subsequently arguing that congressional oversight was in place, but could not reach the highest office responsible, thus was not as effective as one may would expect.

### Congressional Funding

One of Congress' most powerful means to dominate policy is the treasury. As discussed, Congress can grant funds to the executive so policies can be executed, and it can choose not to grant funds if it disagrees with the proposal it is given. It happened numerous times during Reagan's presidential career that Congress denied the proposals brought forward by the Reagan Administration. In order to obtain money, the Reagan Administration sought different forms of funding.

As can be read in a congressional record of October 1984:

“No funds available to the CIA, the DOD, or any other agency or entity of the US involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual” (360).

This then means that that the Reagan Administration could not continue its set course, and had to find alternate meanings of funding to continue. It accomplished this between 1984 and 1986, for “under-the-table deals were made with states such as Israel, Saudi Arabia, Guatemala, and Brunei for support of the Contras” (Rothe 57). Furthermore, “private organizations [...] and a surrogate network created under the guidance of Robert McFarlane and Lt. Oliver North that provided funds, training, and arms to the Contras to replace those once approved by Congress” (Rothe 57). In addition, Robert McFarlane, the National Security Advisor, was able to get a total of \$32 million from Saudi Arabia between 1984 and 1986; McFarlane maintained that “he

did not solicit the money but merely expressed that that funds for the contras would be appreciated” (Cheit par. 7). Later, Lt. Oliver North was able to secure two \$1 million contributions to the contras from Taiwan (Cheit par. 7). Using “a combination of guile and brazenness, NSC aide Oliver North carried out the president’s wish by using private donations and foreign subsidies” (Pach 84). The Reagan administration then, had no respect for the mandate set by Congress, and circumvented it by relying on organizations and other nations for money.

The Reagan administration nevertheless did attempt to obtain funding from Congress by reshaping the image of the contras and the Sandinista government. This was up to April of 1985 unsuccessful, but changed when Nicaraguan President Daniel Ortega went to Moscow. This fueled the accusations the Reagan administration had made for years, that it was indeed attempting to hold back a communist government. As a result Congress granted a non-lethal aid package of \$27 million. In September 1985 the Nicaraguan Humanitarian Assistance Office was created. It was under the control of the National Security Council to circumvent Congressional restrictions (Rothe 58). Thus, the package for non-lethal aid granted by Congress could now be used to fund the Contras, which did happen.

As per the Boland II law however, it was illegal to fund the contras. The administration then acted illegally by finding alternate sources of funding. House Intelligence Committee Chairman Lee H. Hamilton put the issue rather well by asking: “the Constitution does not permit a secret war, does it?”, and then stating: “So I’m with the Constitution” (Fritz par. 14).

These developments are intriguing for the very reason that Congress in theory is able to dictate how policy is executed, by granting or declining funds for proposals it is handed. In practice however, Congress is not the sole way for the executive to obtain funding, although alternate means, i.e. money from a variety of nations, is a questionable action if the legislative branch does not support the cause. Moreover, the money Congress grants for non-lethal aid can be

distributed through a network of organizations, so it can still be used for lethal aid. In spite of these actions, the Reagan administration showed that it preferred to obtain money from Congress, for it tried to legitimize its cause, and attempted to alter the perception of the Contras and Sandinistas to gain support.

### Iran-Contra Affair

The nadir of Reagan's presidency arguably had its onset in 1985, and continued for some years. The aforementioned countries the Reagan administration conducted business with, were not the only one, Iran is on the list as well. Although Iran was the subject of an arms embargo, under the supervision of the President "the United States, in September 1985, shipped 408 missiles to Iran as part of a secret "arms for hostages" deal (Rothe 57). One day later Benjamin Weir was released. In the ensuing year 4,000 more missiles were shipped to Iran through Israel (Rothe 57). Although a detailed description of this Iran-Contra affair exceeds the scope of this thesis, its main notions and subsequent congressional hearings must be touched upon.

Comprehensively put, the Iran-Contra affair "surfaced in 1986-1987 when evidence became public that President Ronald Reagan's National Security Council staff had secretly sold arms to Iran, used the profits to provide aid to the Contra forces opposing Nicaragua's leftist government – aid expressly prohibited by Congress in 1984 – and had then concealed the truth by lying to Congress and destroying evidence" (LaFeber in Boyer 393). An integral figure of this affair was Lt. Oliver North, deputy director for political-military affairs in the National Security Council, who was tasked with the responsibility of ensuring that "the Contras were supported" (Scott 253). His role in the Iran-Contra affair was significant. When the aforementioned additional funding of third party governments and private organizations proved to be insufficient, he came up with a plan of overcharging the Iranians, and using the additional profit to fund the Contras (Hunter 11).

