

THE WHITE HOUSE
WASHINGTON

April 3, 1995

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MEMORANDUM TO LEON PANETTA
GEORGE STEPHANOPOULOS
PAT GRIFFIN

FROM: MARK GEARAN *mg*
RE: Veto Analysis

Per our meeting on the President's veto strategy, please find attached a compilation of various literature on the subject prepared by Russell Horwitz. Included is a general analysis of the veto as a legislative tool, the use of the veto during the Bush, Reagan, and Carter Presidencies, as well as the origin and development of the veto. Please refer to the Table of Contents for more specific information.

PRESIDENTIAL VETO
ANALYSIS



CHIEF OF STAFF TO THE PRESIDENT

*To The President -
good analysis of
veto strategy. (A)*

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TABLE OF CONTENTS

I. GENERAL

1.) Vetoes, 1789-1993, Chart, Encyclopedia of Politics

2.) Encyclopedia of Politics.

3.) Ringelstein, Albert, *Presidential Vetoes: Motivations and Classification*, Congress & The Presidency, v. 12, Spring 1985: 43-55.

Analyzes vetoes from Eisenhower through Reagan, suggesting "one important caveat to past assumptions and findings about presidential vetoes: **the categories of and reasons for presidential vetoes are remarkably similar from president to president; frequently, they seem to have just as much in common as presidents doing battle with Congress than as Republicans and Democrats fighting for differing ideological programs and considerations.**"

4.) Copeland, Gary, *When Congress and the President Collide: Why Presidents Veto Legislation*, Journal of Politics, v. 45, Aug. 1983: 696-710.

"This study considers the major explanations for the use of the veto by utilizing multivariate time-series analysis. It concludes that many explanations found in the conventional wisdom are overrated or inaccurate. **But it also shows that a few variables can explain one-half to two-thirds of the variation in the use of the veto from year-to-year. Among the most influential determinants of the use of the veto are the scope of government, opposition control of Congress, and whether the president has had a veto overridden. Among the most overrated explanations are that international crisis limit the use of the veto, and that Democrats use the veto more than Republicans.**"

5.) Rohde, David and Simon, David, *Presidential Vetoes and Congressional Response: A Study of Institutional Conflict*, American Journal of Political Science, v. 29, Aug. 1985: 397-427.

"Presents an initial attempt at a systematic analysis of the veto process. **The authors argue that outcomes at all three stages of the process -- the veto decision, the override attempt, and the success of those attempts -- depend upon the state of the political environment (e.g., stage of the electoral cycle) and the prevailing resources of the president...**Empirical analysis of vetoes and congressional responses from 1945 to 1980 provides general support for the theoretical argument and for most specific hypotheses."

6.) Lee, Jong, *Presidential Vetoes from Washington to Nixon*, Journal of Politics, v. 37, May 1975: 522-546.

"Seeks to analyze...**how and why the exercise of presidential veto power has varied in history.** The focus of the analysis is the frequency of presidential vetoes and congressional overriding actions, both of which are aggregated over each Congress to yield one of the longest time-series data available on the interrelationships between the president and Congress."

7.) Wayne, Stephen, Cole, Richard, Hyde, James, Jr., *Advising the President on Enrolled Legislation: Patterns of Executive Influence*, Political Science Quarterly, v. 94 no. 2, Summer 1979: 303-316.

The authors "analyze presidential decisions to approve or veto enrolled bills during the Nixon and Ford years: **The authors show that presidential action was closely related to advice from the agency most directly affected by the proposed legislation and especially the Office of Management and Budget.**"

8.) Watson, Richard, *The President's Veto Power*, The Annals of the American Academy, v. 499, Sept. 1988: 36-46.

"Traces briefly the establishment and development of the president's veto power and then **focuses on the use of that power by modern presidents**, beginning with FDR and ending with Jimmy Carter. It next analyzes congressional responses to these modern vetoes and concludes with an **assessment of the impact of the president's veto power on policymaking by the national government.**"

II. GENERAL STRATEGY

III. PRESIDENT BUSH

9.) *A Winning Budget Battle Plan for George Bush: The Veto*, Heritage Foundation Reports, 10/5/89.

10.) *President's Mastery of Veto Perplexes Hill Democrats*, Congressional Quarterly Weekly, 7/27/91.

"Skill in saying 'no' gives Bush far more influence than the numbers would otherwise suggest."

11.) Newspaper Articles on the Bush Veto Strategy:

- *Bush's Power of Veto is Also a Strategy*, Chicago Tribune, 1/21/90
- *Bush Has Veto Strategy to Achieve Goals*, UPI, 3/29/90
- *The White House/Shaping Legislation: Under Bush, Veto is Potent Tool for Battling Congress*, Los Angeles Times, 6/14/90
- *Bush's Veto Strategy*, U.S. News and World Report, 7/2/90
- *Governing by Veto: Who is in Control?*, New York Times, 8/29/90
- *Too Bush, The Veto is a Big Club*, AP, 10/24/90
- *Bush's Veto Strategy Has Served Him Well*, Atlanta Journal and Constitution, 7/29/91
- *George Bush into the Breach: [He] Wields a Mean Veto, and the Constitution is the Beneficiary*, National Review, 11/4/91
- *Bush's Low-Key Veto Tactic: I'll Sign This, But Won't Necessarily Follow It*, AP, 12/29/91.

IV. PRESIDENT REAGAN

12.) Levine, Myron, *Tactical Constraints and Presidential Influence on Veto Overrides*, Presidential Studies Quarterly, v. 13, Fall 1983: 646-650.

One little explored area of a President's relationship with Congress is his ability to influence votes to sustain his veto...This paper will focus on Congress' successful override in September 1982 of the President's veto of a \$14.2 billion supplemental appropriations bill."

13.) Reagan's Trump Card: The Veto, Heritage Foundation Reports, 7/8/85.

The Reagan Administration's "apparent aversion to vetoing may seriously impair its ability to prod Congress to act responsibly, particularly in slashing federal spending...An aggressive veto strategy is feasible and necessary if the Reagan team is to continue to reduce the size and role" of government. The report begins with an analysis of previous presidents' use of the veto.

14.) Newspaper articles on the Reagan veto strategy:

- *Veto Battles Set for '84*, New York Times, 6/26/83
- *Reagan Seldom Follows Through on Veto Threats*, Washington Post, 12/21/85
- *Congress; Key to Strategy: The Pocket Veto*, New York Times, 9/18/86.
- *Just Saying No; White House Watch -- Veto Power*, The New Republic, 5/11/87
- *President Relying Increasingly on Veto Threat*, AP, 7/23/87
- *Lawmaking and Politicking: Reagan's Veto Strategy is not Getting Rave Reviews in Congress*, New York Times, 8/3/87

V. PRESIDENT CARTER

15.) *Hail to the Chief*, Newsweek, 10/16/78.

16.) *Carter's 19 Vetoes: Inflation Main Target*, Congressional Quarterly Weekly, 11/18/78.

17.) *Presidential Vetoes, 1977-1980*, Congress and the Nation, 1980.

VI. ORIGIN & DEVELOPMENT

18.) *The First Presidential Vetoes*, Presidential Studies Quarterly, v. 8, Winter 1978: 27-32.

Reviews President Washington's two uses of his veto power. "The real importance of these vetoes was not what they were about or what they said, but simply that they occurred."

19.) *Origins and Early Development of the Veto Power*, Presidential Studies Quarterly, v. 17, Spring 1987: 401-412.

"Analyzes the proceedings of the Constitutional Convention pertaining to the President's veto power, including the various decisions made by the delegates on the form of that power, as well as the arguments and counterarguments made in connection with those decisions. It concludes with an analysis of the use of the veto by our early presidents and the differences that existed among them on the proper reasons for the use of the veto power."

VII. ADDITIONAL TABLES

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General

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March 30, 1995

MEMORANDUM TO MARK GEARAN

FROM: RUSSELL HORWITZ

RE: Presidential Veto Analysis

The most formidable weapon available to the President in his battles with Congress is the veto. This executive power allows the President to prevent at least temporarily, and usually permanently, the enactment of measures passed by Congress. Woodrow Wilson wrote that the "President is no greater than the prerogative of veto makes him." [Copeland 697]

The founding fathers had actually intended the veto to be used rather sparingly, believing it should be predominantly utilized against congressional encroachment into the Executive Office and legislation deemed unconstitutional. Subsequently, the first six presidents vetoed a total of only nine bills.

However, as the nature and scope of government have changed, so has the purpose and use of the veto. By the end of his twelve years, FDR had vetoed 635 bills.

LITERATURE ANALYSIS/COMPARISON

Ringelstein's paper¹ analyzes the various public veto patterns from President Eisenhower through President Reagan's first term. Republican presidents averaged 10.85 vetoes per year, while Democratic presidents averaged 4.25 vetoes per year. President Ford was the most prolific user of the veto with 25.21 vetoes a year, while President Johnson averaged the lowest number with 2.51 vetoes a year. President Carter averaged 7.25, President Reagan over his two terms averaged 9.75, and President Bush averaged 11.5 vetoes per year.² Republicans, almost always forced to work with opposite party control of Congress, tended to veto more often than Democrats.

¹ Ringelstein, Albert, *Presidential Vetoes: Motivations and Classification*, Congress & The Presidency, v. 12, Spring 1985: 43-55.

² This table does not include President Reagan's second term or data on President Bush. Table is on Page 47.

In terms of policy areas affected by the veto, Presidents Carter and Johnson have the highest percentage of vetoes in foreign policy, while Presidents Eisenhower, Nixon, and Reagan have the lowest percentages. Ringelstein argues that presidents, who are dominant in the area of foreign policy, generally will have a lower percentage of vetoes in this area (Congress will defer more to the President). On the other hand, because of the dominance of Congress in domestic issues, the exercise of presidential veto power is more prevalent in the domestic arena.

In the area of resources (national parks, public works, agriculture etc.), every President, with the exception of Presidents Kennedy and Johnson, has relatively high percentages of vetoes. Presidents Eisenhower, Kennedy, Johnson, and Reagan vetoed a large number of bills dealing with government management (tax changes, regulatory power, minimum wage, etc.), while President Ford had the lowest percentage of vetoes in this area. Social Services, such as welfare and housing, saw most its vetoes from Presidents Nixon, Ford, and Reagan.³ Republican presidents have higher percentages of vetoes in the areas of resources and social services, whereas Democrats have higher veto rates in the area of government management.

In justifying vetoes, presidents have cited bills as "too costly" over 36 percent of the time, with Republicans citing it slightly more than Democrats. (36% vs. 27%) Republicans, over 13 percent of the time, compared to almost 4 percent of the time for Democrats, vetoed bills because they felt that such bills infringed on areas of state, local, or private domain. Democrats, on the other hand, specified "restricting executive action" over 17 percent of the time, ten percentage points more than Republican presidents.⁴

Copeland⁵ discusses the various variables that increase the probability of the application of veto power. Presidents are more likely to use the veto when:

- the opposition party controls Congress;
- the economy is in bad shape;
- the President has received a clear and strong mandate from the election;
- the President is in the latter stages of his term as the opposition party may grow in ranks after midterm elections and combativeness increases between the two branches;
- the President lacks Congressional experience.

³ See Table on page 50.

⁴ See Table on page 51.

⁵ Copeland, Gary, *When Congress and the President Collide: Why President Veto Legislation*, Journal of Politics, v. 45, Aug. 1983: 696-710.

Rohde and Simon⁶ reach many of the same conclusions in discussing the propensity for a president to employ the veto on a regular basis. The authors conclude that:

- the frequency of vetoes will be inversely related to the proportion of seats held in Congress by the President's party;
- the use of the veto will vary inversely with the level of public support for the President;
- the use of the veto will increase during an election year;
- the use of the veto will decrease if the country is embroiled in an international incident or situation.

Copeland, Rohde and Simon, and Lee⁷ all use quantitative models to explain the use of the veto in varying time periods. Each of the articles' discussion and/or conclusion sections, however, effectively sum up the salient themes and findings of their studies. Wayne, Cole, and Hyde Jr.⁸ conclude that the OMB had more influence than any other executive agency in its recommendations regarding vetoes under Presidents Nixon and Ford.

⁶ Rode, David and Simon, David, *Presidential Vetoes and Congressional Response: A Study of Institutional Conflict*, American Journal of Political Science, v. 29, Aug. 1985: 397-427.

⁷ Lee Jong, *Presidential Vetoes from Washington to Nixon*, Journal of Politics, v. 37, May 1975: 522-546.

⁸ Wayne, Stephen, Cole, Richard and Hyde, James Jr., *Advising the President on Enrolled Legislation: Patterns of Executive Influence*, Political Science Quarterly, v. 94 no. 2, Summer 1979: 303-316.

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1

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Veto, 1789-1993

President	Veto			Veto Overridden
	Regular	Pocket	Total	
Washington	2	0	2	0
J. Adams	0	0	0	0
Jefferson	0	0	0	0
Madison	5	2	7	0
Monroe	1	0	1	0
J. Q. Adams	0	0	0	0
• Jackson	5	7	12	0
Van Buren	0	1	1	0
W. Harrison	0	0	0	0
Tyler	6	4	10	1
Polk	2	1	3	0
Taylor	0	0	0	0
Fillmore	0	0	0	0
Pierce	9	0	9	5
Buchanan	4	3	7	0
• Lincoln	2	5	7	0
A. Johnson	21	8	29	15
Grant	45	48 ^a	93	4
Hayes	12	1	13	1
Garfield	0	0	0	0
Arthur	4	8	12	1
Cleveland	304	110	414	2
B. Harrison	19	25	44	1
Cleveland	42	128	170	5
McKinley	6	36	42	0
• T. Roosevelt	42	40	82	1
Taft	30	9	39	1
Wilson	33	11	44	6
Harding	5	1	6	0
Coolidge	20	30	50	4
Hoover	21	16	37	3
• F. Roosevelt	372	263	635	9
• Truman	180	70	250	12
Eisenhower	73	108	181	2
• Kennedy	12	9	21	0
L. Johnson	16	14	30	0
Nixon ^b	26	17	43	7
Ford	48	18	66	12
Carter	13	18	31	2
Reagan	39	39	78	9
Bush ^c	29	17	46	1
Clinton				

^aThe total of pocket vetoes by Grant does not include one bill that was not placed before the President for signature.

^bTwo of Nixon's "pocket vetoes," overruled in the courts, are counted here as regular vetoes.

^cBush claimed to pocket veto two bills (H.R. 2712 in 1989 and H.R. 2699 in 1991), but actually returned them to Congress, which attempted to override the veto on the first bill; these vetoes are counted here as regular vetoes because they were returned to Congress. Congress argued that two other pocket vetoes by Bush (of H.J. Res. 390 in 1989 and S. 1176 in 1991) were invalid and that the bills became law. Because the National Archives did not recognize those bills as enacted law, they are counted here as pocket vetoes.

SOURCE: U.S. Senate, Office of the Secretary, *Presidential Vetoes, 1789-1991* (1992), pp. viii-ix.

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ate the power by both constitutional and statutory means, although some argued that the latter approach was unconstitutional. A 1985 Gallup poll revealed that 71 percent of Americans supported the idea. But like other proposed structural reforms, such as proposals to alter or abolish the ELECTORAL COLLEGE, this move has engendered little deep feeling among the American public. The debate over the item veto is important as part of the larger debate over competing conceptions of EXECUTIVE POWER. Questions concerning how executive powers are or should be defined bear directly on this debate.

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- "Symposium on the Line-Item Veto." *Notre Dame Journal of Law, Ethics & Public Policy* 1 (1985): 157-283.
- U.S. House of Representatives. Committee on the Budget. "The Line-Item Veto: An Appraisal." Report no. CP-4A. 98th Cong., 2d sess.
- U.S. House of Representatives. Committee on the Judiciary. Subcommittee No. 3. "Item Veto." Hearings, 85th Cong., 1st sess.

ROBERT J. SPITZER

VETO, POCKET. Provided in Article I, Section 7, of the Constitution, the pocket-veto power allows the President to withhold approval of a bill sent to the CHIEF EXECUTIVE for signature after Congress has adjourned. The Constitution's wording is deceptively simple: "If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like manner as if he had signed it, unless Congress by their Adjournment prevent its Return, in which case it shall not be a Law." A regular, or return, veto is exercised when the President vetoes a bill by returning it to the house of origin. The pocket-veto power was inserted to guard against the possibility that Congress could pass a bill but then, as a way of avoiding a veto, quickly adjourn before the President had a chance to return the bill. Since pocket-vetoes bills cannot be returned to Congress, they are in effect absolute-vetoes—that is, Congress has no opportunity to override a pocket veto. Congress's only alternatives are to stay in session for at least ten days after the passage of a bill that may be subject to veto or to start from scratch and repass the bill when Congress reconvenes.

During the CONSTITUTIONAL CONVENTION of 1787, no debate was recorded concerning the pocket veto. But the Framers did discuss and emphatically reject efforts to give the President an absolute veto—that is, one not subject to override. That the pocket veto operates as an absolute veto is explainable by the Framers' concern that the President needed this power to defend against any congressional effort to duck the regular veto. Unlike the regular veto, the pocket veto is carefully circumscribed by the fact that it may only be used when "Congress by their Adjournment prevent [a bill's] Return."

The first two pocket vetoes were exercised by President James Madison; they aroused little attention. The next President to use the power, Andrew Jackson, aroused considerable controversy by exercising the power seven times (out of a total of twelve bills vetoed in his two terms), although his opponents' objections were founded mostly in their general dissatisfaction with his aggressive political style. The term "pocket veto" was apparently coined during Jackson's term.

Early concern about use of the pocket veto centered on two principles. First, the Framers wanted to ensure that Presidents would have adequate time to consider legislation sent to them. The pocket veto would come into play at the end of a congressional session, when Congress would be likely to present the President with a rush of last-minute bills, and would ensure that Presidents would not be forced into signing what they considered to be imprudent legislation. The second principle was to ensure that Congress would have time to consider and, if it chose, override the President's objections. Since the pocket veto does not allow for any reconsideration or override, the return veto is the preferred option, if such return can occur.

Persisting ambiguities have surrounded the pocket-veto power. For example, the Constitution allows for the pocket veto when congressional adjournment prevents a bill's return, but what constitutes adjournment? When does adjournment prevent bill return? May proxies for Congress or the President serve as legal stand-ins to receive veto messages or enrolled bills (bills passed by Congress but not yet signed by the President)? Some of these questions have been addressed in court cases.

In the *Pocket Veto Case* (1929), the Supreme Court ruled on a challenge to a pocket veto by President Calvin Coolidge that occurred between sessions at the start of a six-month congressional break in 1926. In grappling with the key question of the meaning of adjournment, the Court noted that "the determinative question . . . is not whether it is a final adjournment of Congress or an interim adjournment . . . but whether

one that 'prevents' the President from returning bill to the House in which it originated within the time allowed." The Court rejected the idea that a bill could be returned to a designated agent when Congress was not in session, both because Congress had never actually done this and because the Court feared that this might cause bills to hang in limbo for many months.

In *Wright v. United States* (1938), the Court considered a challenge to a regular veto of a bill returned to the Secretary of the Senate during a three-day Senate recess. The court said that it did not consider the three-day period an adjournment, but it also contradicted its previous conclusion in the *Pocket Veto Case* by saying that Congress could indeed designate agents on its behalf, rejecting what it now considered in the earlier ruling "artificial formality" by saying that the "Constitution does not define what shall constitute a return of a bill or deny the use of appropriate agencies in effecting the return." The Court also dismissed the potential delay problem mentioned in the *Pocket Veto Case* as "illusory."

In 1974, the U.S. Court of Appeals upheld a lower court ruling that struck down a 1970 pocket veto by Richard M. Nixon that occurred during a six-day Christmas recess (*Kennedy v. Sampson* [1974]); in this case, the tenth day had lapsed during the six-day break. The Court noted that bill return could have been effected, consistent with *Wright*, and cast doubt on pocket vetoes applied during any intra- or intersession adjournment as long as appropriate arrangements were made for bill receipt, suggesting that a pocket veto was now only possible after Congress adjourned *sine die* (literally, "without a day") at the end of a two-year Congress. The Court also noted that congressional practices had changed dramatically since the 1920s, in that Congress was now in session nearly year-round. The Nixon administration declined to appeal the ruling to the Supreme Court.

During the 1970s, Presidents Gerald Ford and Jimmy Carter abided by the principle of avoiding pocket vetoes during intra- and intersession adjournments, and Congress formalized procedures for receiving presidential messages during adjournments, just as Presidents have long delegated to agents the authority to receive enrolled bills on their behalf. Ronald Reagan backtracked on this arrangement, however, when he pocket-vetoes a bill between the first and second sessions of the Ninety-eighth Congress in 1983. Members of Congress took the President to court, but the Supreme Court refused to hear the case on its merits, vacating it as moot in *Burke v. United States* (1987).

George Bush went even farther than Reagan, arguing that a pocket veto may be used whenever Congress recesses for longer than three days. Critics have taken issue with this interpretation, citing the weight of court precedent, the workability of bill-receipt procedures during adjournments, the fact that this interpretation would allow pocket vetoes even during long weekends in the middle of a session, and the desirability of interbranch comity. Presidents' temptations to use pocket vetoes will continue to be great, as pocket-vetoes avoid any override fight. In 1990, the House Judiciary and Rules committees reported legislation to restrict pocket vetoes to the end of a Congress.

One other constitutional ambiguity surrounds the pocket veto. While the Constitution mandates that the President include written objections to vetoed bills returned to Congress, it says nothing about the necessity of written messages for pocket vetoes. Presidents from Madison to Andrew Johnson did prepare written messages for pocket vetoes, but the practice lapsed with Ulysses S. Grant, probably because of the vast increase in pocket vetoes. The practice of issuing no public message (the so-called silent pocket) persisted until 1934, when Franklin D. Roosevelt announced that he would resume preparing written messages—something all Presidents have done since. In this instance, constitutional ambiguity was resolved amicably.

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ROBERT J. SPITZER

VETO, REGULAR. The power to veto legislation is one of the few explicit powers granted to the President that formally involves the CHIEF EXECUTIVE in legislative affairs. Described in Article I, Section 7, of the Constitution, the veto is a capstone decision, the final leg of the legislative gauntlet before a bill becomes a law.

When presented with a bill by Congress, the President faces four possible choices: the executive may

approve the bill by signing it into law; the executive may exercise the regular, or return, veto by refusing to sign the bill and returning it to the house of origin, including a statement of objections; the President may do nothing, in which case the bill automatically becomes law after ten days (Sundays excepted); and, lastly, if Congress adjourns within ten days of having presented a bill to the President, the President may choose to do nothing, in which case the bill is killed by POCKET VETO if, according to the Constitution, "Congress by their Adjournment prevent its Return." A return veto is subject to override by a two-thirds vote of both houses of Congress; a pocket veto is not.

The veto power is indisputably a presidential power, yet its location in Article I, the article otherwise devoted to the legislative branch, reflects the fact, first, that it is a legislative power possessed by the executive and, second, that the Constitution's system of CHECKS AND BALANCES permits some sharing of powers between the branches of government.

The Framers' Purposes. Fears of the baneful consequences of strong executives motivated the new nation's leaders to create a governing system without an independent executive branch under the Articles of Confederation. But by the time the CONSTITUTIONAL CONVENTION met in 1787, the prevailing sentiment favored an independent executive. Even though many still remembered the oppressive veto practices that the British king and his appointed colonial governors had exercised before the Revolution, there was little disagreement that the new President should have a qualified veto power. The Framers were adamant, however, that the President's veto not be absolute, as was that of the British monarch.

A central reason for granting the President this power was the Framers' realization that the executive would need such a power to protect the executive branch against legislative encroachments on executive power—a tendency observed in many state governments during the time the nation was governed by the Articles of Confederation. The Framers expected that the veto would be used to block legislation that was hastily conceived, unjust, or of dubious constitutionality. The power was not considered to be a purely negative action. Often called the revisionary power, the veto was conceived as a creative, positive device whereby the President could bring a bill back to Congress for a final round of debate and consideration. This constructive purpose of the veto has mostly been lost in the intervening years.

Early Presidents used the veto power cautiously and sparingly, giving rise to claims that the Constitution somehow countenanced restrictions on the numbers

Veto, 1789–1993

President	Veto			Veto Overridden
	Regular	Pocket	Total	
Washington	2	0	2	0
J. Adams	0	0	0	0
Jefferson	0	0	0	0
Madison	5	2	7	0
Monroe	1	0	1	0
J. Q. Adams	0	0	0	0
Jackson	5	7	12	0
Van Buren	0	1	1	0
W. Harrison	0	0	0	0
Tyler	6	4	10	1
Polk	2	1	3	0
Taylor	0	0	0	0
Fillmore	0	0	0	0
Pierce	9	0	9	5
Buchanan	4	3	7	0
Lincoln	2	5	7	0
A. Johnson	21	8	29	15
Grant	45	48*	93	4
Hayes	12	1	13	1
Garfield	0	0	0	0
Arthur	4	8	12	1
Cleveland	304	110	414	2
B. Harrison	19	25	44	1
Cleveland	42	128	170	5
McKinley	6	36	42	0
T. Roosevelt	42	40	82	1
Taft	30	9	39	1
Wilson	33	11	44	6
Harding	5	1	6	0
Coolidge	20	30	50	4
Hoover	21	16	37	3
F. Roosevelt	372	263	635	9
Truman	180	70	250	12
Eisenhower	73	108	181	2
Kennedy	12	9	21	0
L. Johnson	16	14	30	0
Nixon ^b	26	17	43	7
Ford	48	18	66	12
Carter	13	18	31	2
Reagan	39	39	78	9
Bush ^c	29	17	46	1
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*The total of pocket vetoes by Grant does not include one bill that was not placed before the President for signature.

^bTwo of Nixon's "pocket vetoes," overruled in the courts, are counted here as regular vetoes.

^cBush claimed to pocket veto two bills (H.R. 2712 in 1989 and H.R. 2699 in 1991), but actually returned them to Congress, which attempted to override the veto on the first bill; these vetoes are counted here as regular vetoes because they were returned to Congress. Congress argued that two other pocket vetoes by Bush (of H.J. Res. 390 in 1989 and S. 1176 in 1991) were invalid and that the bills became law. Because the National Archives did not recognize those bills as enacted law, they are counted here as pocket vetoes.

SOURCE: U.S. Senate, Office of the Secretary. *Presidential Vetoes, 1789–1991* (1992), pp. viii–ix.

or kinds of bills vetoed. Neither claim is substantiated by the Constitution itself or the debates of the time. George Washington, who had presided over the Constitutional Convention, used the veto twice in his two terms as President—once for constitutional reasons and once for policy reasons. Andrew Jackson aroused deep antipathy by invoking the veto twelve times. His veto of a bank bill in 1832 infuriated his foes and was the pivotal issue for that year's presidential election. Jackson's sweeping reelection victory was viewed, at least in part, as a referendum on the bank veto. Some of Jackson's vetoes also focused attention on another major issue of the time—government involvement in public works and other internal improvement projects.

Among early Presidents seeking to use the veto, the greatest difficulties were faced by John Tyler. During Tyler's term of office (1841–1845), he vetoed a total of ten bills. While his political problems sprang primarily from his maladroit political leadership, controversy surrounding his use of the veto contributed directly to the effort to impeach him in 1843. Indeed, the two central IMPEACHMENT charges brought against him centered on his alleged improper use of the veto. Tyler also bears the distinction of being the first President to have a veto successfully overridden by Congress (in 1845).

From the 1820s to the 1840s, Congress frequently entertained proposals to modify or to strip the President of the veto power. Yet, after Tyler's term, complaints over the terms and conditions of the veto subsided. For example, despite the many problems faced by Andrew Johnson, none of his opponents charged him with improper use of the veto, even though he vetoed twenty-nine bills from 1865 to 1869, a record number up to that time. Use of the veto exploded after the CIVIL WAR. From the first veto to 1868, Presidents vetoed eighty-eight bills. From that time to 1990, more than two thousand bills were vetoed.

Franklin D. Roosevelt holds the record for the most vetoes, blocking a total of 635 bills in his four terms. On a per-year basis, Roosevelt comes in second behind Grover Cleveland, who averaged seventy-three vetoes per year (584 total). Most of these two Presidents' vetoes involved private bills sponsored by members of Congress trying to obtain relief for specific individuals seeking pensions and other private benefits that only Congress could authorize.

As use of the veto increased, its importance seemed to recede as Presidents acquired a wide array of political powers that enabled them to influence virtually every aspect of the legislative process. Yet the veto

power provided a key means by which Presidents inserted themselves into the legislative process. Early in the nineteenth century, many in Congress considered it improper for Presidents to express public opinions about legislation pending before Congress, based on the fear that such expressions might taint or alter the congressional deliberations. As the veto was used more often, however, Senators and Representatives began openly to solicit Presidents' opinions as to whether they might be planning to veto legislation. These informal inquiries opened the door to more formal requests that Presidents submit statements of their legislative preferences to Congress—a process that now takes the form of extensive legislative agendas presented to Congress annually by the President.

Consequences of the Veto. Although use of the veto has expanded the power of the presidency, the delicate politics of that power are demonstrated by the fact that vigorous use of the veto has usually been politically detrimental to the Presidents involved. Americans tend to view the veto as a negative, reactive move and to reward Presidents for assertive, positive leadership. Cleveland's prolific vetoes certainly contributed to his defeat in his first bid for reelection in 1888. Franklin Roosevelt, who used a large number of vetoes, seems to be an exception to this rule. His repeated use of the veto was symptomatic of a powerful President who felt free to use all the tools at his disposal. Moreover, most of Roosevelt's vetoes involved bills of little importance. Cleveland was compelled to rely heavily on the veto; Roosevelt could influence legislation in a variety of ways before legislation reached his desk.

In more recent times, Gerald Ford found reliance on a veto strategy to be both necessary and damaging to his presidency. Appointed Vice President by Richard M. Nixon after the resignation of SPIRO T. AGNEW in 1973, Ford suddenly found himself sitting in the OVAL OFFICE when Nixon resigned the following year. Ford had neither won an electoral mandate nor had time to develop a legislative program of his own. As a result, Republican Ford and his aides felt compelled to rely heavily on the veto to try to control the actions of a headstrong post-WATERGATE AFFAIR Democratic Congress. In his two and one half years in office, Ford vetoed sixty-six bills. Taken together, these vetoes helped encourage the attitude that Ford was unable to engage in affirmative governance and the kind of positive leadership the country had come to expect—an attitude that contributed to his defeat in 1976.

George Bush was also criticized by some for overreliance on the veto and an apparent failure to produce

positive policy alternatives, but Bush was careful in his use of the veto. (In his first three years in office, for example, he vetoed twenty-five bills; all the vetoes were sustained.)

For Presidents, one appealing trait of the veto is its effectiveness. Of the 1,436 regular vetoes applied by Presidents from 1789 to 1991, only 103 have been overridden by Congress. When that figure is broken down between public and private bills, the record is somewhat less impressive: public bills have been overridden 19.3 percent of the time, private bills 0.8 percent. Still, a presidential success rate of more than 80 percent for important legislation poses a daunting challenge to anyone seeking to overturn a veto.

Various studies of the veto have helped to delineate conditions of its use. Presidents are more likely to use a veto when the executive and legislative branches are controlled by different parties, when the President lacks congressional experience, when the President's public standing is low, and during the second and fourth years of a presidential term. Congress is more likely to override a veto when party control is split between the two branches, when the President's popular support is low, after a midterm election, and in times of economic crisis. In short, a veto is most potent when it is least needed by a President—that is, at the beginning of a term.

A related tool stemming from the veto power is the veto threat. Discussed by ALEXANDER HAMILTON in *Federalist* 73, the veto threat has been an important, if underrecognized, attribute of the veto power. As early as 1789, Washington's expression of displeasure over the passage of a tonnage bill prompted Congress to pass a second bill more to the President's liking. A veto threat forces congressional proponents of a bill to contemplate the task of having to rouse an extraordinary two-thirds majority to ensure the bill's eventual passage—even before the bill has arrived on the President's desk. Such threats may alone be sufficient to modify or deter legislation the President opposes. Threats can also have the effect of an ITEM VETO, in that the President may (and indeed often does) threaten to veto a bill because of an offensive provision. Such occurred frequently in the latter part of the nineteenth century. Rutherford B. Hayes, for example, complained loudly and often about Congress's penchant for attaching objectionable riders to appropriations bills. Congress ignored Hayes's objections on most occasions; nevertheless, Hayes vetoed several bills because of riders and successfully fought override attempts.

Both Ronald Reagan and George Bush were prolific and relatively successful users of the veto threat. For

example, of twenty-nine veto threats issued by Reagan from 1981 to 1986, Congress either backed down or modified the legislation in question nineteen times.

Yet the veto threat is not without costs. A threat applied too often is likely to lose credibility, and if threats are followed by too many actual vetoes, Presidents risk being criticized for being too negative and reactive. Resort to frequent veto threats may also be viewed as a sign of presidential weakness, since such threats probably reflect the President's failure to influence the course of legislation in other, more subtle or substantive ways.

Deciding When to Veto. Presidents rarely act alone in making important decisions, and since Washington they have sought advice on whether to veto bills. Washington often solicited opinions from CABINET members such as Hamilton and Thomas Jefferson and from members of Congress such as James Madison.

As the presidency became more institutionalized in the twentieth century, so did the handling of veto decisions. The drive to institutionalize the process stemmed from the volume of legislation and the constitutionally mandated ten-day period within which the veto decision must be made. In typical nineteenth-century practice, when an enrolled bill (passed by Congress but not yet signed into law) reached the White House, a presidential aide would guess which agency or agencies would be affected, have the bill delivered to them, and then wait for a reply. This process yielded inadequate, ill-considered veto decisions.

The effort to deal more systematically with enrolled bills began with the 1921 creation of the Bureau of the Budget (known after 1970 as the OFFICE OF MANAGEMENT AND BUDGET [OMB]). The Budget Bureau was asked to render its views of enrolled appropriations bills as part of the larger effort to enhance executive authority over the budget process. This led naturally to occasional veto recommendations from the bureau. The examination of enrolled bills was expanded by Roosevelt in 1934 to include private bills. By 1938, the Budget Bureau was assessing all enrolled bills, a procedure that included contacting affected departments and compiling views on the bills under scrutiny. Since the 1930s, these procedures have varied little, except that ever greater attention has been focused on the President's priorities as distinct from the independent opinions of affected agencies. Indeed, one of the first actions of the OMB after receiving an enrolled bill is to draft a memorandum summarizing the background, purposes, and relation of the bill to the President's program. This information, along with any agency reactions, is sent to the White House, usually by the

fifth day of the ten-day period. There, presidential aides add their own recommendations to assist the President in the final decision. Since the 1960s, the number of WHITE HOUSE STAFF devoted to the consideration of enrolled bills has increased. Still, the OMB continues to exert decisive influence over the veto-versus-sign decision. Although an OMB recommendation to veto does not assure a veto, the President rarely vetoes a bill when OMB does not make such a recommendation.

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ROBERT J. SPITZER

VICE PRESIDENT. The American vice presidency has always been a somewhat anomalous office. Its awkward nature has provided rich stores for satirists and a source of lingering concern for students of American political institutions. Unlike other major offices, the legitimacy of the vice presidency has always been controversial; whereas other offices undergo attack at the margins, the questions about the vice presidency are more basic and address the very character of, and need for, the office.

The Vice President's Situation. During the twentieth century, particularly since the 1940s, the vice presidency was transformed into a position of greater importance. The development of the office has followed changes in American politics and government, particularly the growth of the presidency since the NEW DEAL. These changes have drawn the vice presidency into the executive branch and made it attractive to competent people with presidential ambitions. Yet this progress has not resolved all problems inherent in the office or eliminated skepticism regarding its ultimate merit.

The doubts about the vice presidency have related to three characteristics that have, to varying degrees, defined the office during its history. First, there is a huge discrepancy between what the Vice President is and what he may become. "I am nothing," recognized John Adams, the first Vice President. "But I may be everything." In eight words Adams expressed a dilemma that has persisted for two hundred years. The office, Adams recognized, was a modest position. Yet

as the designated successor in case of the death, resignation, disability, or removal of the President, he may be "everything." Indeed, Vice Presidents become everything with unhappy frequency. Nine have become President following the death or resignation of the CHIEF EXECUTIVE; they have served as President for twenty-six years during terms to which someone else was elected. Put differently, up to 1992, 20 percent of Vice Presidents have been Presidents by succession for 13 percent of the history of the presidency.

If the most evident rationale for the vice presidency is to provide a competent successor ready to assume the presidency following an unscheduled vacancy, the vice presidency must be structured to attract able persons and to prepare them to be President. Yet that plausible purpose falls victim to the huge disparity between the power of the presidency and the power of the vice presidency. For how can a "nothing" office routinely attract persons of presidential caliber? How can a sinecure engage its occupant sufficiently to prepare him to assume the presidency?

The vice presidency seems to deviate from basic premises of American government in a second important respect. Certainly the belief that decision makers should be elected by or accountable to the populace remains a fundamental tenet of American democracy. Notwithstanding the survival of the ELECTORAL COLLEGE, most Americans would no doubt apply that principle most rigorously to the presidency. Yet the Vice President is not separately elected, and has not been since 1804. He comes as part of a package under circumstances that limit greatly the ability of the electorate to vote based upon the relative merits of the vice presidential candidates. Nonetheless Vice Presidents may serve as President following the premature departure of the elected Chief Executive for as much as four years without being elected directly. Indeed, on seven occasions presidential successions have occurred with more than half of the four-year term remaining; in five instances more than three years and five months lay ahead.

Finally, the constitutional scheme places the vice presidency in an ambiguous position. By design it is something of a hybrid between the executive and legislative branches. The Vice President is elected with the President, becomes President or Acting President upon the death, resignation, removal, or disability of the President and has acquired some prerogatives within the executive branch such as membership in the CABINET by custom and in the NATIONAL SECURITY COUNCIL by statute. Yet his sole constitutional function of an ongoing nature is to preside over the Senate, a role that, though seldom performed, allows him to break

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Presidential Vetoes: Motivations and Classification

ALBERT C. RINGELSTEIN
University of New Orleans

Abstract

For all its importance, comparatively few, empirically-based studies have centered on the presidential veto, and virtually none have sought to classify vetoes by presidential motivation or policy area. This article updates and confirms the major findings of extant studies, and suggests one important caveat to the conclusions of older research: the categories of and reasons for presidential vetoes are remarkably similar from president to president, independent of party. Frequently, presidents have just as much in common with each other in doing battle with Congress than as Republicans or Democrats fighting for different ideological programs and considerations.

The president in using the veto power, "acts not as the executive but as a third branch of the legislature. . . . [He] is no greater than his prerogative of veto makes him; he is, in other words, powerful rather as a branch of the legislature than as the titular head of the Executive" (quoted by Oleszek, 1984: 218 and 224).

Since Woodrow Wilson articulated these ideas nearly 100 years ago, the relationship between Congress and the executive has undergone a number of changes, but the veto remains a powerful, if somewhat blunt, weapon. It is an impressive resource for all presidents, but it is a particularly important source of influence for a President who is opposed by an opposition majority in Congress (Jones, 1982: 346). For all its importance, comparatively few studies have centered on the veto, and virtually none have sought to classify vetoes by policy area of presidential motivation. This article seeks to correct these deficiencies through an analysis of vetoes from Eisenhower to Reagan.

BACKGROUND

The prime purpose for the inclusion of the veto in the Constitution (Article I, Section 7) was to give the President a means of protecting his office from congressional encroachment. The framers also anticipated that it might be used to vindicate the President's own constitutional views by being utilized against legislation he considered unconstitutional. Accordingly, they believed it should be used sparingly. This indeed turned out to be the case in the early years. The first six presidents vetoed a combined total of nine bills. John Tyler was the first President to veto freely. The reaction to his vetoes was the first move in U.S. history to impeach a President. He was accused of strangling legislation through misuse of the veto power

(Black, 1976: 89-91). From that time on, presidents have varied in their use of the veto, ranging from lows of zero for Taylor, Fillmore, and Garfield, three for Polk, and six for Harding, to highs of 635 for Franklin Roosevelt and 584 for Grover Cleveland (Fisher, 1981: 26).

The power of the veto in contemporary politics is fundamentally different from its original design. Both branches have forced changes in the system (Fisher, 1981: 24). With Franklin Roosevelt, the veto became an important means by which the President sought to influence the legislative process (Jones, 1982: 347). The decision to sign or veto a bill depends upon substantive and strategic considerations. Substantive concerns include the extent to which a bill satisfies the original request, the feasibility or suitability of a program not requested, the relationship of the legislative action to existing law, and the constitutionality of the legislation. Strategic considerations include timing (a bill vetoed early in a session has time to be passed again in a form more acceptable to the President—a threat of a veto late in the session can force congressional concessions), and whether or not the members of Congress are open to compromise or are adamantly against the President and are prepared to attempt an override. Most times a President does not want his vetoes overridden; however, if he thinks a veto would be popular outside of Congress, he may risk the veto even though an override is likely (Jones: 344-345).

Congress, conversely, has developed the practice of sending bills to the President that have many elements, often unrelated, thus not allowing him to consider a single, discrete measure. This practice can become even more coercive with the attachment of irrelevant amendments (riders) to appropriations bills with the assumption that presidents cannot afford to veto money bills late in the fiscal year. In response, presidents have appropriated for themselves an informal type of item veto to counter this practice wherein they consider parts of legislation mere "recommendations," but the constitutionality of this type of veto has yet to be tested in the courts (Fisher, 1981: 24-25). All in all, the role and practice of the veto has become important and complicated in the modern American political scene. Identification of patterns associated with the use of the veto will advance our understanding of the presidency and its relationship to the Congress.

Previous studies have uncovered a number of tendencies concerning presidential vetoes. For instance, Lee (1975), using all presidential vetoes from Washington to Nixon, found that the presidential propensity to veto increases when the President is a Democrat; when Congress is controlled by the opposition party; is inversely proportional to the number of years the President has spent in Congress; and is directly proportional to the percentage of electoral votes the President received in previous elections (1975: 546). Wayne, Cole, and Hyde (1979) studied how recommendations of the Office of Management and Budget effected the vetoes of Nixon and Ford, finding that OMB had more influence in this area than any other executive agency (1979: 314). Levine (1983) examined the constraints the President is under when he tries to persuade Congress to sustain his veto, and argued that he is more restricted than is commonly believed. Among the constraints are: having to take into account that he cannot be too firm in his announced intention to veto a bill without precluding other options; lobbying only the initiating chamber of Congress or risk appearing weak; and being the victim of his own success when Congress decides it must assert its own independence (1983: 649-650). Copeland (1983), in

studying a number of external factors that explain the use of a presidential veto, finds that the expanding scope of government, opposition control of Congress, and previous congressional overrides are positively correlated with veto use (1983: 696).

Virtually all the studies through the 1970s, as Wayne, Cole, and Hyde (1979: 303) point out, concerned the number, form, strategy, or the constitutional power of presidential vetoes. Although Copeland's study deals with the effect of external factors on vetoing, the substance and motivation of presidential vetoes remain largely ignored.

What can the study of these facets of the veto reveal about the workings of the presidency? Lowi (1964), in his oft-cited article contended that political relationships are "determined by the type of policy at stake, so that for every type of policy there is likely to be a distinctive type of political relationship . . . [individual] issues . . . are too ephemeral; it is on the basis of established expectations and a history of earlier government decisions of the same type that single issues are fought out. The study of single issues provides a good test of hypotheses about structure, but the hypotheses must be arrived at in some other, independent way" (pp. 688-689). Clausen (1973) elaborates upon this theme by formulating the "law of categorization," by which he means the attempts in all areas of life "to group larger number of individuals, organizations, and actions into a much smaller number of categories." Categorizing tendencies in past behavior helps in the attempt "to anticipate tendencies in future behavior." Therefore, "one of the tasks of the scholar . . . is to create ever more useful categories . . . [t]he observer's success in analyzing human behavior is dependent upon his ability to abstract the ordinary principle. . ." (pp. 6-7).

Policy areas have been categorized in many other studies. Wildavsky (1966) introduced the concept of the "two presidencies" based on the differences in presidential activities towards foreign and domestic policies. Sigelman (1979), Zeidenstein (1981), and Cohen (1982) have refined his work. A number of researchers have sought to demonstrate that the President and Congress dominate different policy areas. Shull (1979) argues that the domestic sphere has become more the province of Congress and numerous subgovernments, while the President has become pre-eminent in foreign policy (p. 302). Closely related to this argument, Shull and LeLoup (1979) suggest that foreign and defense policy tends to be the highest priority for Republican presidents while social welfare is the highest priority for Democrats.

Another dimension of policy classification that has been utilized by scholars has focused on differences by party. Shull, for instance, contends that congressional policy initiative tends to be greater under Republican presidents (1979: 69). Clausen finds that Republicans in Congress tend to have low support for government management, social welfare, and agricultural assistance programs, compared to Democrats (1973: 107). Do these party patterns hold for presidents also? An examination of the policy areas of vetoes should shed some light on this question.