It was in November that the scandal broke. A Lebanese journal, *Al-Shiraa*, “embarrassed the administration by revealing the arms shipments” and at the same time Attorney General Edwin Meese “informed Reagan that NSC staff, led by Lt. Colonel Oliver North, had illegally diverted the arms-sale profits to buy military supplies for the Contras [...] which was probably initiated by CIA director William Casey” (LaFeber in Boyer 393). Interestingly then, it was once more that the Reagan Administration’s illegal acting became known via a newspaper. This then may serve as an argument as to why Congress might better opt for the police-patrol option, to find wrongdoings itself, rather than the fire-alarm option, in which it hears about wrongdoings from other sources.

After the affair became public, as Hunter explains, “three mechanisms were established to uncover the truth of the Iran-Contra Affair in hopes of regaining public trust in addition to fully understand the scandal: a special review board appointed by Reagan, an independent counsel per-Meese’s (Attorney General) request, and the holding of immunized joint-congressional hearings” (20).

The Senate Select Committee on Intelligence then conducted investigations into the scandal. On 28 November 1986, the SSCI sent a letter to President Reagan “informing him that the committee would begin an investigation of the Iranian initiative and the diversion of funds” (Currie 198). Its process was strenuous and its findings worrisome. One of its initial findings was that “Congress was not notified of any of the Findings concerning the arms transfers to Iran, despite the "timely fashion" requirements of Section 501 of the National Security Act and the written agreement between the DCI and the SSCI leadership. The reason for this lack of notification was simple: the Finding itself stated that Congress would not be notified of the project because of its "extreme sensitivity” (Currie 194). This is interesting, for the executive may deem its own findings too sensitive for Congress, and therefore keep Congress in the dark as to what it is doing, even if its activity is of an illegal nature. Thus, although Congressional

oversight is in essence a Congressional tool, the executive may determine what happens, and what the Intelligence Committees learn. The executive can thus be dominant in a legislative process.

A problem the intelligence committees faced was that the people the questioned were evasive in their answer, not talking, or lying. As can be read in the work of Currie, “on various occasions, before both the SSCI and the HPSCI, in written responses and oral testimony, CIA witnesses simply did not tell the truth. According to the Independent Counsel, “[DCI William J.] Casey ... when asked by congressional committees how the contras were able to prosper during the Boland cut-off period, professed ignorance” (195), and additionally, “in the words of Independent Counsel Lawrence Walsh, “Casey and Poindexter's presentations [on 21 November] were incorrect, misleading, and at times criminally false ... Casey ... gave misleading testimony about the flow of funds in the arms sales, the extent of presidential approval for them, and his knowledge of who in the NSC was running the Iran operation” (197). The committee issued its report after a month-long investigation on 2 February 1987. The committee standpoint was one of disappointment, for “the committee had been forced to leave many questions unanswered, either because of the refusal of witnesses to testify (e.g., North and Poindexter) or the misleading and incomplete answers offered by other witnesses” (Currie 198). The essence of congressional oversight is to oversee the actions of the executive and sanction it when necessary. The fact that hearings were held, shows that, once known, affiliated parties will have to defend their actions, legal or illegal, although effectiveness remains troublesome.

With regards to the Tower Commission, Reagan appointed former US. Senator John Tower and others to a special review [...] with the purpose of “evaluating the operation of the National Security Council in general and the role of the NSC staff in particular” (Hunter 20). Its finding was that the NSC itself was sound, and placed blame on Chief of Staff Regan, who

resigned as a result. It furthermore “chastised the president for not controlling his administration” (LaFeber in Boyer 393-394). One of its conclusions was that it was “not an institutional or organizational problem, but was the result of individual choices of a few “Republican cowboys” acting in their own interests” (Rothe 62).