Consistent with previous studies, some hypotheses can be proposed. It is likely that presidents, being dominant in the area of foreign policy, will have a low percentage of their vetoes in this area (Congress will defer more to the President). Conversely, because of the dominance of Congress in domestic areas, the President will challenge it more often and thus tend to have a higher percentage of vetoes in domestic areas. Also, within the domestic policy areas, Republican presidents

should have a higher percentage of vetoes in government management, social services, and resources policy areas than Democrats. Democratic presidents will therefore have higher percentages in one of the remaining policy areas, i.e., foreign policy.

The stated rationale for vetoes should be of assistance in revealing the Presidents' conception of their role. Madison and Hamilton believed that the veto would be used only for limited purposes, namely the protection of the integrity of the presidential office and the rejection of flagrantly unconstitutional or poorly drafted legislation (Fisher, 1978: 84). However, the framers of the Constitution did not foresee the emergence of party politics, and along with this the development of competing ideologies. It would appear then, that the modern president would veto legislation for any single or combination of the above reasons. While it is undoubtedly true that there is overlap and some degree of interdependence among the three large categories of veto rationales (protection of office, unconstitutional or poorly drafted legislation, and ideology), there are distinctions, and it is not unreasonable to suggest that different presidents would emphasize different motives in their veto messages based on their perceptions of and concerns about the office.

While difficult to hypothesize what the overall percentages of veto motivations by category would be for all presidents, hypotheses about presidents of different parties are comparatively easy to formulate. Thus it is suggested that Republican presidents, consistent with their general view of limited government and fiscal and ideological conservatism, will tend to veto bills more for reasons of unconstitutionality and on ideological grounds of economy, non-federal responsibility, and violation of free trade; while Democratic presidents, tending more toward activism and extension of the president's powers, will be more likely to veto bills that contain legislative vetoes and restrictions on executive action (both confine presidential action) and also those that have provisions for special relief (it seems likely that this last category would contain many wealthy or privileged interests whose natural protector would be the Republican party).

DATA AND METHODOLOGY

The administrations included in this study are Eisenhower's through Reagan's first term (83rd through 98th Congresses). Earlier administrations were not included because of the difficulty in obtaining information on veto rationale, which is not readily available before Eisenhower's administration. The first task in rendering the data into the desired form involved eliminating private bill vetoes from the data. Private bills name a particular individual or entity who is to receive relief, such as payment on a pension claim, granting of citizenship, or waiving of immigration requirements. There is usually more interest in vetoes of public bills, which have much broader consequences for society than do private bills (Edwards, 1980: 23). Curiously enough, most studies and lists do not make this distinction, opting instead to study all vetoes in toto. Part of the reason is that the government source book for vetoes (U.S. Senate Library, 1978) makes no distinction between public and private bills, choosing only to break them down by the type of veto, i.e., regular or pocket. And even in the few studies where public bills are calculated separately, there are sometimes discrepancies between sources.¹

TABLE 1
Veto of Public Bills

President	Congress	Party Control*	Vetoed	Sub-totals	Average Per Year	Overrides	Sub-totals
Eisenhower (R)	83rd (1953-54)	S	21	—	—	0	—
	84th (1955-56)	O	21	—	—	0	—
	85th (1957-58)	O	16	—	—	0	—
	86th (1959-60)	O	24	82	10.25	2	2
Kennedy (D)	87th (1961-62)	S	9	—	—	0	—
	part 88th (1963)	S	0	9	3.18	0	0
Johnson (D)	part 88th (1963-64)	S	1	—	—	0	—
	89th (1965-66)	S 2/3	8	—	—	0	—
	90th (1967-68)	S	4	13	2.51	0	0
Nixon (R)	91st (1969-70)	O	9	—	—	2	—
	92nd (1971-72)	O	19	—	—	2	—
	part 93rd (1973-74)	O	12	40	7.17	1	5
Ford (R)	part 93rd (1974)	O	24	—	—	4	—
	94th (1975-76)	O	37	61	25.21	8	12
Carter (D)	95th (1977-78)	S	19	—	—	0	—
	96th (1979-80)	S	10	29	7.25	2	2
Reagan (R)	97th (1981-82)	Split	14	—	—	2	—
	98th (1983-84)	Split	20	34	8.50	2	4
TOTAL				268	8.38		25

*S = control by same party

O = control by opposite party

2/3 = that margin of control by majority party

Split = each party controls one house

In any case, the basic data for this study were obtained from *Congressional Quarterly Almanac*, 1953-1964, and *Congress and the Nation*, Volumes II-V (1965-1980). Additionally, the Reagan data were obtained from various *Congressional Quarterly Weekly Reports*. These sources were used because they provide brief explanations of why each bill was vetoed and/or excerpts from the veto message.

Table 1 presents the basic data on vetoes by administration and Congress, the purpose of which is to give an overview of the frequency and circumstances of presidential vetoes. Also included are the number of overrides for each president. However, since there are so few overrides (25 in 32 years—9 percent of the total number of vetoes), no attempt will be made to include them in the analysis. All that will be noted is that almost all of them came about when Congress was controlled by the opposition party. Gerald Ford's administration alone, in less than 2½ years in office, accounts for almost half of all overrides during the 32-year span of the study. Among other factors, such as OMB offering many negative recommendations, a growing domestic policy staff, and the natural aging of the Republican presidency, perhaps the greatest reason for Ford's more frequent use of the veto and its subse-

quently high percentage of overrides was his decision to use the veto more as a strategy to obtain enrolled legislation (Wayne, 1978: 85).

Table 1 reveals a number of interesting facts. Richard Nixon and Jimmy Carter have almost precisely the same number of average vetoes per year, yet one had the opposition party in control of Congress, and the other had his own party in control. In the only instance where party control changed hands during one president's administration, Dwight Eisenhower had his party in control of the 83rd Congress, and the Democrats in control of the 84th, yet he vetoed 21 bills in each two-year period. Richard Nixon had 12 vetoes in the 93rd Congress, while Gerald Ford, dealing with the same Congress, had twice as many vetoes in only slightly more than one-quarter of the time. The point to be made is that vetoing a bill appears to vary regardless of the opposition status of Congress.

The variable nature of presidents' vetoes will be considered in aggregate comparison by party, and in 26 of the 32 years this coincides with the Republican opposition/Democratic support dimension (the 83rd, 97th and 98th Congresses being the only ones in which Republicans had at least one-house support in Congress—Democrats in all instances had majority support Congresses). A two-thirds control of Congress variable will not be used because it only occurs once (89th Congress) among the 16 Congresses studied. It is interesting to note, however, that Johnson vetoed twice as many bills when he had two-thirds support in Congress than when he had just a simple majority. Perhaps Congress becomes more independent on some policies when one party obtains a veto-proof majority, independent of which party controls the White House.

The veto categories utilized in this study were adapted from Clausen's five policy dimensions, which were developed from his study of Congress. His dimensions are international involvement, agricultural assistance, government management, social welfare, and civil liberties.² The government management and international involvement (called in this article "foreign policy") dimensions are utilized without change. Civil liberties had to be dropped since not one veto in 32 years could be found which fit that category. Agricultural assistance was expanded into "resources," and social welfare expanded into "social services." A new category of "cross-departmental appropriations" was added to contain those vetoed bills which cut across more than one policy dimension.

The categories of stated reasons for presidential vetoes were developed from the data directly, key words being used to determine placement. The number of categories (10) is a bit unwieldy, but important distinctions would be lost if they were collapsed any further.³ It is important to note that these are publicly stated reasons and thus do not capture the enormous range of backstage calculations that are part of presidential "motivation."

FINDINGS

Table 1 reveals that Gerald Ford utilized the veto much more than any other White House occupant during the period studied. His average of over 25 vetoes per year is more than twice as high as the second highest, Eisenhower, who averaged 10.25 vetoes per year. The general trend is for Republicans to veto a higher number of public bills than Democrats. Johnson and Kennedy have quite low averages,

while Nixon, Carter, and Reagan all have about the same average. Eisenhower averaged only about three vetoes more per year than the latter group. The Republican average number of vetoes for the period is 10.85, while the Democratic average is 4.25, which is a substantial difference. The gap is narrowed if Ford is removed from consideration (the Republican average falls to 8.87), but it is still twice as high as the Democratic average.

Categorizing vetoes by policy area reveals a number of interesting facts (see Table 2). It should be noted, however, that due to a small number of N's for some of the Presidents (notably Kennedy and Johnson) these percentages, although accurate, should be used as general indicators of tendencies and not as hard and fast percentages that can be used with other percentages to obtain a definite ranking and/or relationship.

With the above caution in mind, some general tendencies are evident. Looking at all the vetoes, as would be expected, few occur in the area of foreign policy, indicating perhaps that indeed presidents do tend to have their own way there and are not challenged as much by Congress as in the domestic areas. In the latter categories, where relative congressional power is generally acknowledged, resources and government management bills receive two-thirds of the total vetoes, while social services bills were vetoed relatively few times. What this appears to indicate is that the first two categories are the domestic areas in which presidents are most likely to challenge Congress, while in social services, the President is more likely to let Congress have its own way. More research needs to be done to determine the accuracy of this speculation.

Looking at individual presidents and party differences, Carter and Johnson have the highest percentages in foreign policy, while Nixon, Eisenhower, and Reagan all have low percentages of vetoes. In resources, all the presidents except Kennedy and Johnson have relatively high percentages, ranging from 17.6 percent to 31.1 percent. Government management finds Eisenhower, Kennedy, Johnson and Reagan with high percentages, and Ford with the lowest at 23 percent. In the social services category, one finds, as might be expected, that the presidents with the highest percentages are Republicans Nixon, Ford, and Reagan. In the category of cross-departmental appropriation vetoes, Nixon, Ford, and Reagan have garnered 13 of the 15 vetoes. The trend of vetoing large and multipurpose appropriation bills seems to be a recent phenomenon starting with Nixon. Underscoring the earlier discussion that many of these vetoes are undertaken because of unacceptable riders, four of these recent vetoes were executed for that reason: Nixon's veto of a supplemental appropriation bill that also prohibited his using funds to bomb in Cambodia; Ford's two vetoes of appropriation bills that prohibited funds going to Turkey; and Carter's veto of an appropriation bill for the State, Justice, and Commerce Departments because it contained an anti-busing rider.

The reasons given by presidents for their vetoes (Table 3) sheds more light on the differences between Republicans and Democrats in their approach to the office. First, more bills were vetoed for the reason that they were "too costly" than any other reason, and there is a slight tendency for Republicans to use this reason more than Democrats. Conversely, few bills were vetoed because they were felt to be unconstitutional, although bills containing legislative vetoes met that criterion and there is a slight trend for increased usage toward the end of the study, indicating

TABLE 2
Categories of Vetoes

President	Foreign Policy		Resources		Government Management		Social Services		Cross-Departmental Appropriations		Total Ns
	%	N	%	N	%	N	%	N	%	N	
Eisenhower (R)	6.1	(5)	26.8	(22)	57.3	(47)	8.5	(7)	1.2	(1)	82
Kennedy (D)	11.1	(1)	11.1	(1)	66.7	(6)	11.1	(1)	—	—	9
Johnson (D)	23.1	(3)	7.7	(1)	61.5	(8)	7.7	(1)	—	—	13
Nixon (R)	5.0	(2)	22.5	(9)	30.0	(12)	27.5	(11)	15.0	(6)	40
Ford (R)	18.0	(11)	31.1	(19)	23.0	(14)	21.3	(13)	6.6	(4)	61
Carter (D)	24.1	(7)	27.6	(8)	37.9	(11)	6.9	(2)	3.4	(1)	29
Reagan (R)	5.9	(2)	17.6	(6)	50.0	(17)	17.6	(6)	8.8	(3)	34
Grand Total	11.6	(31)	24.6	(66)	42.9	(115)	15.3	(41)	5.6	(15)	268
Republican Total	9.2	(20)	25.8	(56)	41.5	(90)	17.1	(37)	6.5	(14)	217
Democratic Total	21.6	(11)	19.6	(10)	49.0	(25)	7.8	(4)	2.0	(1)	51

Note: Percentages are calculated across rows.

TABLE 3
Reason for Vetoes

<i>Ideological</i>											
<i>President</i>	<i>Too Expensive/Money Not Appropriated/ Government Purchase Unnecessary/Inflationary</i>		<i>Non-Federal Responsibility</i>		<i>Special/Unfair Relief, Benefit, or Penalty</i>		<i>Violates Free Trade</i>				
	%	N	%	N	%	N	%	N			
Eisenhower (R)	25.6	(21)	13.4	(11)	6.1	(5)	4.9	(4)			
Kennedy (D)	11.1	(1)	—	—	22.2	(2)	11.1	(1)			
Johnson (D)	23.1	(3)	7.7	(1)	7.7	(1)	7.7	(1)			
Nixon (R)	50.0	(20)	12.5	(5)	5.0	(2)	—	—			
Ford (R)	39.3	(24)	8.2	(5)	9.8	(6)	1.6	(1)			
Carter (D)	34.5	(10)	3.4	(1)	3.4	(1)	6.9	(2)			
Reagan (R)	41.2	(14)	23.5	(8)	14.7	(5)	2.9	(1)			
Grand Total	34.7	(93)	11.6	(31)	8.2	(22)	3.7	(10)			
Republican Total	36.4	(79)	13.4	(29)	8.3	(18)	2.8	(6)			
Democratic Total	27.5	(14)	3.9	(2)	7.8	(4)	7.8	(4)			

<i>Protect Office</i>						<i>Defective</i>					
<i>President</i>	<i>Restricts Executive Action</i>		<i>Unconstitutional Legislative Veto</i>		<i>Other</i>	<i>Not Necessary/ Already Incorporated</i>		<i>Miscellaneous</i>		<i>No Reason Given</i>	
	%	N	%	N	%	%	N	%	N	%	N
Eisenhower (R)	1.2	(1)	2.4	(2)	1.2	7.3	(6)	36.6	(30)	9.8	(8)
Kennedy (D)	—	—	—	—	11.1	11.1	(1)	22.2	(2)	11.1	(1)
Johnson (D)	15.4	(2)	7.7	(1)	—	—	—	30.8	(4)	—	—
Nixon (R)	7.5	(3)	5.0	(2)	5.0	20.0	(8)	2.5	(1)	—	—
Ford (R)	13.1	(8)	4.9	(3)	4.9	11.5	(7)	14.8	(9)	4.9	(3)
Carter (D)	24.1	(7)	6.9	(2)	—	13.8	(4)	13.8	(4)	3.4	(1)
Reagan (R)	11.8	(4)	5.9	(2)	8.8	20.6	(7)	—	—	—	—
Grand Total	9.3	(25)	4.5	(12)	3.7	12.3	(33)	18.7	(50)	4.9	(13)
Republican Total	7.4	(16)	4.1	(9)	4.1	12.9	(28)	18.4	(40)	5.1	(11)
Democratic Total	17.6	(9)	5.9	(3)	2.0	9.8	(5)	19.6	(10)	3.9	(2)

Note: Percentages in some rows add to more than 100 percent because some vetoes have more than one stated veto reason and have been assigned to more than one category.

more active resistance to presidential definitions of congressional encroachment. Republicans, as might be expected, vetoed more bills because they felt they were infringing on areas of state, local, or private domain. Carter and Ford felt that a number of bills would have restricted executive action, and they accounted for 15 of the 25 vetoes in that category.

Looking at the categories by party, most have approximately the same veto rate as each other. The only three categories with noteworthy differences are the ideological categories of "too expensive" and "non-federal responsibility," with Republicans having 8.9 and 9.5 higher percentages respectively. In the office-protecting "restricts executive action" category, Democrats were 10.2 higher in their proportion than Republicans. Much of the difference in the last category can, however, be attributed to Carter's comparatively high percentage—he alone accounted for seven of the 25 bills vetoed by all the presidents for this reason.

DISCUSSION AND CONCLUSIONS

What observations and conclusions can be drawn from this study? The first is obvious: Republicans, almost always having opposition Congresses, tended to veto more often than Democrats.

Turning to the hypotheses concerning categories of vetoes, general confirmation is found. Among all presidents, the relative number of vetoes in the area of foreign policy is low (11.6), and conversely, higher in domestic areas. This finding reinforces the notion of Congress and the President contesting for dominance in domestic policy while, excepting a few high profile foreign policy disputes, finding ways to cooperate in international affairs. Controlling by party, Republicans have higher percentages in the categories of resources and social services, while, counter to my hypothesis, Democrats have a higher percentage in the area of government management. This difference, attributable to Johnson and Kennedy, probably reflects the struggle between liberal presidents and a more conservative Congress. Why this veto pattern is not evident in the closely allied social services category is not discernible from the data in this paper, but is in all likelihood closely related to the individual priorities, strategies, and strengths of Kennedy and Johnson and those of the leadership of Congress. Democrats also, as the hypothesis suggests, have a higher percentage of foreign policy vetoes than do Republicans.

In the realm of publicly-stated rationales for using a veto, it was found that Republicans do indeed justify decisions on the basis of ideological reasons of economy and non-federal responsibility, and Democrats veto a higher percentage of bills because of asserted restrictions on executive action. Counter to the hypotheses, Democrats have a slight tendency to veto more bills in the name of free trade, while there is little difference between the parties in vetoing on the grounds of unconstitutionality, a legislative veto, or because it provides special relief. This suggests that presidents of both parties may have a similar conception of their office when it comes to protecting its prerogatives from Congress, and when dealing with defective legislation, and that their differences, which are not large, emerge primarily on ideological grounds.

Overall, this study suggests one important caveat to past assumptions and findings about presidential vetoes: *the categories of and reasons for presidential vetoes*

are remarkably similar from president to president; frequently, they seem to have just as much in common as presidents doing battle with Congress than as Republicans and Democrats fighting for differing ideological programs and considerations. Kennedy and Johnson vetoed bills because they were too expensive, and Reagan and Eisenhower vetoed bills because they encroached upon the power of the executive. If one were examining these vetoes, using conventional assumptions about party and ideology, this strong office-specific motivation would be lost.

It is very likely that the enlarged scope of government in recent years, which Copeland's (1983) study clearly shows is positively related to increased veto use, is largely responsible for this. It would be useful to extend the scope of my study to administrations previous to Eisenhower's (if the data on rationale and classifications could be obtained) to determine if the relationships reflected in the past 30 years were evident then. Knowledge of this would help in chronicling the changes that have occurred in the relationship both between the President and Congress, and between Presidents of different parties.

APPENDIX ISSUES INCLUDED IN EACH VETO CATEGORY

<i>Foreign Policy</i>	<i>Resources</i>	<i>Government Management</i>	<i>Social Services</i>
Military Aid	National Parks	Federal Tax Changes	Handicapped
Foreign Affairs	Rural Electricity	Regulatory Power	Rehabilitation
National Defense	Flood/Water Projects	Economic Regulation	Urban Renewal
Tariffs	Energy/Natural Gas	Labor-Management	Veterans Benefits
Trade	Controls	Relations	Social Welfare
Military Installations	Stripmining/Mineral	Power Rates	Jobs
Ship Construction	Leases	Court Jurisdiction	Housing
U.S. Information	Transportation	Federal Benefits/	Area Redevelopment
Agency	Public Works	Pay Raise	Appropriations for
Foreign Lawsuits	Agriculture	Payment/Assistance to	Federal Disaster
Protection for	Natural Resources	State/Local	Health Care
Diplomatic Missions	Price Supports/	Government	Education
	Subsidies/Surplus	Public Broadcasting	Elderly
	Energy Development	Minimum Wage	Migrant Workers
	Fire Prevention	Government Reorgani-	Disaster Relief
	EPA	zation/New Agencies	
		Compensation/	
		Payment to	
		Private Groups	
		Currency	
		Meeting of Congress	
		Food/Drug Law	
		Criminal Code	
		District of Columbia	

Notes

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¹For instance, totaling the number of Eisenhower's public bill vetoes listed in the *Congressional Quarterly Almanacs*, one obtains a figure of 82, while Edwards (1980: 25), citing the government source book, comes up with a figure of 81.

²Kessel (1974), searching for patterns of presidential behavior based on a content analysis of State of the Union addresses, came up with virtually identical categories, with the exception of using an economic management dimension and a natural resources dimension rather than a government management category. In any case, these two studies are considered basic, and using either of them as a source for policy dimension categorizations makes for ready comparison with numerous other like-based studies.

³It should be noted that the "miscellaneous" category is quite large (18.7 percent of all vetoes). This is unfortunate but necessary because a large number of bills were vetoed for unclassifiable reasons. Examples of this are: Eisenhower's veto of bills authorizing commemorative 50¢ pieces because the public would be confused and they would detract from the basic function of coins, prohibiting publication of apple price predictions because field workers and farmers need the ability to counteract price rumors, and setting the date of the meeting of the 85th Congress—Congress requested the veto because not enough time was allowed to count electoral votes; Kennedy's veto of a bill to amend the Life Insurance Act of D.C. because it didn't give some purchasers adequate voice in the control of the company; Johnson's veto of a bill setting boundaries on the Colorado River because he felt the courts were the proper forum for this particular dispute; Ford's veto of a bill naming a courthouse and federal building after him because it violated the precedent of naming buildings after a sitting president; and Carter's veto of a bill authorizing payments to citizens of Guam and the Virgin Islands for lost revenues because it didn't address their underlying long-range economic problems. These and the other miscellaneous vetoes lacked the key words and motivations in their message which would allow them to be placed in one of the other categories.

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Divider Title: _____

When Congress and the President Collide: Why Presidents Veto Legislation

Garret J. Copeland
University of Oklahoma

This study considers the major explanations for the use of the veto by utilizing multivariate time-series analysis. It concludes that many explanations found in the conventional wisdom are overrated or inaccurate. But it also shows that a few variables can explain one-half to two-thirds of the variation in the use of the veto from year-to-year. Among the most influential determinants of the use of the veto are the scope of government, opposition control of Congress, and whether the president has had a veto overridden. Among the most overrated explanations are that international crises limit the use of the veto, and that Democrats use the veto more than Republicans.

The relationship between the president and Congress has a colorful and varied history. The nature of that relationship is primarily determined by the constitutional provisions that provide for shared powers between the two separate institutions. The weapons that each institution possesses to infringe on the primary domain of the other are not many, but they tend to be potent. Congress can bend the chief executive through its power to confirm certain presidential appointments, through its control over appropriations, and through legislative oversight. Congress can break a president with its impeachment power. The power of the president in the legislative realm is, if not dominant, sufficient to have earned him the title of chief legislator. The primary sources of the formal legislative power possessed by the president stem from his ability to propose legislation and to veto legislation that Congress has passed.

The power of the veto, which is authorized in Article I of the Constitution, has substantially influenced the development of the American

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presidency. Presidents have used the veto as more than a negative legislative tool; they have found that it serves a variety of political purposes. Franklin D. Roosevelt, for example, would occasionally call for a piece of legislation that he could veto simply to remind Congress that he was in charge (Neustadt 1976, p. 152). Harry Truman and Gerald Ford used the veto to call attention to their differences with Congress in order to build a stronger political base for electoral purposes (Neustadt 1976, p. 15; and Wayne 1978, p. 87). The versatility of the veto in inter-institutional squabbling led Woodrow Wilson to conclude that the "President is no greater than the prerogative of veto makes him" (1956, p. 173). The potency of this tool is such that conventional wisdom holds that "merely the threat of a veto is often enough to force Congress to tailor a bill to conform to administration wishes" (Cummings and Wise 1981, p. 368). Certainly the veto power contributes to making the president the dominant American political figure.¹

THE USE OF THE VETO

The veto, while not used to satisfy every presidential whim and fancy, is used often enough to establish both respect for it and respect for the threat of its use. From George Washington to Jimmy Carter, presidents have vetoed 2,389 pieces of legislation — an average of about 12 1/2 bills a year.² The majority of those vetoes (1,401) were applied to private bills with the remaining 988 coming on public bills. If we compare these numbers to the number of bills passed we find that about 2.7 percent of bills that have been sent to the president have been vetoed. That comparison also shows that the probability of a private bill being vetoed is slightly greater than for a public bill (0.031 for private bills as opposed to 0.024 for public measures). Of the total number of bills vetoed, only 93, or 3.9 percent, of them have been overridden by Congress. But because 1,010 of those vetoes have been pocket vetoes, Congress has overridden 6.7 percent of the vetoes for which they had the opportunity. Whichever way the figure is calculated, though, it is clear that the president's word is nearly always final.

Individual presidents, of course, have varied considerably in their pro-

¹ The veto power continues to play a dominant role in proposals to alter the balance of power between Congress and the president. Congress, for example, has tried to strengthen itself by instituting a congressional veto. Alternatively, many contemporary observers are reaching the conclusion that the president needs more control over federal spending and are suggesting that the president be given an item veto in the area of appropriations. See Shepsle 1982; and Ross and Schwengel 1982.

² The sources for the veto data in this section and throughout the paper are Kimmitt 1978; and Congressional Quarterly's *1980 Almanac*.

pensity to use the veto. On the one hand, George Washington vetoed only two bills during his entire presidency; eight presidents did not utilize that power (but the last time that it was not used was during the antebellum administration of Millard Fillmore³); and in 48 of the first 192 years under the Constitution the veto power was not used at all. In fact, the median number of vetoes throughout our history is only about three a year. On the other hand, Franklin Roosevelt, alone, vetoed 635 pieces of legislation during his presidency; Grover Cleveland vetoed 150 bills in a single year and a total of 584 bills during his presidency. The most public bills vetoed in a single year was 32 by Roosevelt in 1939. In percentage terms, about 10 percent of all public bills passed in 1895 were vetoed by Cleveland; and Roosevelt vetoed nearly one-quarter of all private bills in 1940.

WHY PRESIDENTS USE THE VETO

Most discussions of the veto quickly turn to the question of why presidents veto legislation. The most common approach to answering the question of why presidents veto legislation is the case study or multiple-case study method. This methodology has taught us, for example, that most of the vetoes early in the history of the United States were based on constitutional grounds or were a direct response to poorly drafted legislation (e.g., Mason 1890); that John Tyler was the first president to justify using the veto simply on the grounds of expediency because he was the first president to develop a political consciousness after the debates over the ratification of the Constitution and because he was the first person to serve as president who was not elected to that office (Black 1976, p. 91); that Andrew Johnson vetoed a large number of bills because of his difficulties with the Radical Republican Congress (Mason 1890, p. 125; and Boeckel 1932, pp. 414-416); that Grover Cleveland was one of the all-time veto champions, in part because of the Arrears of Pensions Act of 1879 which encouraged private bills of dubious merit (Boeckel 1932, pp. 417-418); and that Truman and Ford used the veto to build a political case against Congress (Neustadt 1976; and Wayne 1978). This case study methodology has made a considerable contribution to our understanding of the use of the veto by various presidents.

Another promising approach to the question of why presidents use the veto is the multivariate time-series approach that is aimed at explaining the variation in the use of the veto in given time periods (e.g., a year or a Congress). Analysis of this type is an ideal complement to the methodology discussed above. This type of analysis can more rigorously

³ James Garfield, in his brief service as president in 1881, was technically the last president not to veto any legislation.

test hypotheses developed out of the case study approach and that are found in our conventional wisdom. Surprisingly, this methodology has been employed in only one published study.

A 1975 study by Jong R. Lee utilizes multivariate time-series analysis and makes an important contribution to our understanding of presidential vetoes. Lee's study examines the number of vetoes in each Congress from the 21st to the 91st and tests a number of specific hypotheses. His analysis suggests that congressional but not gubernatorial experience is related to the propensity to use the veto power. He also finds that Democrat and popular presidents use the veto more often than Republican and less popular presidents. He has mixed results when testing hypotheses concerning the impact of opposition control of Congress and whether the president runs for reelection. He finds no evidence that the midterm election, economic crisis, or military crisis systematically effects the use of the veto.

Lee's work is a major advancement in our knowledge on presidential vetoes; unfortunately, the effect of his analysis has been to foreclose further research. Given the importance of the subject, Lee's own suggestions for continued research, and a number of curious findings in his study, there is a clear need for further study utilizing this methodology. This research is aimed at that need.

HYPOTHESES

So many hypotheses have been suggested to account for why presidents veto legislation that it is a nearly impossible task to catalog, let alone evaluate, all of them. In the analysis to be presented below, though, I have tried to incorporate the major general hypotheses. In this section I will identify each general hypothesis and examine the theoretical underpinnings of each.

Scope of Government

The most obvious conclusion regarding the use of the veto is that it is currently used more than it was in the period immediately following the adoption of the Constitution. The explanation for this seems to be found in the growth of the scope of government (e.g., Towle 1937, p. 51). Congress and the president now consider more legislation and more complex legislation. This increase in legislative activity is nearly certain to bring with it more controversy, more disagreements, and ultimately more vetoes. The number of vetoes, then, should be a function of the scope of government, operationalized as the amount of legislation passed.

The Role of Congress

A second persistent hypothesis is that when the president faces a hostile

Congress, he needs to resort to the veto more frequently (e.g., Mason 1890, p. 126). The obvious rationale for that suggestion is that Congress is less likely to give the president his way voluntarily so he is forced to rely on the extraordinary tools of the office more frequently. This hypothesis makes so much sense as to make it nearly above reproach; yet, Lee's analysis leaves the hypothesis in serious doubt.

The State of the Nation

It is also likely that there is a "temper of the times" effect on the use of the veto. In times of international crisis we have traditionally witnessed a "rally-'round-the-flag" phenomenon. Our governors generally believe that any sign of divisiveness will be taken as a sign of weakness and strive to avoid giving that cue. As a result, when we are having problems with foreign nations, Congress should be more responsive to the wishes of the president and the president should be less likely to go public, in the form of a veto, with any disagreement over specific legislation.

In times of economic difficulty, we should expect the opposite effect. Legislators and presidents are all wont to point fingers when the economy is not healthy. Congress and the president often find themselves jockeying to gain credit with the public while hoping the other institution receives the blame for the state of the economy. In general the level of political combativeness is higher when the nation has economic problems. As a result, vetoes are likely to flow on a more regular basis.

Political Experience

A president's political background is likely to affect his propensity to veto legislation. Presidents who have experience as members of Congress generally have greater respect for that institution, its ways, and its members. This respect should carry over to the products of the body and translate into fewer vetoes.

Conversely, it has frequently been suggested that former governors are more familiar with the ways and powers of an executive and should be more likely to use the veto. That suggestion, though, seems a bit overdrawn. It is highly unlikely that gubernatorial experience is a requisite to understanding the use and power of the veto. I suspect that most presidents quickly learn about the power of that tool. Lee's analysis confirms that this hypothesis lacks credibility and that it does not merit further currency.

Electoral Mandate

Presidents who received a mandate from the voters at the polls are more

likely to feel comfortable unabashedly utilizing the veto. A president who feels that the voters sent him to Washington to enact a particular platform will more confidently wield the tools of the office than a president who barely managed to get elected because he was the lesser of two evils. The veto, in the hands of a president with a mandate, is a tool to accomplish the people's will and is likely to be used as such. As a result, the veto is more likely to be used when the president's margin of victory was greater.

Party

Lee makes an argument that Democrats veto more legislation than do Republicans (pp. 531-532). His argument is based on the assumption that Democratic presidents tend to be more activist than Republican presidents. Because Democrats are more active in the legislative arena, they are more likely to use the veto weapon. While there is evidence that in the mass public Democrats tend to prefer that the federal government play an activist role, it is unlikely that very many presidents, regardless of party, remove themselves very far from the deliberations of our government. Republicans as well as Democrats have shown that they are willing to use the office and its powers to achieve their goals. While this hypothesis lacks appeal, Lee's evidence supports it. In fact, it is the most strongly supported hypothesis in his analysis.

Presidential Term

How far a president is into his term may influence his propensity to veto legislation. Traditionally, in the first year of his term the president has a honeymoon period where his relationship with Congress is at its most harmonious point. As a result, he should resort to the veto less in the first year of his term than in the remaining years. In the second year the president and his political opponents are more deliberate in their posturing for electoral support in the midterm election. In his third year, relations with Congress may become more cordial, but the fact that nearly always the president faces a larger opposition party may keep the number of vetoes high. In the final year of the term, the level of combativeness is likely to increase again and the number of vetoes is likely to increase. Simple analysis of vetoes of public bills supports these contentions. The number of public bills vetoed in the first year of the presidential term has been 177; there have been 281 vetoes in the second year; in the third year of the term presidents have vetoed 242 pieces of public legislation; and they have used the veto on 288 public bills in their final year of the term. Whether this pattern remains after considering other explanations for the

use of the veto (e.g., opposition control of Congress) will be determined below.⁴

Overrides

The final hypothesis is based on the assumption that presidents are intelligent beings; they learn from the past. Overrides of presidential vetoes are so rare that when they do occur they are very notable and embarrassing to a president. A president who suffers that unusual experience will hesitate to veto another bill. Moreover, very many veto overrides may indicate a shift in power away from the president. That impression, accurate or not, is certainly one which most presidents would prefer not to give. I expect, therefore, that the more frequently a president is overridden, the less he will use the veto in the future.

THE MODEL

The test of the hypotheses that have been identified requires careful operationalization of the model. The first choice was to use a year as the unit of analysis. Alternative units, such as Congress, presidential term, or president, were discounted because some of the independent variables showed variation across longer units of time. Also, the use of year made it possible to consider whether there is a cycle over a presidential term. After the unit of analysis was decided upon the question remained as to how far back in our history should the analysis be extended. Since 1860 was the beginning of the more-or-less stable two party system that we have today, I will begin the analysis there; however, supplemental analysis extending the entire scope of our history is also presented which indicates that most of the explanations have been quite consistent over time.

The operationalization of the dependent variable, legislation vetoed, will follow Lee's study which took both the logarithm of the number of bills vetoed and, separately, the square root of the percentage of bills vetoed.⁵ Those formulations are used because, while the relationships to be examined are intrinsically linear, they are nonlinear with respect to the variables. The log transformation, in particular, is developed from an

⁴ The year in the term variable remains consistent regardless of whether a president assumed office part way into a term. That coding is based on the belief that the electoral cycle, rather than presidential experience, dominates the relationship. Presidents who succeed to that office seem to follow the same pattern as their predecessor, but in much more condensed form.

⁵ While the analysis to be presented below will show that Lee's conclusions were flawed in a number of ways, his basic methodology, as I have already suggested, was appropriate and well-conceived. Lee provides a detailed explanation for the use of these models on pp. 536-537.

exponential model. The square root model is based on the notion that the number of vetoes is the function of an interaction between the number of bills enacted and the propensity to use the veto. Specifically, only vetoes of public bills will be tabulated.⁶

Most of the independent variables are easily operationalized, but they do merit some exposition. The first independent variable is whether the president was a Democrat and is operationalized as a dichotomous variable coded "one" if he was. The electoral mandate of the president is measured as the percentage of the electoral college vote that he received. The percentage of the popular vote received by the president was considered as an alternative measure, but was not used because it is unreliable when extending the analysis over the entire scope of American history. Both measures lead to the same conclusions in the post-1860 period. Presidential experience is a dichotomous variable that is coded "one" if the president ever served in Congress.⁷ Opposition control of the Congress is also a dichotomous variable that is coded "one" if either house is controlled by the opposition party. Preliminary analysis indicated that the implications for the use of the veto were the same regardless of which house was controlled by the opposition or whether they both were. The international crisis variable is coded "one" when the country was involved in a military-type conflict. Besides foreign wars, among the crises included are the naval dispute with Tripoli in 1804 and the Civil War. The economic conditions variable is coded "one" in the years where we had an economic downturn and "zero" in the remainder of the years.⁸ The year

⁶ The classification of a bill as a private bill or a public bill requires considerable effort. The specific definition and recording systems have changed many times over the course of congressional history. In this case, each veto was analyzed and determined to be either public or private. The section, "Private Bills," in *Congressional Quarterly's Guide to Congress* (1976, pp. 299-310), was very useful in differentiating the bills. In all cases, the classification used in this analysis was compared to other research on vetoes that make this distinction and was satisfactorily reconciled. See Berdhal 1932; Towle 1937; and Mason 1890.

The choice to use solely public bills is largely because of the greater importance of that legislation. Analysis conducted on vetoes of private bills suggests that they largely respond to the same forces as public bills. Several minor distinctions did arise: private bills are less affected by international events, more affected by the economy, and less affected by opposition control of the one of the chambers of Congress than are public bills.

It should be added that Lee (1975, p. 523) noted that in coding his data he made a distinction between public and private bills, but it is unclear what form the variable took in the analysis that he reports.

⁷ The source of the presidential experience variable is *Congressional Quarterly* (1975, pp. 350-355).

⁸ Mitchell and Mitchell 1947 and McGrane 1942 were used to develop an economic history. They, along with more standard measures (e.g., personal income) were used to identify the years that the economy took a downturn. Those years are 1818-20, 1836-37,

in term variable is operationalized by a set of dichotomous variables identifying whether it was the second, third, or fourth year of the term. The regression coefficients for those variables can be considered the increase in the use of the veto over the first year in the term. The override variable requires a slightly more complex operationalization. The hypothesis suggests that the number of vetoes will decline when the president has been subjected to an override; however, he cannot be overridden if he has not used the veto. Therefore the relationship is not straightforward. We expect that, at first, the use of the veto and the override variable will rise together before becoming inversely related. To test this hypothesis, then, I will use both the number of overrides and the square of the number of overrides as variables. The first variable should be positively related to the use of the veto which will reflect the condition of not having overrides unless there are vetoes. The square will be negatively related to the use of the veto and will reflect the decline in the number of vetoes when the president has been overridden. The final variable, the scope of government, is simply the log of half of the number of bills passed each Congress. (Annual measures are not available throughout our history.) The depen-

TABLE 1

EXPLANATION FOR THE USE OF THE VETO, POST-1860*

	Log of vetoes	Square root of percentage of vetoes
Democrat	0.26*	0.27*
Electoral mandate	0.24*	0.19*
Cong. experience	-0.11	-0.05
Scope of government	0.23*	0.04
Opposition control	0.35*	0.33*
International crisis	-0.03	-0.16
Economic slump	0.11	0.07
Overrides	0.57*	0.50*
Overrides ²	-0.35*	-0.26
2nd year	0.13	0.15*
3rd year	0.03	0.04
4th year	0.03	0.01
R ²	0.48	0.39
D.W.	1.80	1.80

* All values in this and subsequent tables are beta weights.

* The asterisks, to be used as a guide, indicate statistical significance at the 0.05 level.

dent variable, operationalized two ways, will be regressed on this set of variables.

THE ANALYSIS

The results of part of the first part of that analysis are presented in table 1. That table shows the beta weights (standardized regression coefficients) for each independent variable regressed on the log of all public bill vetoes and on the square root of the percentage of those bills vetoed. The table also shows the total variance explained by the independent variables and the Durbin-Watson indicator of autocorrelation.

In each case in table 1 the sign of the regression coefficient is in the direction hypothesized and, taken as a whole, they explain the use of the veto fairly well—accounting for about 40-50 percent of the variation in the use of the veto. The analysis also indicates that whether the square root or logged model is scrutinized makes very little difference in the interpretation of the relationship among the variables. The primary exception is the impact of the scope of government (operationalized as the amount of legislation) on the use of the veto. That variable is a dominate influence on the logged number of vetoes, but as would be expected is much less important in the model that already takes the amount of legislation into account by percentaging.⁹

Some of the variables have only minor influence on the use of the veto. Neither of the state-of-the-world variables—international crisis and economic slump—has a profound impact on the veto's use, though both do play some role and in one of the models each has a reasonably sized beta weight suggesting that they might play a role at least at times. Also only moderately related to the use of the veto is whether the president had congressional experience and (a little more strongly) his electoral mandate.

The set of variables indicating the year of the term shows an interesting pattern. After considering the other influences on the use of the veto, there is a substantial increase in the use of the veto in the second year of the term. The third and fourth years indicate some greater probability of the use of the veto than for the first year, but that increase is negligible.

Two of the variables that are most strongly related to veto use are whether the opposition controlled part of Congress and the number (and

⁹ Throughout the analysis the amount of legislation retains a consistent and strong influence over the use of the veto. In order to differentiate between changes in the scope of government and the passage of time (which are correlated) I added a time variable to the analysis. The time variable played absolutely no role in the regression. Its coefficient was nearly zero, statistically insignificant, and occasionally negative. Substantively, we can conclude that the scope of government, rather than a plexus of factors increasing over time, influences the use of the veto. Further, the Durbin-Watson statistic, reported throughout the analysis, indicates surprisingly little problem with autocorrelation.

square of the number) of overrides.¹⁰ Our particular constitutional system, of course, is the primary explanation for the importance of those variables. When different parties control Congress and the presidency, greater numbers of disagreements occur. Those disagreements may take the form of a veto. If they do, the system is biased in favor of the president. The president nearly always wins when he resorts to the veto, but periodically he does lose. The rarity of an override, coupled with the failure of a president in spite of built-in advantages, takes a toll on that office. As a result, once a president has been dealt that blow, he has a natural reluctance to utilize that weapon again. Veto overrides, therefore, are a major factor in limiting a president's future use of the veto power.

The third strongly related variable is whether the president was a Democrat. The preceding two variables were expected to be strongly related to the use of the veto, but—even though Lee found that being a Democrat was the dominant factor in the use of the veto—I did not expect it to be related to veto use. In fact, further analysis shows that the conclusion that Democratic presidents veto more legislation than do Republican presidents is not only theoretically unsatisfactory, it is also a misreading of the data. It is true that, controlling for the other relevant factors, the mean number of vetoes is higher in Democratic years than in Republican years. However, the larger number of vetoes in Democratic years is not due to a general pattern but to the influence of several extreme outliers—i.e., the years that Cleveland and Roosevelt served as president. The accuracy of my argument can be tested by adding a binary variable for Cleveland and Roosevelt to the regression model. If there is a general effect, the presence of those variables will slightly weaken, but not eradicate the effect of being a Democrat. But, if there is no general effect then the coefficient for the Democrat variable will decline considerably.

¹⁰ While the coefficient for the square of the overrides is not statistically significant in the square root model, we can still have confidence in our conclusion that it is an important determinant of the use of the veto. First, significance tests are not completely appropriate when we are dealing with all observations rather than a sample so we should not adhere too closely to them; they are presented merely as a guide. Second, that variable, while missing the 0.05 cutoff, would be significant at the 0.06 level. Finally, when two independent variables are highly correlated (as, of course, the number of vetoes and its square are) the standard errors of the regression coefficients tend to be high which makes statistical significance more elusive.

The adjusted multiple coefficients of determination for the other independent variables generally hover around 0.2. There is more multicollinearity for the year in term variables, of course, but their exclusion does not affect the remaining coefficients. In the post-1860 analysis, there is some problem with the international crisis variable (the remaining variables can account for 42 percent of its variation). While the magnitude of the problem is not great, it does suggest that some caution should be exercised in the interpretation of its regression coefficient.

Table 2 shows how controlling for the presidencies of Cleveland and Roosevelt affects the model previously presented. Both of the additional variables are strong determinants of the use of the veto and, more interestingly, considerably lessen the impact of being a Democrat on the use of the veto. What, at a casual glance, looks like a strong general relationship is actually a very limited effect. The strong relationship is between two individuals and the use of the veto — not Democrats and the use of the veto. Finally, adding these two variables washes out the previously weak effect of congressional experience in limiting the propensity of presidents to use the veto.

TABLE 2

EXPLANATIONS FOR THE USE OF THE VETO, POST-1860,
CONTROLLING FOR CLEVELAND AND F. ROOSEVELT

	Log of vetoes	Square root of percentage of vetoes
FDR	0.27*	0.30*
Cleveland	0.21*	0.34*
Democrat	0.14	0.11
Electoral mandate	0.21*	0.19*
Cong. experience	-0.03	0.05
Scope of government	0.15*	-0.06
Opposition control	0.32*	0.27*
International crisis	-0.05	-0.17*
Economic slump	0.07	0.04
Overrides	0.52*	0.43*
Overrides ²	-0.31*	-0.21
2nd year	0.12	0.14*
3rd year	0.00	0.03
4th year	0.01	0.00
R ²	0.55	0.56
D.W.	1.88	2.04

* Statistical significance at the 0.05 level.

This model can be expanded to span the length of our constitutional history without too much change. The party variable, which is not actually related to the use of the veto anyway, needs to be dropped, but the other variables can remain unchanged. One additional hypothesis, noted above and suggested by Black (1976, p. 91), is that the use of the veto changed during the presidency of John Tyler. According to Black, "Tyler vetoed pretty freely; he was the first to do so." By "freely," Black means both frequently and free of the constitutional constraint that previous presidents had felt to use the veto only to protect either the presidency

or the Constitution. Tyler, Black notes, had not reached political maturity during the debates over ratification of the Constitution and was the first president to succeed to that office which may account for his philosophy. But, whatever the cause, the conception of the veto was changed and its use became increasingly common. That hypothesis can be tested by creating an addition dichotomous independent variable that indicates whether the year was before or after Tyler became president.

The results of the analysis of the use of the veto since the conception of our current constitutional framework are shown in table 3. In general those results do not differ greatly from those previously presented for the post-1860 era. The new hypothesis is supported, but the magnitude of that effect is less than the hypothesis suggests. The exceptional use of the veto by Cleveland and Roosevelt remains graphic even over the extended time frame. The importance of the scope of government remains strong along with the importance of overrides. The state of the economy has a slightly greater, though still not particularly potent, effect on the use of the veto. Opposition control of the Congress continues to be a factor in the frequency of use of the veto, but its influence is weakened over the longer time frame perhaps because of the different role of parties earlier in our history. Neither international crises nor congressional experience have a consistent impact on the use of the veto throughout our history.