During the televised congressional hearings, “three CIA officers were indicted and charged either with perjuring themselves in their statement before Congressional committees or with obstructing Congress” (Currie 199). At the end, the committee’s report “concluded that the actions had been concealed not for security reasons, as the administration claimed, but to circumvent the law to the detriment of America’s democratic institutions (LaFeber in Boyer 394). Prosecutor Walsh charged fourteen persons with crimes, of which eleven pleaded guilty or were convicted. Key figures North and Poindexter’s convictions, however were overruled due to technicalities, and president Bush later pardoned six others. Bush, when still acting as Vice President, furthermore “called both North and Poindexter heroes” (Kalb and Hertzberg 265).

One interesting development is that North survived his hearings rather well, despite admitting to illegal handling. Not only did he survive, he became more popular because of it. Indeed, as Petress and King argue, North “the most conspicuously active figure evoked a large outpouring of public affection and support” (15). Moreover, “the Harris Survey (July 14, 1987) released the morning before the final day of North's testimony noted that by an 80-14% majority, the public felt that North "is a patriot who was doing the job he was assigned and did it well." Harris concluded that he had proved to be "a spectacular success as a witness in the Iran/Contra Hearings" and noted an 80% overall approval rating” (Petress and King 16). A Time Magazine poll stated: “ironically, Oliver North won more support in four days of testimony than Ronald Reagan in six years” (Petress and King 16). This rather unexpected outcome, since North was questioned due to having acted illegally, was, as Petress and King

argue, due to the fact “that North's verbal portrayal of himself as a victim struggling to master a mysterious, irrational, and byzantine governmental apparatus invited viewers to exonerate him, and to identify with him rather than to condemn him” (16). North even turned the tables. It is argued that “his lying to Congress was justified on the practical grounds of saving a program at great risk” (Steiner qtd. in Petress and King 19). Furthermore, toward the close of the hearings he “placed responsibility for the whole affair squarely on Congress: "I suggest to you that it's Congress which must accept the blame.... Plain and simple, you are to blame because of the . . . on-again, off-again policy towards the resistance” ( Steiner qtd. in Petress and King Taking 19). Thus, the executive was on the wrong side of an hearing, yet deemed Congress the one to blame.

The televised congressional hearings and the findings of the Tower Commission may be seen as the epitome of congressional oversight regarding the Project Democracy, but only in terms of activity. In terms of efficiency, it failed to hold the highest actors in the government accountable. The main reason for this, well-encapsulated by Currie, was that “a small group of men in the Central Intelligence Agency and on the National Security Council staff decided to do what they believed the president desired and ignored what the law forbade. This same group did not believe that Congress had a right to know about their activities, and they engaged in a coordinated effort to hide their actions from the oversight committees” (203). This shows, that although Congressional oversight was conducted, it had a little to non-existent chance to succeed, for the CIA and NSC attempted to sabotage it. A result of the Iran-Contra affair was then that it undermined the relationship between the congressional oversight committees and the CIA, although Currie argues that phrasing it like that “would be a supreme understatement” (199)

### The Final Years of the Project Democracy

In 1987 the Administration lost initiative, and Congress cut off funding that it had previously granted in 1986. This “symbol of increasing congressional opposition was accompanied by an administration effort to regroup” (Scott 254). Although the Administration opted for a more diplomatic approach towards Central America, the House voted to “keep the ban on the use of the CIA’s contingency fund, ensuring that any new contra aid would have to be openly debated” (Scott 254).

Two events in August 1987 provided Congress domination of policy regarding Nicaragua. House Speaker Wright and President Reagan “announced a peace proposal that, according to former Congressman Tom Loeffler, broke the stalemate in Congress and [...] in the Western hemisphere” (Scott 255). This entailed a cease-fire in Nicaragua, as well as suspension of American military aid for the contras over a sixty-day period. Furthermore, all five Central American presidents signed an accord that became known as Esquipulas I. This accord “was a modified version of the original Arias plan requiring region-wide cease-fires, amnesty, negotiations, and preparations for elections” (Scott 255). As Scott states, “the Arias plan finally offered Congress an opportunity for a diplomatic settlement that was not subject to administration obstructionism” (255). The Administration however, did not give up on its attempts to gain funding, it tried so every time the peace talks stalled, yet in vain for the appeals were rejected by Congress. The Administration could no longer persuade Congress to reapply the Reagan Doctrine in Nicaragua. The Nicaraguan civil war ended when Violeta Barrios de Chamorro defeated President Ortega via a democratic election.