TABLE 3

EXPLANATIONS FOR THE USE OF THE VETO, ALL YEARS

	Log of vetoes	Square root of percentage of vetoes
FDR	0.23*	0.19*
Cleveland	0.19*	0.24*
Post-Tyler	0.04	0.17*
Electoral mandate	0.12*	0.10*
Cong. experience	-0.10*	0.01
Scope of government	0.34*	0.19*
Opposition control	0.17*	0.11*
International crisis	0.02	-0.06
Economic slump	0.10*	0.11*
Overrides	0.51*	0.39*
Overrides ²	0.26*	0.14
2nd year	0.09*	0.11*
3rd year	0.02	0.07
4th year	0.03	0.07
R ²	0.68	0.54
D.W.	1.74	1.81

*Statistical significance at the 0.05 level.

The ability to explain the use of the veto remains high; these models explain about two-thirds of the variation in its use across our history.¹¹

CONCLUSION

The presidential veto is an oft-used tool of the presidency, but its use has varied considerably from time to time. This research has shown, though, that a reasonably small number of variables can explain a large portion of that variation. Much of that variation can be traced to varying historical eras. Notions regarding the use of the veto changed around the 1840s and its actual use has been more common since. The presidencies of Grover Cleveland and Franklin Roosevelt are exceptional for their use of the veto — a level of usage that cannot be adequately accounted for with normal explanations. Moreover, the incorporation of those two presidents into the analysis indicates that there is not a strong general tendency for Democrats to use the veto more than Republicans. The context in which our leaders find themselves also has a marginal impact on the use of the veto; a depressed state of the economy slightly increases the propensity of presidents to veto bills and since 1860 international crises lessen the frequency that public bills are vetoed. We have also found that when the scope of government has expanded so has the president's proclivity to veto.

Our particular constitutional system influences the use of the veto in a number of ways. The president and Congress are often at odds over the course of public policy. The situations that exacerbate that conflict also lead to more of a predilection to use the veto. When Congress is controlled by the opposition party, when the president feels that he has a mandate to enact his platform, or when the president lacks congressional experience he has a greater proneness to use the veto. Congress, though, can temper that bias by occasionally overriding the president when he does return legislation to them. The authors of the Constitution gave the veto to the president to serve as a check on the policymaking powers of Congress. They succeeded in doing just that; this analysis has shown that

¹¹ The generality of these conclusions was further tested by considering only the post-World War II period. The overall ability of the models to explain vetoes increases (accounting for about three-fourths of the variation) and conclusions regarding specific hypotheses are quite similar. The impact of the scope of government (which has had limited variation in this period) declines in importance ($\beta = 0.19$ in the log model) and the influence of international crises is far greater in this period. In the post-World War II period the hypothesis that popular presidents would have to resort to the veto less frequently was also tested utilizing Gallup Poll data, but it was found that there is virtually no effect ($\beta = -0.03$ and -0.05 , for the two models). The conclusion from the analysis of recent veto activity is that the model maintains an impressive degree of consistency.

presidents can and do resort to the veto with greater frequency when our institutions are in conflict.

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*Presidential Vetoes and Congressional Response: A Study of Institutional Conflict**

David W. Rohde, *Michigan State University*

Dennis M. Simon, *University of Minnesota*

This paper presents an initial attempt at a systematic analysis of the veto process. The authors argue that outcomes at all three stages of the process—the veto decision, the override attempt, and the success of those attempts—depend upon the state of the political environment (e.g., stage of the electoral cycle) and the prevailing resources of the president. Relevant presidential resources are the proportion of congressional seats controlled by the president's party and the level of public support for the president. In the case of the congressional response to presidential vetoes, two additional features which characterize the environment within Congress are hypothesized to be influential: the policy domain of the vetoed legislation and the voting alignment which prevailed at the time of passage. Empirical analysis of vetoes and congressional responses from 1945 to 1980 provides general support for the theoretical argument and for most specific hypotheses.

[The veto power] not only serves as a shield to the executive, but it furnishes an additional security against the enactment of improper laws. It establishes a salutary check upon the legislative body calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body.

—Alexander Hamilton, "The Federalist"

The President is no greater than his prerogative of veto makes him; he is, in other words, powerful rather as a branch of the legislature than as the titular head of the Executive.

—Woodrow Wilson, *Congressional Government*¹

As these quotations from Hamilton and Wilson indicate, the presidential veto has long been regarded as a significant power for the president in dealing with Congress on the content of legislation. Yet despite this perspective, and despite the great interest in the last decade and a half in presidential-executive conflict, remarkably little research exists on the exercise of the presidential veto and even less on the congressional response to its exercise.

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¹The first quotation is from Hamilton, Madison, and Jay (1982, pp. 372-73), and the second is from Wilson (1956, p. 173).

This dearth of research might be understandable if there were some *a priori* reason to believe that this process is not amenable to systematic study, but this is not the case. The presidential decision to veto and the Congress's collective decision on whether or not to override are similar in character (if not in causes) to other decisions by these actors which are extensively analyzed. Some political scientists have, moreover, offered speculations as to why the frequency of vetoes will vary from president to president (e.g., Neustadt, 1980, p. 67; Watson and Thomas, 1983, p. 258).

Thus the lack of research on the veto process appears to be due largely to happenstance. In this paper we will attempt to alter that situation by offering an analysis of the veto process from 1945 to 1980. We will begin with a brief discussion of the conventional viewpoints and available research on the veto process juxtaposed against some data on vetoes from the time period of our analysis. Next we will offer a theoretical perspective on the various stages in the process, and some testable propositions that derive from the perspective. Finally, we will test these propositions using data on vetoes and override attempts from the 1945-80 period.

Viewpoints of the Veto Process

Presidential Vetoes

One component of the conventional wisdom concerning the presidential veto is that such an exercise of unilateral authority is a "tool of last resort" and therefore is seldom employed by presidents. If we consider vetoed bills as a proportion of all bills passed by Congress, this characterization is supported, for only a small percentage of public bills is vetoed in any given year. Nonetheless, there are several reasons for probing beyond the conventional wisdom and the cursory treatments which the use of the veto typically receives in analyses of presidential-congressional relations. First, as Table 1 illustrates, there has been substantial variation in the use of the veto among postwar presidents. The average annual number of public bill vetoes (both regular and pocket) has ranged from Lyndon Johnson's low of 2.6 to 25.2 during the tenure of Gerald Ford. Second, this variation is *not* solely a function of party control in the Congress. The data in Table 1 also show that the veto average has ranged from 2.6 to 10.0 during periods in which the party of the president controls Congress; although the averages are higher in the years of divided government, the variation remains substantial, ranging from 7.2 (for Nixon) to 25.2 (Ford). Third, standard discussions also ignore the fact that, on several occasions, presidents have chosen or been forced by political circumstances to base their legislative strategies on the veto. Analyses of the Ford administration (Light, 1982, pp. 111-15; Wayne, 1978), for example, emphasize that a veto strategy was seen by the administration as a viable method for combating the combination of high inflation rates inherited from the Nixon administration and the liberal Democrats in Congress.

TABLE 1

The Politics of Presidential Vetoes: A Summary

	Public Bills Vetoed	Annual Average	Regular Vetoes	Override Attempts N	Override Attempts %	Successes N	Successes %
Overall							
Truman	83	10.8	53	22	41.5	11	50.0
Eisenhower	81	10.1	36	11	30.6	2	18.2
Kennedy	9	3.1	4	0	0	0	0
Johnson	13	2.6	6	0	0	0	0
Nixon	40	7.2	24	21	87.5	5	23.8
Ford	61	25.2	45	28	62.2	12	42.9
Carter	29	7.2	13	4	30.8	2	50.0
Total	316	8.8	181	86	47.5	32	37.2
President's Party Controls Congress							
Truman	53	9.5	39	13	33.3	5	38.5
Eisenhower	20	10.0	8	0	0	0	0
Kennedy	9	3.1	4	0	0	0	0
Johnson	13	2.6	6	0	0	0	0
Carter	29	7.2	13	4	30.8	2	50.0
Total	124	6.2	70	17	24.3	7	41.2
Opposition Party Controls Congress							
Truman	30	25.0	14	9	64.3	6	66.7
Eisenhower	61	10.2	28	11	39.3	2	18.2
Nixon	40	7.2	24	21	87.5	5	23.8
Ford	61	25.2	45	28	62.2	12	42.9
Total	192	12.0	111	69	62.2	25	36.2

The question then is whether it is possible to probe beyond conventional accounts of veto politics to specify the conditions which impel presidents to rely on this prerogative and thereby explain the variations observed in Table 1. Aside from the general discussions in textbooks on the presidency or Congress, few studies have examined this question. The research by Wayne, Cole, and Hyde (1979; see also Wayne, 1978, pp. 85-87) was designed to explore the manner in which recommendations from executive branch agencies influence presidential

decisions to approve or veto legislation. Although the primary focus of this work was devoted to the internal advisory process, these authors (1979, p. 313-14) acknowledged that the political environment can be expected to influence both the advice given to a president and the use of the veto. The political environment received more detailed scrutiny in the work of Lee (1975). This research adopted a broad historical perspective and attempted to explain the frequency of vetoes and override actions from the First to the Ninety-First Congress (1789-1970). The veto model formulated by Lee indicates that the frequency of vetoes and override actions depends, in part, upon the partisan control of Congress, the background and "style" of presidents, as well as the condition of the domestic and international political environment (pp. 538-46). Copeland (1983) conducted a similar time-series analysis. He reported that the use of the veto is influenced by split party control of the presidency and Congress, the state of the domestic economy, and the existence of international crises. While the identification of factors which impinge upon the use of the veto is valuable, the historical breadth of these analyses limits our ability to draw conclusions about the use of the veto in the era of the "modern" presidency (1945 to present; see Greenstein, 1978). Additionally, the politics of presidential vetoes since 1970 seem to contradict several of the conclusions drawn by Lee (see, in particular, Pious, 1979, p. 203).

In sum, given their differing intents, these studies are only tangentially relevant to the task of explaining the use of the veto by postwar presidents. With the exception of these studies, however, there has been little systematic effort devoted to identifying and assessing the impact of factors which impinge on the use of the veto. As such, the variation displayed in Table 1 remains unexplained.

The Congressional Response

Many of the same observations offered about the level of scholarly attention and effort devoted to the study of presidential vetoes applies with equal, if not greater, force to questions of how Congress responds to the exercise of the veto. Indeed, the only scrutiny given to the congressional response is the historical analysis conducted by Lee (1975). Other than this study, standard discussions simply describe the relevant rules of the game for overriding vetoes (i.e., two-thirds majorities in both chambers) and emphasize the fact that few vetoes are overridden by the Congress.

One aspect of veto politics that is frequently overlooked is the number of override *attempts*, and the variations in these attempts across presidential administrations. Again, the information presented in Table 1 is instructive. These data show that the percentage of override attempts (for regular vetoes of public bills) has varied quite markedly, ranging from no attempts during the Kennedy and Johnson administrations to 87.5 percent of President Nixon's vetoes. While it is clear that party control of Congress is an important factor in accounting for these

attempts, substantial differences (particularly in the case of opposition control) remain. The override attempt is but one aspect of the congressional response however. Table 1 reveals that for the five presidents involved, the *success* of the override attempts also exhibits substantial variation (from 18.2 percent for Eisenhower to 50 percent for Truman and Carter). Our objective in the next section is to offer a theoretical perspective that will identify the factors which can be used to account for these variations in each stage of the veto process.

A Theoretical Perspective on Presidential Vetoes and Congressional Responses

As our previous discussion indicates, there are three stages to the veto process: first, there is the president's decision on whether or not to veto; second, there is the decision within the congressional leadership on whether or not to attempt to override the president's veto; and third, there is the collective decision by each house of Congress on whether to override or sustain the veto. Our theoretical perspective must take account of the varying situations with respect to each of these stages, and so we will consider each of them in turn.

The Presidential Veto

With respect to the president's decision, we must ask what are the necessary and sufficient conditions for the president to choose to exercise his veto. In our view these are twofold. First, the president must be sufficiently dissatisfied with the content of the legislation in question to take the individual responsibility for preventing it from becoming law. Second, he must have some hope of seeing his veto sustained if Congress should attempt to override, *or* he must conclude that there is more political gain in the particular case from vetoing and being overridden than from simply signing the bill into law. It is not sufficient for a president to simply be dissatisfied with portions of the legislation, for that will almost always be the case. The legislative process is a process of compromise and accommodation of conflicting interests, and no individual actor will often get exactly what he or she wants. Indeed some of the aspects of the legislation that the president does not like may have been the price by which the president purchased the support of powerful members of his own or the opposition party for those aspects of the legislation that he did favor. Thus, for a president to choose to resort to the veto, the legislation in question must diverge sharply from the president's preferences. The frequency with which the president chooses to veto will be a function of the frequency with which the Congress produces legislation which is radically different from that which the president desires it to produce. Thus the existence of the first condition for a veto specified above will be a function of conditions in the political environment which make it more or less likely for the Congress to refuse to follow the legislative plans of the president, and of resources the president has at his disposal to influence the legislative process.

The more favorable the political environment and the more resources the president has available, the less likely it is that the president will have to choose to resort to the veto. We will now consider some specific aspects of the environment and of resources in some detail.

Presidential Resources. The proportion of seats in Congress held by the president's party is perhaps the most basic resource for generating outcomes favorable to the administration. As Light (1982, p. 26) has observed, "The base of presidential capital is always the number of party seats the president has in Congress." This observation is supported by empirical studies which show that roll call support for the president's legislative initiatives is greater among members of his party (Edwards, 1980). Moreover, control of Congress by his party affords the president an opportunity to work with a set of chamber and committee leaders that are more receptive and ideologically less hostile than would be the case if the opposition party controlled the Congress. In sum, while control of a large number of seats in Congress by the president's party provides no guarantee for the ultimate success of the president's program, it does make the task of persuasion less difficult and reduces the likelihood that Congress will produce legislation objectionable enough to prompt a veto. Accordingly, it is hypothesized that the frequency of presidential vetoes will be inversely related to the proportion of seats held in Congress by the president's party.

The second resource is the public standing of the president. Public standing is termed a presidential resource because there is persuasive evidence that public evaluations of presidential performance exert an impact on the partisan composition of Congress (via the citizen voting decision; see Kernell, 1977; Tufte, 1978; Fiorina, 1981; and Abramson, Aldrich, and Rohde, 1982) and the willingness of legislators to support the president on roll call votes (Edwards, 1976, 1980; Rivers and Rose, 1981).

A rationale for anticipating that public support will influence the use of the veto is presented in the work of Neustadt (1980). According to Neustadt, the power of a president is commensurate with his ability to persuade. Having associated power with persuasion, Neustadt further asserted that a president's ability to persuade is, in part, a function of his support among the public. In effect, this ability depends upon the perceptions of those who are the targets of the president's efforts. Herein lies the import of public support. It is one piece of information which shapes the perceptions of other decision-makers. According to Neustadt (1980),

Most members of the Washington community depend upon outsiders to support them or their interests. The dependence may be as direct as votes, or it may be as indirect as passive toleration. Dependent men must take account of popular reaction to their actions. What their publics may think of them becomes a factor, therefore, in deciding how to deal with the desires of a President. His prestige enters into that decision; their publics are part of his. Their view from inside Washington of how outsiders view him thus affects his influence with them. (P. 64)

It is in this sense that public support provides decision-makers with an indication of whether "it is wise or foolish to resist presidential persuasion" (Brody and Page, 1975, p. 136).

The president's reliance on the veto power is, in Neustadt's analysis, symptomatic of a failure to persuade. It suggests that the president was unable to convince congressional leaders to modify a bill, or to construct a coalition large enough to defeat the measure. As Neustadt (1980) argued:

A President of the United States can wield effective influence in many situations even though he has a balky Congress and seems short on popular appeal. Obviously, though, the less his demonstrated power at the Capitol, the more he is confined, downtown, to realms where sheer command proves workable. *The weaker his apparent popular support, the more his cause in Congress may depend on negatives at his disposal like the veto, or "impounding."* He may not be left helpless, but his options are reduced, his opportunities diminished, his freedom for maneuver checked in the degree that Washington conceives him unimpressive to the public. (P. 67, emphasis added)

This connection between presidential influence and public support leads to the empirical proposition that the use of the veto will vary inversely with the level of public support.²

The Political Environment. The first element of the political context that merits scrutiny is the electoral cycle. Research has suggested that there is an identifiable pattern to government policymaking when election and nonelection years are compared. For example, Tufte's (1978) work suggests that increases in transfer payments and entitlements tend to be legislated in election years while hikes in income taxes and other payments to government are reserved for years 1 and 3 of the electoral cycle. Moreover, the pressures of an election year can be expected to heighten the parochialism of Congress and the accompanying tendency of Congress to service clientele groups. As Mayhew (1974) has argued, congressional reliance on particularistic solutions and the distributive mode of operation often run afoul of the more universalistic and comprehensive programs preferred by the executive branch. Consequently, it is expected that an election year constitutes a situation which increases presidential attention to legislative matters and enhances the likelihood of executive-legislative conflict.

A second situation likely to generate conflict between the president and Congress also pertains to election year politics, but depends on partisan control

²Actually it would be better to say that veto use will vary inversely with resources (control of Congress and public support) within the range with which we are dealing. The second condition noted above for veto use is that the president has some hope of sustaining the veto. Obviously if resources fell to a low enough point (e.g., only 10 percent of the members of both houses of Congress were of the president's party), he would have little hope of sustaining vetoes and would probably resort less frequently to their use. Such fringe levels of resources are not observed empirically. Therefore, we choose to assume at this point that the second condition is satisfied with respect to resources and thus that the relationship between resources and veto use is purely inverse in our data set.

of Congress and public opinion as well. Since the New Deal, the major ideological division between the national political parties has revolved about economic and welfare policy with the Democrats advocating an interventionist position and Republicans articulating the principles of limited government and the free market. This fundamental difference is likely to be most acute and to exert its strongest influence on presidential decision making when the following three conditions hold: (1) the presidency and Congress are controlled by different political parties, (2) it is an election year, and (3) public attention is focused primarily on economic problems. When such circumstances prevail, both Congress and the president, responding to public concerns and the increased attention which politics receives in election years, can be expected to proffer alternative solutions to reduce anxiety about economic conditions. Thus, not only does presidential attention focus on problems pertaining to budgets, jobs, and price levels, but the institutional rivalry between president and Congress is reinforced by ideological disagreement. As Pious (1979, p. 203) noted, such conditions provide the president with an opportunity to use the veto "in order to define differences between the parties for forthcoming elections." Accordingly, it is expected that such a situation will result in greater use of the presidential veto.

The final component of the political environment hypothesized to influence the use of the veto is the involvement of the United States military in a major, ongoing conflict. In such a circumstance, it is expected that the president will be preoccupied with the management of the war effort and the increased diplomatic burdens which involvement in such conflicts creates. As a result, presidents will have less interest in, and pay less attention to, activities in the domestic legislative arena than would be the case during periods of "politics as usual." Because such conflicts will shift or divert the attention of the president, it is anticipated that the use of the veto will be reduced.

To summarize, our model of presidential vetoes is based upon the assumption that the use of this prerogative is a function of two general types of influences—presidential resources and prevailing circumstances in the political environment. With respect to resources, we have hypothesized that veto use is inversely related to both public support and the number of seats in Congress controlled by the president's party. In addition, we have identified three situations in the political environment which can be expected to affect the number of vetoes: (1) election years, (2) election years in which the opposition party controls Congress and public concern is fixed on economic problems, and (3) wars.

The Congressional Response

The analysis of the congressional decision to attempt an override is generally similar to that concerning the president's decision. The necessary and sufficient conditions are for substantial disagreement to exist (for which no alternative compromise can be worked out), and for the leadership to perceive that there is a

substantial chance of an attempt being successful or that failure may produce more political gain than not trying. Thus the decision will be affected by the same kinds of resource and environmental factors that we hypothesized to have an impact on the president's decision, as well as by additional factors specific to the Congress. A parallel argument will hold for the set of decisions by individual members of Congress that determine the success of an override attempt.

As with the exercise of the veto, the override attempt suggests a failure to persuade. Efforts to construct the extraordinary majorities required to override a veto indicate that the president was unable to persuade members of Congress to choose another, less confrontational, method for resolving the conflict. Similarly, it can be expected that the likelihood that members will support the override effort in the chamber will vary with presidential resources. A large number of seats in Congress controlled by the president's party would complicate the task of initiating the override attempt and building a winning coalition. In this circumstance, presidents can appeal to party ties and the necessity of avoiding intraparty conflict. Such appeals enhance the likelihood that the "one-third-one" blocking coalition can be built. As our discussion of public support for the president as a resource implies, both the president and association with the administration will be increasingly perceived as liabilities by members of Congress as public support declines. Accordingly, we would expect that demands for an override vote and the willingness of members to support the override effort will vary inversely with the level of presidential approval.

It is expected that the tendency of Congress to challenge the president's exercise of the veto prerogative will be sensitive to the political environment as well. By its very nature, a presidential veto activates an institutional rivalry with strong historical roots—the question of whether Congress or the president should have preeminent influence in the determination of public policy. It can be argued that the likelihood that Congress will assert its claim to prominence and defend its policy product is sensitive to both electoral politics and its experience with the presidential incumbent. First of all, the veto is likely to be perceived as a more severe weapon during election years in that its effect in blocking programs may be perceived by particular members as an immediate threat to their electoral prospects. Election years are a time when members of Congress are "united" in the sense that each is striving to satisfy constituent and interest group pressures in order to survive politically. Thus we are led to the expectation that the probability of override attempts and the success of those attempts will be greater, *ceteris paribus*, in election than in nonelection years. As in our analysis of veto frequency, we hypothesize that this effect will be more pronounced when the opposition party controls a greater number of seats in Congress and public concern focuses upon economic issues.

This distinction is not adequate, however, for characterizing the congressional response over the course of the four-year electoral cycle. It is also ex-

pected that Congress will grow more assertive in its relations with the president as the cycle progresses from year 1 to year 4. In year 1, the electoral mandate which presidents claim is "fresh." Moreover, given that most presidents enjoy high levels of public approval at the outset of the term, the strategy of appealing to the public in order to force compliance or acquiescence from Congress will be at its peak in the first year. As the electoral cycle progresses, the mandate which is claimed and the efficacy of presidential appeals to the public weaken. The fact that the president's party usually loses seats in the midterm election may strengthen the inclination of Congress to follow its own course. Thus, when coupled with the incentives toward assertiveness in election years, we would expect the likelihood of override attempts and override successes to increase over the four years of the cycle.

The involvement of the United States in major hostilities is anticipated to enhance the likelihood of these outcomes as well. The preoccupation of the president with managing the war effort will limit efforts to head off an override attempt, and result in a less personal and effective lobbying effort than if the president's attention was more concentrated on legislative politics. This situation will lead to more overrides and more successes. In sum, the nature of veto politics leads us to hypothesize that these elements of the political environment—the electoral cycle and wars—will influence the congressional response to presidential vetoes.

There exists another set of circumstances likely to influence the congressional response. These pertain more to the internal environment within the Congress than to external conditions such as war, public opinion, or the electoral cycle. More specifically, there are two aspects of the conflict which can be expected to exert an impact on the congressional response: the substantive character of the legislation and the voting alignment which occurs at the time the legislation is passed.

With respect to the substance of the legislation, analyses of congressional behavior have shown that there exist distinct and identifiable policy dimensions into which legislation can be classified, that member preferences and behavior vary across such policy dimensions, and that these dimensions differ with respect to their perceived salience and the amount of conflict they generate (Clausen, 1973; Fenno, 1973; Hinckley, 1983). Some issues are more likely to produce the kind of disagreement between the president and Congress that will lead to vetoes and override attempts than are others. For example, social welfare legislation frequently invokes strong partisan and ideological differences within the Congress. These issues relate to the differing electoral coalitions members from different parties and regions have constructed. These kinds of differences make it less likely that members will be able to find the compromises that will avoid vetoes or override attempts. "Pork barrel" issues like public works legislation, on the

other hand, are so widely supported and use such universalistic criteria for allocation that the kinds of sharp disagreements necessary to involve the veto process are unlikely to occur.

A second component of the internal environment is the voting or coalition alignment on passage of the bill. These coalitions provide the congressional leadership with a measure of how much effort will be required to override and the potential costs of the attempt. In this sense, the division of ayes and nays defines the prior probability of a successful override. Certain alignments can be expected to reduce the likelihood of an override attempt. For example, an authorization vote which finds party majorities in opposition will, in general, require that the coalition opposing the legislation (i.e., voting with the president) must be split by some means. Conversely, legislation which is supported by majorities in both parties presents an easier task in that the themes of consensus and institutional loyalty can be employed by leaders and no coalition needs to be broken. As such, we would expect that the likelihood of an override and its chances for success will vary according to the alignment which forms during passage of the bill.

To summarize, our intent in this section has been to identify the types of influences which can be expected to determine how Congress responds to a presidential veto. According to this discussion, the probability of an override attempt and the success of those attempts which occur are hypothesized to be a function of (1) presidential resources (public support and party control of Congress), (2) the external political environment (the electoral cycle, public concerns, and war), and (3) the internal environment or characteristics of the conflict (substance of the bill, voting alignments on passage).

The Presidential Veto Model

To create a statistical model based on our theoretical argument, we have compiled information on all presidential vetoes of public bills (both regular and pocket) and assembled a data set covering the period from April 1945 to December 1980.³ The unit of analysis employed in this phase of our study is the *complete legislative year*. Thus, the Truman vetoes of 1945 are not considered and the "split" presidential year of 1974 was treated as a single observation by summing the vetoes cast by Presidents Nixon and Ford. The result is an annual time series which spans the years from 1946 to 1980 ($N = 35$).

The dependent variable in the analysis, *VETO*, is defined as the number of regular and pocket vetoes of *public* bills issued by a president in a given year. Private bills were excluded from the analysis because of their specific character and the declining trend in such vetoes over the period under study (see Page and

³The veto information was obtained from U.S. Senate Library, *Presidential Vetoes 1789-1976* and from relevant editions of the *Congressional Quarterly Almanac* (Congressional Quarterly, Inc., 1945-80).

Petrocca, 1983, p. 253). The dependent variable ranges from a low value of zero (1964, 1969, 1979) to a maximum of 26 (1974). The mean of the variable for the entire time period is 8.82 with a standard deviation of 6.6.

With respect to the resource hypotheses, two measures were formulated. The variable *Public Approval* is defined as the *average, annual* proportion of the public who approved of the president's performance as recorded by the Gallup Poll.⁴ This variable was constructed by averaging the approval percentages for every Gallup presidential performance poll administered in a given year. To capture the impact which partisan control of seats exerts on the use of the veto, *Seat Proportion* is defined as the proportion of congressional seats (both House and Senate) controlled by the president's party.

A series of binary variables is employed to represent the situations in the political environment hypothesized to exert an impact on the use of the veto. The variables *Midterm Election Year* and *Presidential Election Year* are included to assess the use of the veto during election years. The former takes on a value of one in midterm years and is assigned a zero value for years 1, 3, and 4 in the election cycle; similarly, the latter is set equal to one in presidential election years and is zero otherwise.⁵

The binary variable *Economic/Political Context Interaction* is constructed to assess the impact which is posited to occur when the opposition controls Congress during those election years in which the economy is the focus of public attention. The following procedure was employed to ascertain when this last condition holds. First, for the period under study, all Gallup Polls which included the most important problem question were gathered.⁶ For each poll, the aggre-

⁴These and all subsequent references to Gallup Poll results have been gathered from the *Gallup Opinion Index* (1965-80) and the three-volume anthology entitled *The Gallup Poll: Public Opinion 1935-1971* (Gallup, 1972).

⁵It should be noted that we did experiment with alternative measures for both the control of Congress and election year variables. In the case of partisan control, the seat proportion measure performs better than a simple dummy variable designating whether the president's party controls Congress. Moreover, within our sample period (i.e., 1945-80), there are no instances in which each party controlled one of the chambers. This is a potentially troubling situation for either of these chamber control measures. Thus, including the Reagan administration will require a different specification.

The reader will note that unlike the congressional response models, the presidential veto model includes midterm and presidential election year dummies. The full electoral cycle variable was not included because of the correlation between the cycle variable and public approval when the unit of analysis is the legislative year rather than the individual veto. Alternative specifications of the veto model revealed, however, that years 1 and 3 do not change the expected number of vetoes or alter the results presented in Table 2.

⁶On 95 occasions between April 1945 and December 1980, the Gallup organization included the following item in its national survey: "What do you think is the most important problem facing the country today?" These responses serve as the basis for ascertaining the prominence of economic concerns.

gate responses were grouped into four categories: the economy, foreign affairs, war (i.e., Korea and Vietnam), and noneconomic domestic problems (e.g., civil rights, honesty in government). Third, annual percentages were obtained by averaging the percentages falling into each category for all polls conducted in a single year. These annual percentages were then compared to identify the years in which the proportion citing concern with economic issues was greater than the proportions citing each of the other three categories. The variable *Economic/Political Context Interaction* is set to one in those election years in which the economy, according to this procedure, was the most important problem and the opposition party controlled Congress.

The final situational variable, *International Conflict*, is designed to assess the proposition that U.S. involvement in major hostilities such as the Korean and Vietnam wars will divert presidential attention from the legislative arena and thereby reduce the use of the veto. The variable takes on a value of one during those periods in which the United States was engaged in fighting *throughout* the entire legislative year (i.e., 1951–52; 1966–72); otherwise, the variable assumes a value of zero.

Based upon the rationale offered in the previous section and these variable definitions, the operational version of our presidential vetoes model can be expressed as:

$$\begin{aligned} \text{VETO}_t = & \beta_0 + \beta_1(\text{Public Approval}) + \beta_2(\text{Seat Proportion}) \\ & + \beta_3(\text{Midterm Election Year}) + \beta_4(\text{Presidential Election Year}) \\ & + \beta_5(\text{Economic/Political Context Interaction}) \\ & + \beta_6(\text{International Conflict}) + \text{ERROR} \end{aligned}$$

where, according to our explanation, it is expected that

$$\beta_3, \beta_4, \beta_5 > 0 \quad \text{and} \quad \beta_2, \beta_1, \beta_6 < 0.$$

The parameters of this model were estimated using ordinary least squares and the results are displayed in Table 2. Because of the rather small number of cases, special attention was paid to evaluating the plausibility of these results.⁷ First, the predicted values of VETO generated by the model were examined to determine if any negative (and thus nonsensical) predictions were produced. The absence of such results bolsters our confidence in the plausibility of the model. Second, the residuals were examined and, as the reported Durbin-Watson statistic indicates,

⁷ An alternative approach to estimating the model would be to define the dependent veto variable as the *proportion* of public bills vetoed. This approach has several drawbacks however. The range of the resulting variable would be quite restricted varying from zero to a maximum of approximately 6 percent (in 1974) and, as a result, would require the use of an estimation technique designed for variables that are both bounded and restricted (e.g., two-limit tobit). Because of the small sample size, the loss of simplicity in interpreting tobit estimates, and the reasonable results produced by OLS estimation, this alternative was not pursued.

TABLE 2
The Presidential VETO Model

Variable	Coefficient	t Ratio	Beta	Impact Range	
Public Approval	-0.127*	-2.81	-.257	-9.65	-3.59
Seat Proportion	-0.279*	-4.59	-.430	-18.93	-9.46
International Conflict (Korea, Vietnam)	-6.150*	-4.54	-.409	-6.15	0
Midterm Election Year	6.769*	4.74	.450	0	6.77
Presidential Election Year	2.656	1.83	.177	0	2.66
Economic/Political Context Interaction	7.852*	3.45	.335	0	7.85
Constant	28.628*	6.85			
R-square			.80		
Mean dependent variable			8.83		
Standard deviation of dependent variable			6.66		
Standard error of regression			3.30		
Durbin-Watson <i>d</i>			2.43		
<i>N</i>			35		

*Denotes that the estimated coefficient is statistically significant (.05 level).

serial correlation and the accompanying inferential problems which it introduces (Ostrom, 1978) do not appear to be a problem.⁸ Finally, the results of several alternative specifications were examined, and in no instance did the quality of the estimates or fit of the models improve upon those which appear in Table 2.⁹

⁸Several diagnostic procedures were employed to reach this conclusion. First, we used the Durbin-Watson *d* statistic to test for the presence of serial correlation. In this instance, the test is for negative serial correlation. The value of the *d* statistic is 2.43 and, using the 1 percent level, falls (albeit marginally) into the "inconclusive region" (the lower bound in this case is 2.41). While this suggests that there is no serious problem with serial correlation, we also estimated the first-order autocorrelation coefficient using an ARIMA program. This produced a statistically insignificant value of $-.17$, well below the value ($\pm .3$) at which reestimation becomes advisable. Finally, the ARIMA procedure was used to test for higher-order autoregressive processes and, in every instance, the results were negative.

⁹Following the suggestion of one reviewer, we also eliminated pocket vetoes from the annual veto count and estimated the model on regular vetoes only. Interestingly, these results were quite similar to those presented in Table 2. Excepting the presidential election year measure, all variables were statistically significant in the predicted direction. The only noteworthy differences were slight changes in the magnitudes of the estimated coefficients; the three significant binary variables exerted a smaller impact on the frequency of regular vetoes, while the impact of public support was marginally greater than the estimate reported in Table 2.

Thus, given the number of time points, the estimates are quite satisfying. The signs of all coefficients conform to our hypotheses, and with the exception of the coefficient for Presidential Election Year all coefficients are statistically significant. Further, the six variables account for 80 percent of the total variance in VETO with the standard deviation of the residuals equal to 3.30, half the standard deviation of the dependent variable (6.66). Our examination of the residuals indicates that in 19 of 35 cases, the predicted values are within two points of the observed number of vetoes. There are only five cases (1947, 1956, 1962, 1978, and 1979) in which the error is greater than five points. Overall then, the comparison of actual and predicted values indicates that the fit of the model is satisfactory.

Turning to an interpretation of these estimates, the impact of the variables can be assessed by reference to the partial regression and beta coefficients as well as the impact range of each variable. This last measure specifies the minimum and maximum values of the quantity $b \times \text{variable value}$ —where b is the partial regression coefficient and variable value refers to the maximum and minimum values which each variable assumes in the sample. The impact range thus indicates the maximum and minimum number of vetoes that each variable, when weighted, adds to (or subtracts from) the expected value of VETO. This information reveals that five of the six variables exert a rather substantial impact on the exercise of the veto. The expected number of vetoes will decrease by more than 9 during years in which the president's party's strength in Congress matches the highest level during this period (about two-thirds) compared to the lowest level (about one-third). The number will increase by 8 during election years in which the opposition controls Congress and the public is most concerned about economic problems. Furthermore if the conditions required by the Economic/Political Interaction variable hold in midterm years, the expected number of vetoes will increase by approximately 14 (6 for the normal midterm impact plus the 8 predicted by the confluence of opposition control and economic concerns with the election year). Both the magnitude and t ratio of the coefficient for presidential election years suggests that those events do not exert an independent impact on the use of the veto.

According to the estimates, the involvement of the United States in the Korean and Vietnam wars reduced the expected number of vetoes by approximately six in each complete year of those conflicts. Finally, the coefficient and impact range reported for Public Approval imply that the expected number of vetoes will be reduced from a maximum of nine to a minimum of three as public support declines. Stated somewhat differently, declines in approval maintain the potential to increase the number of vetoes by approximately six per year.

To summarize, the results presented in this section provide a substantial foundation for concluding that the use of the veto is amenable to systematic analysis, and that such use varies according to the resources of the president and the character of the political environment. Given the level of aggregation at

which this analysis is conducted, the model demonstrates the manner in which political considerations impinge upon presidential decision making. Most noteworthy in this regard is the influence which public support exercises on the use of the veto. As Neustadt originally observed in 1960 and as our results imply, the level of public support does affect the leeway and alternatives available to the president. In this sense, our analysis provides supporting evidence for a proposition which has, in effect, remained untested for over twenty years.

The Congressional Response Models

To test the propositions we have offered concerning the congressional response to presidential vetoes, two models will be specified and estimated. The first is a model of congressional override attempts and is designed to predict whether such attempts will occur. Accordingly, we define the variable OR_j as the override response to presidential veto j ; OR_j assumes a value of one if Congress attempts to override the veto and is zero if no attempt occurs. To assess the override model, we have compiled information on all *regular* vetoes of *public* bills from the outset of the Truman administration (April 1945) through the presidency of Jimmy Carter (December 1980). The result is a data set of 181 cases in which the regular veto of a public bill serves as the unit of analysis. The intent of our second model is to predict whether a given override attempt will be successful. The dependent variable for this portion of the analysis, S_j , is also a binary measure and denotes whether the override attempt of veto j was successful. The data set that will be employed to evaluate this model is a subset of the one employed in analyzing the override attempts model, and consists of all attempts initiated by the Congress between April 1945 and December 1980 ($N = 86$). According to our characterization of the congressional response, both the override attempts and their success will be determined by the same set of factors. As such, the independent variables described below will be included in both the attempts and success equations.

The variable *Public Approval* is designed to test the proposition that the congressional response will be sensitive to the level of public support for the president. It is defined as the proportion of the public who approve of the president at the time the veto was issued. The value is taken from the most proximate Gallup Poll *preceding* the veto. The variable *Seat Proportion* is defined the same as above.

To evaluate the hypothesis that the congressional response will grow more assertive over the course of the electoral calendar, the variable *Electoral Cycle* was created. The values represent the year (1 through 4) in the electoral cycle in which the veto (or override attempt) occurred. According to our hypothesis, the probability of an override attempt and the success of an attempt will increase as Electoral Cycle increases. The *International Conflict* and *Economic/Political*

Context variables are defined in a manner similar to their counterparts in the yearly analysis of presidential vetoes. *International Conflict* is assigned a value of one if the United States was involved in the Korean or Vietnam wars at the time of the veto and is zero otherwise. Similarly, *Economic/Political Context* assumes a value of one if the three underlying conditions of election year, opposition control, and public concern about the economy hold at the time of the veto and is equal to zero if one or more of these conditions are not satisfied. The values of both of these coefficients are expected to be positive.

Four binary variables were created to assess the impact which the substantive nature of the legislation exercises on the congressional response to presidential vetoes. Four issue areas were defined: Social Welfare/Economics; Civil Rights and Liberties; Foreign Policy; and Government Management. A variable was created for each issue area which took on a value of one if the vetoed bill pertained to that area. The following procedure was employed to create these variables. First, using the information provided in annual editions of the *Congressional Quarterly Almanac* and presidential veto messages, all regular vetoes of public bills were examined and placed in one of 26 specific policy categories. Second, using Clausen's (1973; Clausen and Van Horn, 1977) analysis as a guide, the 26 specific categories were combined into five more general policy domains which are constructed to be mutually exclusive and exhaustive.¹⁰ In the analysis which follows, the pork barrel category is suppressed and obtains when the four binary variables assume the value of zero.

It is hypothesized that because of their salience and relevance to both party alignments and competing philosophies about the role of government, vetoes which fall into the social welfare and economics domain should prompt the most intense congressional response. Further, it is anticipated that vetoes involving issues pertaining to government management, because of their lower salience and indirect connection to party alignments, will not generate substantially greater probabilities of congressional action as vetoes in the other domains. Finally, we would expect the impact of the civil rights and foreign policy categories to fall between the government management and social welfare extremes.

With respect to voting alignments, there are four conditions which are hypothesized to influence the congressional response. The first is the party loyalty vote. Such an alignment occurs when majorities in the congressional parties take

¹⁰ A list of these 26 categories was presented in the earlier version of this paper and can be obtained from the authors. It should be observed that the domains employed in this analysis do not strictly conform to Clausen's categories for several reasons. First, there were not a sufficient number of agriculture policy issues to justify the creation of a separate category. Second, the same holds true for the environmental dimension reported in Clausen and Van Horn (1977). Finally, an effort was made to reduce the generality of the government management dimension by creating the pork barrel category to include legislation obviously designed to be particularistic and distributive.

opposing positions on a roll call vote. Under such circumstances, it can be expected that the probability of both override attempts and the success of override votes will be reduced owing to the fact that such actions would probably require splitting the coalitions which form at the time of authorization, and this would be difficult to achieve. To examine this hypothesis, *Party Loyalty* is defined as a binary variable which takes on a value of one when party majorities in either one or both chambers are opposed on the final passage vote and is zero otherwise.¹¹

A second alignment posited to have a similar effect on congressional responses is the conservative coalition vote. This situation occurs when a majority of nonsouthern Democrats opposes majorities of both Southern Democrats and Republicans. *Conservative Coalition* is constructed such that the variable takes on a value of one if such a coalition is observed on passage in either one or both chambers and is zero otherwise.¹²

The third alignment to be included in the models occurs when majorities of both parties vote in favor of the legislation vetoed by the president. Because in this case the exercise of the veto seeks to negate not just party majorities but institutional majorities, the occurrence of such an alignment is expected to increase the likelihood of an override attempt as well as the probability that such an attempt will be successful. The variable *Bipartisan* is defined to assume a value of one if such an alignment is observed in either one or both chambers; it is set to zero whenever such bipartisan majorities do not form.

The final voting condition included in this analysis occurs when passage of the bill in question is not subjected to a recorded vote. We interpret such a situation as a reflection that the legislation is seen by congressional decision-makers as somewhat less consequential and salient than bills on which recorded votes are taken. If this supposition holds, then we would expect that the veto of such bills would not trigger the reaction which occurs when the president attempts to block more visible and salient legislation. For this reason, the variable, *Nonrecorded*, is included in both the attempts and success equations. The variable is assigned a value of one if a nonrecorded authorization vote occurs in either one or both chambers and is zero otherwise. Due, however, to procedural changes such as recorded teller voting and the computerized system for balloting, we expect this argument to be more relevant during the period preceding these changes. Ac-

¹¹The condition that such a coalition might be observed in either one or both chambers was explored. For example, we defined one variable to denote whether the alignment formed in one chamber only and a second variable to denote whether the alignment was observed in both chambers. The use of this latter operationalization did not substantially alter the results reported below.

¹²It should be noted that party loyalty and conservative coalition votes are neither identical nor mutually exclusive. It can be hypothesized therefore that alignments which satisfy both sets of criteria would reduce the likelihood of attempts and override successes over and above the impact registered by either alignment alone. Efforts to examine this proposition were hampered due to the fact that the number of such combined votes in the sample was very small. Thus, a reliable statistical comparison of the separate and combined effects could not be obtained.

cordingly, we constructed separate nonrecorded variables for the 1945–70 and 1971–80 periods, respectively.¹³

Given these variable definitions, our explanation of the congressional response to presidential vetoes asserts that the probability of an override attempt as well as the probability that an attempt will be successful will vary with (1) presidential resources (Public Approval and Seat Proportion), (2) the external political environment (International Conflict, Electoral Cycle, and Political/Economic Context), and (3) the internal environment, which includes the substantive nature of the conflict and the voting alignment observed at the time of passage.

As defined, the two variables which measure the congressional response, OR_j and S_j , are dichotomous and assume a value of one when an override attempt and successful override respectively occur. This implies that the conventional method of multivariate estimation, ordinary least squares regression, is inappropriate because it produces a number of statistical and inferential problems (see Aldrich and Cnudde, 1975). As a result, the attempts and success equations are estimated using probit, a maximum likelihood procedure. (For a more technical exposition of probit, see McKelvey and Zavoina, 1975; Aldrich and Cnudde, 1975; and Pindyck and Rubinfeld, 1981, pp. 280–87.) The estimates for the parameters of the attempts and success models are generated by an iterative maximum likelihood procedure. In addition to the maximum likelihood estimates (MLEs), the probit technique provides estimates for the standard errors of the MLEs and several measures which can be employed to assess goodness of fit. Conventional hypothesis tests can be performed by dividing the estimated coefficients by their respective standard errors (MLE/SE); the resulting ratio has a standard normal distribution.

The results for both the attempts and success models are displayed in Table 3.

¹³It should be noted that, as defined, the four roll call variables do not form mutually exclusive and exhaustive categories. The criterion used to create these variables was that a particular roll call outcome occur in either one or both chambers. This results in the following distribution of vote types:

House	Senate			
	Not Recorded	Bipartisan	Party Loyalty	Conservative Coalition
Not Recorded	91	6	5	0
Bipartisan	16	11	4	0
Party Loyalty	9	5	16	1
Conservative Coalition	2	6	2	7

This procedure means that on particular bills (i.e., those not falling on the main diagonal), two of the alignment variables will assume nonzero values.

We also investigated two alternative measurement strategies. First, the off-diagonal cells in the table were ignored and four variables were defined such that an alignment had to occur in both chambers. Second, we incorporated the mixed vote cases by defining a dummy variable for all but one of the nonzero cells in the above table. In neither instance were the results as robust as those presented in Table 4.