## Conclusion

The Framers intended for Congress to be the dominant of the trifecta that make up the American political system. For most of the 19<sup>th</sup> century this is how the American political system operated. Fast forward to the 1980s, however, this was no longer the case. After a political tumultuous century, the executive took over the role of dominant branch from the legislative. It accomplished this through drafting new policies which saw the president become the chief legislator rather than Congress, and by growing extensively in size. In the 1980s then, still during the Cold War, the United States under Reagan adopted a resolute anti-communist policy, which would become known as the Reagan Doctrine. The implementation of said Doctrine in Nicaragua, called Project Democracy, is an intriguing case study. Reagan sided with Contra forces he deemed the “moral equal of our Founding Fathers”, in what would become an eight year lasting unofficial war, its objective being the overthrow of the Nicaraguan Sandinista government.

During both terms of Reagan’s presidency, the executive and legislative branch were unable to agree over how to conduct foreign policy towards Nicaragua. The executive favored a military approach, the legislative a diplomatic one. The ensuing clash that occurred as a result of these different views, specifically how Congress attempted to conduct oversight over the executive and dominate policy making, has been examined in this thesis.

Reagan’s attempt to instill a democracy in Central America was at numerous times at the cost of his own democracy. He circumvented Congress, and in the process broke a multitude of national and international laws. The epitome of this, arguably the nadir of his presidency, was the Iran-Contra affair. Over the course of his presidency, Reagan utilized the CIA to sabotage the Nicaraguan government, and to train Contra forces for the same purpose. This was more than once in defiance of congressional prerogatives. Congressional oversight was performed, but one may well argue that it, at times, was ineffective. This was however, not entirely Congress’ fault. The main reason for this was that the CIA and NSC were not honest

when questioned, and did not believe Congress should know the full scale of the operation due to the extreme sensitivity of it.

Regarding when Congress conducted oversight, it may have chosen the wrong option. As scholars, think of McCubbins and Schwartz (1984), Aberbach (2002), Strand and Lee (2011), and McGrath (2013), argue, members of Congress can choose what to oversee, and whether to actively investigate the execution of policy or wait until wrongdoings arise. This thesis argues that Congress did hold hearing in the early years of Reagan's first term, but did not actively investigate what the executive was doing, but trusted the answers of the CIA and NSC. Therefore, it may have been better had Congress chosen the police-patrol option, for then it may have realized sooner what the executive was doing. More importantly in this matter, however, is the role of the executive. This thesis shows that it circumvented Congress by providing incorrect information during hearings to continue its covert war in Nicaragua, or did not elaborate on certain issues extensively enough, for example the mining of harbors. It furthermore acted illegally by selling weapons to Iran in exchange for hostages and diverted money made from selling weapons to fund the Contra forces, which was prohibited by American law. This shows that the ideological radicalism of President Reagan was such that it made him willing to break the law in the name of upholding the American Constitution, democracy and way of life.

Answering the research question – was President Reagan able to implement the Reagan Doctrine in Nicaragua due to Congress having too little power to correctly check and balance the Executive? Or did Congress have adequate powers but fail to properly apply them? – may seem more difficult than it is. One should not simply state that congressional oversight failed, for Reagan was able to wage his covert war for so long. Congressional oversight was active and to an extent effective since numerous hearings were held, it restricted the Administration, and convicted 14 people as a result of the Iran-Contra hearings. Three conclusions can then be

drawn. Firstly, congressional oversight was effective, for the executive had no alternate means to achieve its objectives than to break the law, as has been described. Secondly, the executive, in realizing this, became willing to break the law. This is worrisome, for the executive is first and foremost an elected office, and should be held accountable to the Congress and public, rather than dictating policy once elected. And thirdly, once this was discovered, the political system had within itself the means to address the crisis this created. This is, however, only partially true: President Reagan himself was never held responsible for these policies and the decisions made in order to implement them. These conclusions then imply that Congress' conducted oversight was adequate and effective, but not to the full extent.

The relevance of this thesis lies in the fact that this was not a one-time event. Less than a year ago it became known that four American soldiers died in Niger, which was followed by Congressional questioning. Indeed, as a headline of *The Washington Post* stated: "When did Congress authorize fighting in Niger? That's an excellent question" (Rudalevige 1). This indicates that the Executive may still be able to conduct covert wars, without Congress being aware and thus without congressional oversight. The imbalance between the trifecta of the American political system then, has not yet been fully resolved. The past, however, has proven that once Congress becomes aware, it has the adequate means to respond and restore balance to the American Political system.

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