TABLE 3
Congressional Override Models

Variable and Type	Attempts		Success	
	MLE	MLE/SE	MLE	MLE/SE
Resources				
Public Approval	-0.028*	-2.70	-0.045*	-2.12
Seat Proportion	-0.042*	-2.61	-0.024	-0.88
Political context				
International Conflict (Korea, Vietnam)	0.691*	1.96	0.437	0.96
Electoral Cycle	0.023	0.17	0.472*	2.20
Economic/Political Context	-0.590	-1.75	-0.184	-0.38
Policy domains				
Social Welfare/Economics	1.079*	2.46	0.225	0.45
Civil Rights and Liberties	0.326	0.63	-0.132	-0.20
Foreign Policy	0.506	0.88	-0.020	-0.02
Government Management	-0.641*	-2.05	-0.836	-1.42
Passage coalitions				
Conservative Coalition	-1.077*	-2.04	-0.062	-0.10
Bipartisan	0.836*	2.52	0.801*	1.83
Party Loyalty	-0.099	-0.23	-1.634*	-2.78
Nonrecorded, pre-1971	-1.232*	-2.58	-0.437	-0.66
Nonrecorded, post-1970	-0.646	-1.50	-0.088	-0.15
Constant	3.900*	2.79	1.768	0.78
Percent correctly predicted		81.8%		77.9%
Null prediction		52.5%		62.8%
-2 × LLR		108.22 ⁺		36.86 ⁺
N		181		86

*Denotes that the MLE estimate is statistically significant (.05 level).

⁺Denotes that the chi-square value is statistically significant (.001 level).

The coefficient estimates produce a rather interesting picture of veto politics. In the case of override attempts, the results show that eight variables significantly influence the decision. Both resource variables (Public Approval and Seat Proportion) decrease the likelihood of an attempt as they increase in value. A government management issue, the appearance of a conservative coalition on passage and a nonrecorded vote on passage (before 1971) also decrease the probability of an override attempt. A social welfare/economic issue, an interna-

tional conflict or a bipartisan coalition on passage are, on the other hand, all positively related to override attempts. The signs for all of these variables are in the predicted direction. Regarding the other variables, civil rights and foreign policy issues do have an intermediate impact on attempts relative to the other two issue areas, with neither systematically affecting the result. Nonrecorded votes after 1970 have the correct sign but, as anticipated, a lesser impact than before. Both party loyalty votes and the electoral cycle have the correct sign, but both have negligible effects. Only economic/political context has a sign opposite to what was predicted, but it too is not significant.

Turning to the success equation, four variables have statistically significant coefficients. The level of presidential approval is inversely related to the probability of a successful override, as is the existence of a party loyalty vote on passage. Both the electoral cycle and a bipartisan coalition are positively related to success. These are all in the predicted direction. A comparison of the attempt and success models reveal both differences and similarities. Public support for the president exerts a significant impact in the predicted direction on both the decision and the outcome. The impact of the substantive nature of the conflict as well as the partisan control of Congress appear to be restricted to override attempts. In effect, the nature of the policy domain appears to influence the decision of the congressional leadership on whether to choose to confront the president, but appears to have no *additional* effect on the collective decisions of individual members. Similarly, opposition strength matters on the override attempt decision because this decision is made primarily by *opposition* leaders in that case, but again does not seem to have an *additional* impact on success.

Responsiveness to the electoral calendar is registered on the outcome of the override vote but not the decision to initiate. That is, it seems to affect the decisions of the members on override attempts, but not on the leaders' decision to make the attempt. Finally, the bipartisan voting alignment exercises a strong impact on both attempts and successes. This suggests that we were correct in arguing that a bipartisan institutional majority will make it more difficult for the president to split the supporting coalition to secure the votes needed to sustain. An element of *institutional* rivalry may also work against the president in such instances. Conservative coalition and nonrecorded passage only affects attempts, while party loyalty votes only affect success. Perhaps the most important point to note is that *all but one* of the variables hypothesized to be statistically significant are significant and in the correct direction in at least one of the two congressional equations. The sole exception is economic/political context.¹⁴

¹⁴As an alternative to separate attempts and success equations, we estimated a single equation with a trichotomous dependent variable (no attempt, veto sustained, veto overridden). Interestingly, the results of this exercise parallel those presented in Table 4. With the exception of the political-economic context variable and the civil rights and foreign policy domains, all variables were statistically significant in the proper direction. The explanatory power and overall fit of this equation was not as good as those produced by the separate equations however.

The coefficient estimates suggest that responses to presidential vetoes are not idiosyncratic outcomes. Rather, the decision to override and the collective result of that choice are a function of presidential resources and the political environment. It is the configuration of resources, external conditions, and voting alignments on substantive policy which determine whether confrontations between president and Congress will occur. This conclusion is reinforced when we consider the performance and overall fit of the models. The performance of the models can be evaluated by focusing upon the summary statistics presented in Table 3. The measure $-2 \times \text{LLR}$ ($\text{LLR} = \log \text{likelihood ratio}$) is used to assess the overall statistical significance of the estimates in each equation. This measure is based upon a comparison of the likelihood function (see McKelvey and Zavoina, 1975) evaluated at the estimated values of the coefficients *and* the value of the function when all parameters are assumed to be zero. Values of $-2 \times \text{LLR}$ are distributed as a chi-square variable and are analogous to the F statistic conventionally calculated in multiple regression applications. The values of $-2 \times \text{LLR}$ reported in Table 3 indicate that the null hypothesis (i.e., all coefficients are equal to zero) can be rejected.

We can also focus upon the proportion of correct predictions to evaluate the models. An interesting assessment can be made by comparing two quantities. The first is the percentage of correct predictions generated by each model. As with most summary statistics, these proportions (81.8 percent in the case of attempts and 77.9 percent for override successes) are not very meaningful unless they are compared to some benchmark or null model prediction. For example, a model which correctly classifies 80 percent of the cases would be more impressive if evaluated against a null model prediction of 50 percent rather than 75 percent. The second quantity used in our evaluation provides such a comparative standard. The null predictions reported in Table 3 are obtained by assuming that all cases fall into the largest response category of the dependent variables. The proportion of cases which are consistent with this assumption then serves as a benchmark prediction. To illustrate, of the 181 regular vetoes of public bills in our data set, there was no override attempt in 95 instances (52.5 percent); the baseline prediction that *no* override attempts will be initiated results in a correct prediction rate of 52.5 percent. Similarly, the null model's assumption that no override attempts will be successful produces a correct prediction rate of 62.8 percent.

The comparisons presented in Table 3 indicate that, for both override attempts and successes, the predictions of the estimated models improve substantially upon those which are generated by the null model. Some additional information for assessing the performance of the models is provided in Table 4, which displays the type of correct and incorrect predictions generated by the model for each presidential administration included in the analysis. The table shows that the ability of the models to explain how Congress responds to the veto does not

TABLE 4

Evaluating the Predictions of the Congressional Override Models

Override Attempts					
President/ Policy Domain	Attempt Correctly Predicted	No Attempt Correctly Predicted	Attempt Predicted Incorrectly	No Attempt Predicted Incorrectly	Percent Predicted Correctly
Truman	15	28	3	7	81.1%
Eisenhower	8	22	3	3	83.3
Kennedy	0	4	0	0	100.0
Johnson	0	6	0	0	100.0
Nixon	20	0	3	1	83.3
Ford	26	10	7	2	80.0
Carter	1	7	2	3	61.5
Welfare/economic	37	0	4	0	90.2%
Civil rights	7	1	2	0	80.0
Foreign policy	5	4	0	1	90.0
Government management	10	48	6	9	79.5
Pork barrel	11	24	6	6	79.5
Override Success					
President/ Policy Domain	Success Correctly Predicted	Failure Correctly Predicted	Success Incorrectly Predicted	Failure Incorrectly Predicted	Percent Predicted Correctly
Truman	8	8	3	3	72.7%
Eisenhower	1	9	0	1	90.9
Nixon	4	15	1	1	90.5
Ford	6	12	4	6	64.3
Carter	2	2	0	0	100.0
Welfare/economic	12	20	2	3	86.5%
Civil rights	2	3	1	1	71.4
Foreign policy	0	5	0	1	83.3
Government management	3	10	3	3	68.4
Pork barrel	4	8	2	3	70.6

vary dramatically across administrations. In the case of override attempts, the lowest prediction rate is for the Carter administration (5 of 13 incorrect); the remaining administrations fall in the range of 80 to 100 percent. For the success model, the rates are somewhat more scattered (ranging from 64.3 to 100 percent). However, the table also shows that there is no suspicious pattern or clustering in the types of prediction errors in either model (i.e., attempt/success predicted incorrectly; no attempt/failure predicted incorrectly). Similarly, Table 4 presents the models' performance across policy areas, and again the models exhibit good predictive capability across these categories. Thus, with respect to the overall performance, the results contained in Tables 3 and 4 are very satisfying.

The evaluation of a model's performance must also consider the plausibility of the estimated coefficients. The assessment and interpretation of the coefficients generated by probit is not as straightforward as the case of regression coefficients however. Consequently, as an aid to assessing the impact and plausibility of the estimates, we performed a simulation for both the attempts and success models.

These simulations were constructed as follows. First, we selected all but nonrecorded vote and international conflict from among the eight significant variables in the attempts equation (more than six would have been unmanageable to present), and all four significant variables from the success equation. Second, we employed the binary variables which were included for each equation to construct scenarios based on their combination (e.g., government management issue with a conservative coalition). Third, these scenarios were further elaborated by categories of another variable: in the case of the attempts equation three levels of seat proportions were used (40, 50, and 60 percent), while for the success equation the four values of electoral cycle were employed. This resulted in 27 scenarios in the case of override attempts and 12 for the model of override successes. Fourth, within each scenario, the level of public approval was varied by increments of ten points from 30 to 70 percent. Fifth, the variable values which correspond to each scenario were used in conjunction with their respective MLE coefficients to calculate predicted values for the probabilities of an override attempt and a successful override, respectively.¹⁵ Finally, to clarify the impact which public approval exerts on override attempts and successes, a "threshold" value was calculated for each scenario. This quantity represents the level of approval that is necessary to change the prediction within each scenario.

The results of these procedures are displayed in Tables 5 and 6. The impact of public support can be observed in both tables by comparing the cell entries across each scenario; the impact of the different scenarios for a particular level of

¹⁵ Although the electoral cycle variable was not statistically significant in the override attempts model, the manner in which this variable was defined (i.e., 1, 2, 3, or 4) requires its use in the simulation. Our decision was to hold CYCLE constant at its mean sample value of 2.6 for every case in the simulation.

TABLE 5

Predicting Congressional Override Attempts: A Simulation

Scenario	Public Approval					Threshold
	30%	40%	50%	60%	70%	
60% of Seats	.72	.62	.51	.41	.30	51.2%
Conservative Coalition	.32	.22	.15	.09	.06	12.7%
Bipartisan	.92	.87	.81	.72	.62	81.1%
Government Management	.48	.38	.28	.19	.12	28.4%
Conservative Coalition	.13	.08	.05	.03	.01	— ^a
Bipartisan	.78	.69	.59	.48	.37	58.2%
Social Welfare/Economics	.95	.92	.87	.80	.71	89.8%
Conservative Coalition	.72	.62	.51	.41	.30	51.2%
Bipartisan	.99	.98	.97	.95	.92	— ^a
50% of Seats	.84	.77	.67	.57	.46	66.3%
Conservative Coalition	.48	.37	.27	.19	.12	27.7%
Bipartisan	.97	.94	.90	.84	.77	96.1%
Government Management	.64	.53	.43	.32	.23	43.3%
Conservative Coalition	.24	.16	.11	.06	.03	4.8%
Bipartisan	.89	.82	.74	.64	.53	73.2%
Social Welfare/Economics	.98	.96	.94	.89	.83	— ^a
Conservative Coalition	.84	.77	.67	.57	.46	66.3%
Bipartisan	.99	.99	.99	.98	.96	— ^a
40% of Seats	.92	.87	.81	.72	.62	81.3%
Conservative Coalition	.64	.53	.42	.32	.22	42.7%
Bipartisan	.99	.98	.96	.92	.87	— ^a
Government Management	.78	.69	.59	.49	.38	58.4%
Conservative Coalition	.39	.29	.20	.13	.08	19.8%
Bipartisan	.95	.91	.86	.78	.69	88.2%
Social Welfare/Economics	.99	.99	.97	.95	.92	— ^a
Conservative Coalition	.92	.87	.81	.72	.62	81.3%
Bipartisan	.99	.99	.99	.99	.98	— ^a

^aActual threshold level is beyond the range of the approval variable.

TABLE 6

Predicting the Success of Congressional Override Attempts: A Simulation

Scenario	Public Approval					Threshold
	30%	40%	50%	60%	70%	
Year 1	.38	.22	.11	.05	.02	23.1%
Party Loyalty	.03	.01	.003	.001	.001	— ^a
Bipartisan	.69	.52	.34	.20	.10	40.9%
Year 2	.56	.39	.23	.12	.05	33.6%
Party Loyalty	.07	.03	.01	.003	.001	— ^a
Bipartisan	.83	.69	.52	.35	.20	51.4%
Year 3	.73	.57	.40	.24	.12	44.1%
Party Loyalty	.16	.07	.03	.01	.003	7.8%
Bipartisan	.92	.84	.70	.53	.36	61.9%
Year 4	.87	.74	.58	.41	.25	54.6%
Party Loyalty	.30	.16	.08	.03	.01	18.3%
Bipartisan	.97	.93	.84	.71	.54	72.4%

^a Actual threshold level is beyond the range of the approval variable.

public support can be assessed by reading downward and comparing the probabilities associated with different configurations of the variables.

We will not burden the reader with a description of every scenario, but merely point out some salient features. In the override attempts simulation there are scenarios in which the probability of an attempt approaches certainty. Specifically, with 40 percent of the seats controlled by the president's party, a social welfare issue, a bipartisan coalition and presidential approval at 30 percent, the predicted probability of an attempt is .99. In this situation approval has little impact, because even at the 70 percent approval level the probability of an attempt is .98. Indeed, environmental factors clearly loom very large here (when they are all against the president), because even when the president's party controls 60 percent of the seats and his approval is at 70 percent, but the other variables are as above, the probability of an attempt still reaches .92.

When the president has the benefit of the environmental variables (government management issue and conservative coalition vote), but is weak in resources (40 percent of seats and 30 percent approval), the probability of an at-

tempt is .39. This demonstrates that the resource variables have a noticeable impact, although not nearly as large as the extreme values of the environmental variables. Anchoring the other end of the scale, when both the environmental variables and the resource variables favor the president, the probability of an attempt is virtually nil (.01).

Looking at the variables individually, two points are worth noting. First, the social welfare/economics issues are very "powerful." In the case of this variable (without controlling for the nature of the coalition) the probability of an override varies from high to almost certain. Even when the president's party controls 60 percent of the seats and his approval is at 70 percent, the probability of an attempt is .71. Second, bipartisan majorities are also potent. When such a majority is present at passage, there are few instances in the simulation where the probability of an override attempt falls below .5.

Regarding the success simulation, all four variables have major effects. At one end of the scale (year 1, party vote, 70 percent approval) the predicted probability of an override is only .001, while at the other end (year 4, bipartisan vote, 30 percent approval) the chances of success approach certainty (.97). The power of the approval variable is demonstrated within the scenario in which the other variables are most against the president (year 4, bipartisan vote), for the probability of an override falls from the peak value of .97 at the 30 percent approval level to only .54 at the 70 percent approval level.

It is interesting to note what these results tell us about the resource demands that are placed on the president as the electoral cycle unfolds. This can be seen by comparing the threshold values at the end of each line in Table 6:

	<i>Year Only</i>	<i>Year/Party Loyalty</i>	<i>Year/Bipartisan</i>
Year 1	23.1%	—	40.9%
Year 2	33.6%	—	51.4%
Year 3	44.1%	7.8%	61.9%
Year 4	54.6%	18.3%	72.4%

Here we can see the import of party-based coalitions; under most circumstances, these "insulate" the president from successful overrides; however, in the other instances, the president must increase his support (in each year) if he is to avoid successful overrides; years 1 and 2 do not appear to be particularly demanding in this regard but years 3 and 4 are tougher (particularly in the case of a bipartisan coalition). It is important to note that Eisenhower was the last president to exceed 72.4 percent approval in year 4; moreover, neither Ford nor Carter exceeded the 54.6 percent level in year 4.

Summary and Conclusions

We have presented in this paper an initial attempt at a systematic analysis of the veto process. We have argued that outcomes at all three stages of the process—the veto decision, the override attempt, and the success of those at-

tempts—depend upon the state of the political environment and the prevailing resources of the president. The environmental factors hypothesized to be important were the stage of the electoral cycle, a situation in which the opposition party controlled Congress during an election year in which the economy was the most salient issue, and the involvement of the United States in an international conflict. The relevant presidential resources were the proportion of congressional seats controlled by the president's party and the level of public support for the president. In the case of the congressional response to presidential vetoes, two features which characterize the environment within Congress were also considered to be influential: the policy domain of the vetoed legislation and the voting alignment which prevailed at the time of passage.

The empirical analysis provided general support for our arguments, but not for every specific point. In the presidential veto analysis, the overall fit of the model was very good, all of the relationships were in the predicted direction, and all but one of the variables were statistically significant. The analysis demonstrates that reliance on the veto prerogative is quite sensitive to presidential resources as well as the conditions which breed conflict between the legislative and executive branches. In the analysis of the congressional response, the performance of the models was again good. Particularly impressive was the explanatory power of the models. As evidenced by the simulations, the estimates of the coefficients were substantively plausible. Presidential approval and bipartisan coalitions at the time of passage had strong impacts at both stages of the congressional response; the formation of the conservative coalition and both social welfare and government management issues exerted significant influence on override attempts, while partisan coalitions and the electoral cycle were important in predicting the success of override attempts. Moreover, the models were quite effective in accounting for the pattern of override attempts and successes during a 36-year period; there were no systematic errors across presidential administrations or policy domains.

Several conclusions and implications can be drawn from this research. The first pertains to the value of public support as a resource in the halls of Congress. The estimates show that public support is a significant influence on both the probability of an override attempt and the probability that the attempt will be successful. The simulations reveal that, in many instances, public support will help the president overcome or neutralize the minority status of his party in Congress or an otherwise adverse environmental situation. As such, these results expand our current understanding about the relationship between public support and presidential effectiveness in Congress. Prior research (e.g., Edwards, 1980; Rivers and Rose, 1981; Light, 1982) emphasizes that public support is a necessary ingredient for the passage of the president's initiatives. Obtaining congressional approval is not the only legislative concern of presidents however. Quite often, the ability of presidents to prevent the Congress from acting is also

critical to the electoral or ideological goals of an administration. This was certainly the case in such instances as Truman and the Taft-Hartley Bill, Nixon and the War Powers Act, or Ford's budget battles with the 94th Congress. Our analysis reveals that public support exerts an impact on the ability of the president to block congressional action. Thus, the results complement prior research by demonstrating that public support influences not only the effectiveness of the president as a policy initiator but also his ability to act as a check on the legislative branch.

Second, the estimates for the presidential veto model show that the use of this prerogative varies systematically with the level of public support. While limited by the level of aggregation employed, the results do suggest that public support serves as an important influence on presidential decision making. Thus, the analysis complements several recent studies which attempt to identify the factors that influence a president's reliance on a given prerogative (on presidential uses of military force, see Ostrom and Job, 1982; on the use of prime-time television, see Kernell, 1984). Further, our analysis also demonstrates that the erosion of public support creates a potentially vicious circle for presidents—the use of the veto becomes more necessary and increases, but so too does the probability that its use will fail.

Finally, the analysis illustrates some intriguing strategic aspects of veto politics. From the congressional perspective, our results show that if the legislation is opposed by the president, there is an inherent weakness in a "minimal winning coalition," particularly if it is based on a party or ideological split. This is because such factional votes will reduce the probability of an override attempt. The most advisable strategy for advocates of the legislation is to build bipartisan support and emphasize that the president constitutes a threat to the institutional prerogatives of Congress. The incentive for the president is to act in a divisive manner with an eye toward the formation of factions on the authorization vote. *De facto* allies include party and ideological coalitions. Interestingly, in veto politics, it matters little to the president whether he is supported by the liberal (northern Democrat) or conservative (southern Democrat/Republican) faction. More generally, for the president intent on disciplining a "wayward" Congress, government management issues offer a "good bet." Social welfare legislation places substantially greater resource demands on the president. As Table 5 shows, the only realistic instances in which Congress is not predicted to respond occur when the conservative coalition forms on the passage of the social welfare or economic legislation (i.e., 60 percent of seats and popularity greater than 51.2 percent; 50 percent of seats and popularity greater than 66.3 percent). Timing constitutes another strategic consideration. The veto or its threat is likely to be most effective early in the administration when public support is typically high and the seemingly cyclical mood of Congress is more favorable toward the president.

We want to emphasize that these results and conclusions are based upon an initial analysis. To be sure, we are encouraged by the amount of explanatory power achieved by a comparatively simple theoretical perspective and the models that rest on it. Yet there is clearly much work to do. The analysis of presidential vetoes should be augmented by a study of major legislation with an eye toward predicting what specific bills a president decides to veto. In the case of the congressional response, several questions remain. One concerns period effects. The growing body of research (e.g., Sundquist, 1981) devoted to the congressional reassertion raises the question as to whether the impact of the resource and environmental measures has changed over time. There is also a need to compare how the response to presidential vetoes differs in the House and Senate. Finally, understanding the outcomes of override attempts also requires that we "disaggregate" the analysis and examine individual votes with an eye toward explaining why some members abandon previous positions during the roll call on the override.

This list does not exhaust the remaining questions, but it does give an indication of the task that remains. Still we feel justified in concluding that we have laid the groundwork for a systematic explanation of veto politics and thus expanded the research agenda on congressional-presidential relations.

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Divider Title: _____

*Presidential Vetoes
from
Washington
to
Nixon*

JONG R. LEE

The strength of the Congress consists in the right to pass statutes; the strength of the President in the right to veto them.

James Bryce

THIS PAPER seeks to analyze, on the basis of aggregate data, how and why the exercise of presidential veto power has varied in history. The focus of analysis is the frequency of presidential vetoes and congressional overriding actions, both of which are aggregated over each Congress to yield one of the longest time-series data available on the interrelationships between president and Congress. This research proceeded with an assumption that some regularities found in veto behavior can shed light on the contention of power or conflict of roles between two vital national institutions.

A series of descriptive, predictive, and explanatory hypotheses on veto behavior is investigated here with the aid of multiple regression methods. First, an attempt is made to delineate patterns of interaction on the veto with a focus on possible trends or cycles over the years. Then, three kinds of variables are examined

as predictors of veto behavior. Among these variables are the following: personal characteristics of the presidential incumbent, including such obvious indicators as career style and party membership; the "power situation"—partisan and electoral factors within the political system that directly bear on executive-legislative relationships; and finally the "socio-economic environment" variables which attempt to measure the internal or external setting of the political system. The results show that a significant proportion of veto behavior can be predicted by a combination of all of these. Relative potency of each variable is assessed by application of multiple regression models.

PRESIDENTIAL ACTIONS AND CONGRESSIONAL REACTIONS

It is a common notion that the frequent exercise of the veto power reflects effective presidential leadership.¹ Rowland Egger and Joseph Harris assert that the stronger the president, the more frequently he uses the power.² This view stems partly from an emphasis on executive influence in the legislative process in terms of the number of bills stopped from becoming law. As to the actual effectiveness of the veto as a check on Congress, the testimony of statistics is almost conclusive. The record shows that from Washington to Nixon up to 1970 the veto was employed 2,257 times, of which 1,293 were regular vetoes, that is, bills returned by the president to the House of its origin with messages stating his objections. The fact that only 75 vetoes or 6.0 percent of regular vetoes have ever been overridden demonstrates that the veto, once issued, is normally final in the legislative process.

It is equally possible, however, to argue that more vetoes indicate less actual influence in the legislative process, for if the president

¹ The data analyzed here were coded from U.S., Congress, Senate, *Presidential Vetoes: Record of Bills Vetoed and Action Taken thereupon by the Senate and the House of Representatives; 1789-1968* (Washington, D.C.: Government Printing Office, 1969); and for the 91st Congress from *Congressional Quarterly Almanac* (Washington, D.C.: Congressional Quarterly Service, 1971). In coding, distinction was made between private versus public bills, and between regular versus pocket vetoes. See Clement E. Vose, "The President's Veto of Private Bills," *Journal of Politics*, 26 (May 1964), 397-405.

² *The President and Congress* (New York: McGraw-Hill Book Co., 1966), 51. Reflecting this popular opinion, "great" presidents are those who used the veto power frequently.

had real control of Congress, the latter would not pass the undesirable bills in the first place. When Congress is willing to cooperate or ready to accept presidential initiatives in legislation, there is less likelihood of invoking vetoes. Richard Neustadt suggested that a president with weakened position might resort to negative measures at his disposal, like the veto.³ But the veto power is not merely negative; it has at times been used as a positive instrument of bargaining or as a weapon of legislative leadership by the chief executive.⁴ It has been pointed out that a threat of a veto has often been sufficient to deter Congress from passing a bill against the president's wishes.⁵ Similarly, a president might be deterred from vetoing a bill approved by overwhelming congressional majorities.

This consideration suggests that veto behavior can be best understood as an indicator of role conception held by each institution toward the other, or the "mood" of executive-legislative relationships, rather than as an indicator of actual strength. Frequency of presidential vetoes seems to reflect a president's disposition to assert his will over congressional preferences, whereas frequency of overriding actions reflects congressional disposition to assert its will over expressed presidential objections. Therefore, congressional reactions to vetoes constitute an important dimension in the veto process.⁶

³ *Presidential Power* (New York: John Wiley & Sons, Inc., 1960), 90.

⁴ Edward Corwin, *The President: Office and Powers* (2d ed.; New York: New York University Press, 1956), 343; Nelson Polsby, *Congress and the Presidency* (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1964), 106; Egger and Harris, *President and Congress*, 51; Wilfred Binkley, *The Man in the White House* (New York: Harper and Row, 1964), 143.

⁵ F. D. Roosevelt was reportedly prone to call occasionally for "something I can veto," as a reminder to departmental heads and Congress alike. Neustadt, "Presidency and Legislation: the Growth of Central Clearance," *American Political Science Review*, 48 (September 1954), 656.

⁶ A suggestion that congressional overriding actions are an indicator of presidential leadership effectiveness was made by William Keefe and Morris Ogul, *The American Legislative Process: Congress and the States* (2d ed.; Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1968), 148-149. An attempt was made to see how congressional overriding actions are related with other measures of congressional attitudes. The rate of overriding actions correlates .304 (significant at the .05 level) with the event of the Senate having ever rejected a cabinet member nominated by the president for the entire history. Further, it correlates -.604 with presidential legislative box scores for the 80th to the 91st Congresses for the period in which data are available.

In this analysis consideration is given to the aggregation of overriding actions in each Congress, from the 1st through the 91st. The usual method of aggregation by president only tends to overlook whatever variations there are within a single presidency, one president encountering more than one Congress, some of which almost inevitably have different partisan compositions and levels of activities. Aggregation by Congress yields time-series data with equal time interval, reflecting variations across presidencies as well as within presidencies. The analytic relations among the number of bills, frequency of presidential vetoes, and congressional overriding actions can be given by the following simple formula:

$$V = BP \dots\dots\dots (1) \quad R = VC \dots\dots\dots (2)$$

where V denotes the frequency of presidential vetoes; B, the number of bills passed by Congress; R, the frequency of congressional overriding actions; and P and C the presidential propensity to veto and congressional propensity to override, respectively. It is a priori true that when there is no bill, there cannot be any veto. The absence of a veto rules out any overriding action. Propensity to veto as well as absolute frequency can be dependent variables in this analysis.

For purposes of analysis, it is possible to generate a number of plausible hypotheses about what shape the time-series of veto behavior should take. The first hypothesis suggests a continuously increasing use of the power. It is quite a popular notion that presidential power has been expanding as the nation encounters more difficult and complex problems. As early as 1890, Edward Mason predicted: "As the business of the country increases, as legislation piles its bills still higher and as the whole social and political network grows more complicated in its demand and conflict of interests and its multiplicity of interferences, more and more will be the necessity of cutting Gordian knots with the swift, sharp edge of having an executive brave enough to take the responsibility of interposing his veto."⁷

The second hypothesis suggests a long term cyclic pattern in veto behavior. Historians concur on a somewhat regular alternation of power between the president and Congress in history. It is well known that there have been some periods when the president played a dominant role in legislative matters, while some other periods are characterized by congressional dominance.⁸

⁷ *The Veto Power, 1789-1890* (Boston: Ginn and Company, 1890), 140.

⁸ Rowland Egger, *The Presidents of the United States* (New York: McGraw-

The third hypothesis might suggest a regular short term fluctuation of veto behavior within an incumbency. This hypothesis can be derived from varied sources, including what Edward Corwin calls "law of ebb and flow" in presidential leadership.⁹ The point is that it is exceptional for a president to maintain effective leadership throughout his years in the White House because Congress possesses a set of powers to check and balance presidential dominance.¹⁰ Congress may be following his lead in time of emergency or at the psychological thrust of an electoral mandate. Yet congressional docility evaporates as an active presidential role generates grievances which accumulate and are expressed in congressional criticism. In pejorative terms Burns calls it "the cycle of deadlock and drift after a short period of honeymoon."¹¹ Pendleton Herring observes that a president is usually discredited by Congress before he leaves office.¹²

Each hypothesis is based on one element in observed patterns in presidential-congressional relationship; linear trend, long-term cycle or short-term cycle. Yet none is entirely adequate in describing the variations in veto series. Figure 1 shows the frequency of vetoes and overriding actions across Congresses.

The variation has been considerable. Setting precedents, Washington vetoed two bills, one on constitutional grounds, the other for expediency. Later presidents from Adams through Taylor exercised the veto with restraint; eight of them never used the veto. Although the use of the power has increased on the whole since the Civil War, no linear or cyclical patterns are well substantiated. The use of the power has been in decline since Franklin Roosevelt. Part of the reason is that more than half of all vetoes in history are ascribed to two distinguished presidents—the so-called "veto presidents" Franklin Roosevelt and Grover Cleveland. Cleveland killed,

Hill Book Co., 1966), 63; George Galloway, *History of the House of Representatives* (New York: Thomas Y. Crowell Co., 1961), 236-269; Francis Wilcox, *Congress, the Executive and Foreign Policy* (New York: Harper and Row, 1971), 16.

⁹ *President: Office and Powers*, 333.

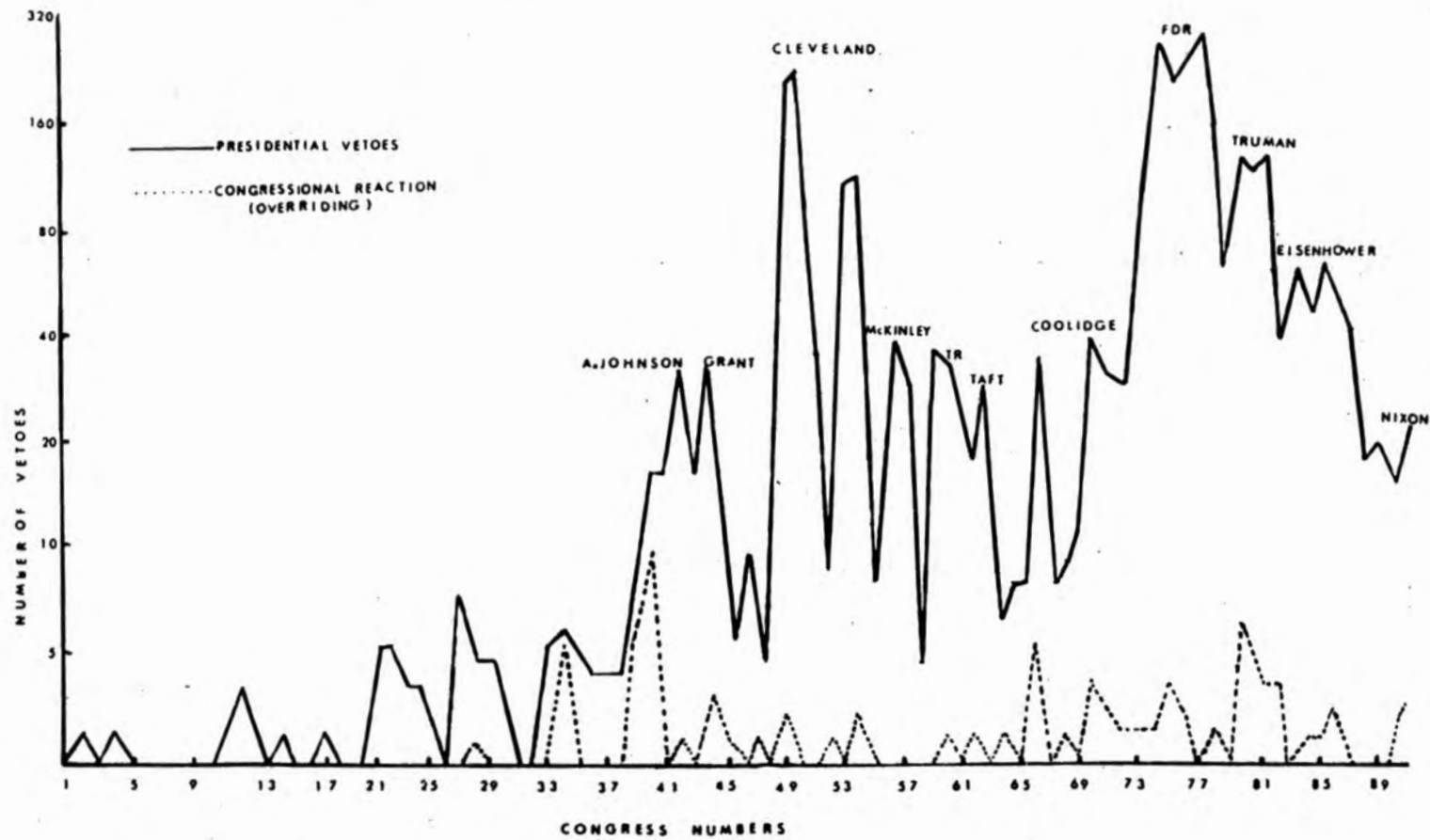
¹⁰ Norman Small, *Some Presidential Interpretation of the Presidency* (2d ed.; New York: Da Capo Press, Inc., 1970), 194.

¹¹ James M. Burns, *The Deadlock of Democracy* (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1963), 2.

¹² *Presidential Leadership* (New York: Rinehart and Co., 1940), 8.

FIGURE 1

FREQUENCY OF PRESIDENTIAL VETOES AND CONGRESSIONAL OVERRIDING ACTIONS



on the average, one bill out of six; Roosevelt one out of twelve. Yet variation in congressional reactions is also notable. Among the 30 presidents who exercised the veto, seven had all of their vetoes sustained, whereas the majority of vetoes by Presidents Franklin Pierce and Andrew Johnson were overturned by Congress.

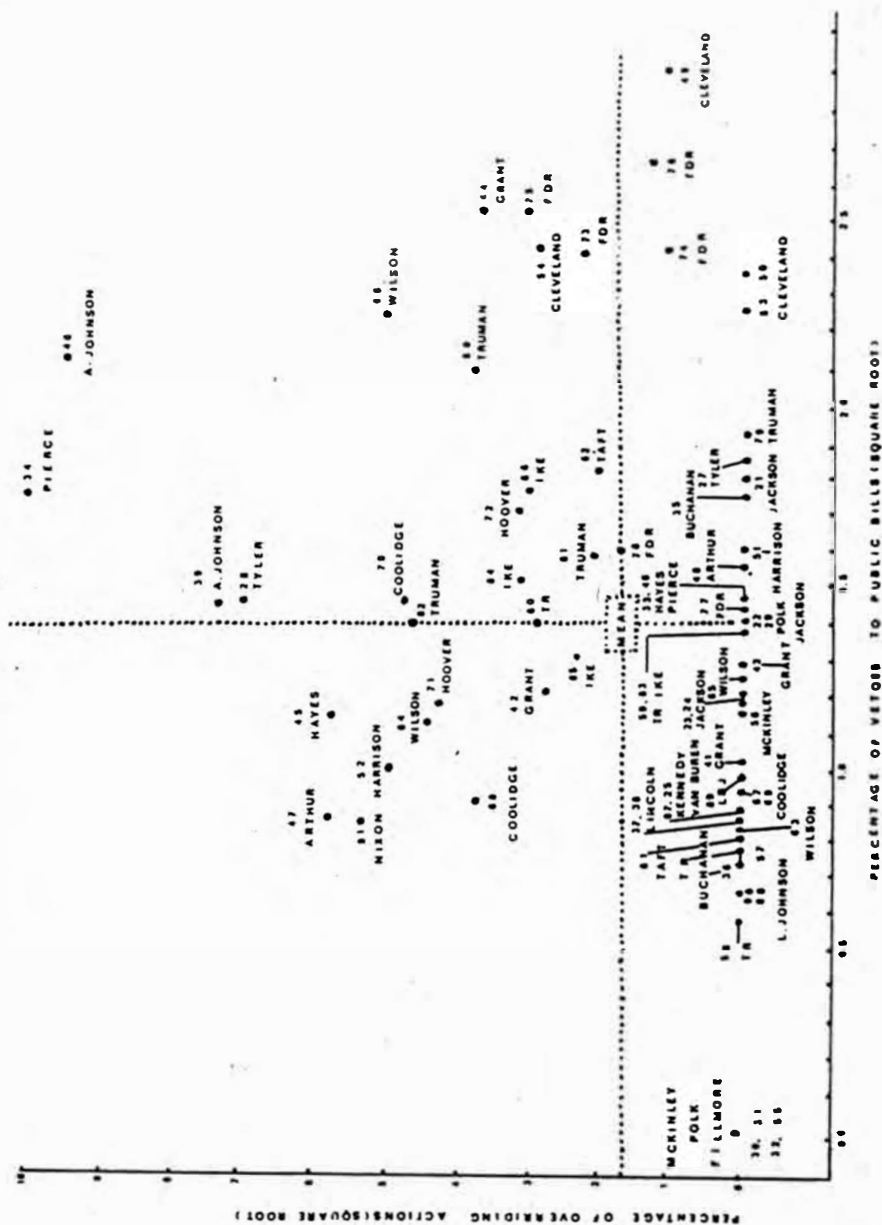
In spite of the notable skewness of distribution, some patterns emerge when both presidential vetoes and congressional reactions are simultaneously taken into account. The percentage of vetoes on public bills is cross-plotted with percentage of overriding actions on regular vetoes in Figure 2 for the 71 Congresses since the inauguration of Andrew Jackson. Note that the square root of each data point is used in the scale in an attempt to correct for the skewness in percentages. The number of the Congress together with the corresponding president's name is indicated for each data point. Also the average score for each dimension is used as a dividing line to aid in understanding the relative position of each point in the configuration.

It is possible to offer some tentative interpretations. The lower left quadrant, which includes four Congresses with veto-free records, might be called a "co-operative pattern," because it is characterized by a relatively low rate of vetoes and no overriding actions. One can infer that the president was reluctant to or did not feel the need for resorting to the veto power to impose his will, or that the Congress was not in a position to reassert itself against relatively few exercises of the power by the president. Although this situation may mean inaction at times, it is not surprising that many activist presidents, like Jackson, Lincoln, Wilson, Theodore Roosevelt, Kennedy and Lyndon Johnson, belonged in whole or in part of their incumbencies to this category.¹³

The upper left-hand quadrant includes cases of a higher rate of congressional rejections combined with a low level of vetoes. This quadrant can be dubbed "congressional authority" in the sense that Congress demonstrated its ability to reassert itself against pronounced objections of the president.

¹³ It is somewhat instructive to note that President U. S. Grant, judged by historians as a "weak" president, started each of his two terms in this category. Thomas Bailey, *Presidential Greatness* (New York: Appleton-Century-Crofts, 1966), *passim*. However, it is noteworthy that James Bryce ranks Grant among great presidents. Bryce, *The American Commonwealth* (New York: Macmillan Company, 1893), I, 85.

Figure 2



On the other hand, the upper right-hand quadrant, with a high rate of vetoes and of overriding actions, obviously indicates a pattern of conflict between the president and Congress. The most conspicuous is the struggle that arose in Andrew Johnson's incumbency, with 15 of 25 vetoes overturned. Even Franklin Roose-

veto and Grover Cleveland, the two "veto presidents," were not immune at times to rebellious congressional response.

Finally, the lower right-hand quadrant might be designated as "presidential authority." This division includes the cases where high propensity to veto is combined with low propensity to override. That is, the president stopped many bills from becoming law without overt congressional rejections. At least in a negative sense, it can be said that he exercised his power effectively to sustain his preference over Congress.

It is noteworthy that variation occurred across and within presidencies. Excluding nonveto presidents, the only presidents who never moved out of the "co-operative pattern" are McKinley, Lincoln, Kennedy, and Lyndon Johnson. And none remained in the "presidential authority" pattern throughout his whole incumbency. It might be noted that congressional behavior is more variable than presidential vetoes within presidencies. If one carefully follows the trajectory of each presidency, he will find a certain regularity in a swing from lower to higher rate of overriding actions—a swing indicating a growing congressional assertiveness against a president over the period of his incumbency.

In summary, indications of trends or cyclic patterns in veto behavior are indicated. Nevertheless, the historical course is not so neat or regular as to allow a firm prediction. One should look for basic factors that are operative in producing the considerable variations among and within presidencies.

INDEPENDENT VARIABLES

For the sake of convenience, the variables that are hypothesized as influencing veto behavior can be grouped into three categories: person, power situation, and socio-economic environment.

Person

Since the presidency is a highly personalized office, it is productive to analyze presidential behavior in terms of differences in personal styles.¹⁴ Of particular relevance here is the common dis-

¹⁴ Excellent examples are given in James Barber, *Presidential Character* (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1972), *passim*; and Erwin Hargrove, *Presidential Leadership: Personality and Political Style* (New York: Macmillan Company, 1966), *passim*.

inction between legislative and executive politicians with a focus on prepresidential career style.¹⁵ Aside from the intermittent emergence of military heroes or other professionals, the White House has been primarily occupied by legislative politicians who have served as senator or congressman in the national legislature or executive politicians who have served as governor of a large state. The ample evidence in the literature suggests that a person assumes a role congenial to his personality, and that if he plays a certain role, he also tends to internalize some values associated with the role.

From this standpoint, it is a plausible hypothesis that a president of legislative background will be reluctant to resort to coercive measures like the veto power either because he is familiar with the internal power structure of Congress, or because he has acquired some respect for the legislative body as an institution. It is equally plausible to suggest that the Congress is likely to be friendly to a president who served as one of its members.

In contrast, it has been pointed out that the governor resembles the president in the general format of his functions and power and particularly in his relationship with the legislature in the smaller domain of his state.¹⁶ Most governors possess item vetoes and play the role of party or legislative leader. This experience accounts for Wilfred Binkley's description of the governorship as an "incomparable executive apprenticeship" for the presidency.¹⁷ If a governor is accustomed to the veto power, it is possible to hypothesize that the governorship experience will be positively related with the frequency of vetoes. The actual indices of these career experiences used in this study are the years of service in the federal legislature or in a gubernatorial office.

In addition, this study includes a dummy variable to distinguish the party membership of the president. He may or may not con-

¹⁵ C. H. Titus found a "queer rhythm" manifested in the presidential elections. He observes the action of a pendulum, moving back and forth between three styles of politicians elected president—legislative, executive, and specialist or expert. Titus, *Voting Behavior in the United States* (Berkeley: University of California Press, 1935), 57-58.

¹⁶ Louis Koenig, *The Chief Executive* (New York: Harcourt, Brace and World, 1968), 392-396.

¹⁷ *President and Congress* (New York: Alfred A. Knopf, 1947), 381-382; and Wilfred Binkley, *The Man in the White House* (Baltimore: The Johns Hopkins University Press, 1959), 17-40.

form to the role expectations associated with his party. V. O. Key, Jr., has observed that Democratic presidents have subscribed to the doctrine that the chief executive should provide forceful leadership, whereas Republicans have, with a few exceptions, leaned toward a restricted view of their role in the belief that law-making should be left to the Congress.¹⁸ Therefore, Democrats are expected to veto more bills than Republicans.¹⁹

Power Situation

It is a truism that presidential power is heavily influenced by the circumstances under which the president operates. One obvious factor is the partisan composition of the two branches. Woodrow Wilson explicitly stated one hypothesis: "If the House and Senate are of one party and the President and his ministers are of the opposite, the presidential party can hardly be said to be in power beyond the hindering and threatening faculty of the veto."²⁰

The index of "opposition party" is constructed by the formula $(H+S)$, where H takes one when the House is controlled by the opposition party, but takes zero if it is not, and the same formula is used for denoting the Senate. In other words, we are assigning the value of two to cases when both Houses are opposed, one to either House opposed, and zero for none opposed. This index is based on the assumption that the threshold of majority is more important than the absolute proportion of partisans and that each House operates somewhat independently of the other. The index of the opposition party is expected to have independent impact on frequency of vetoes and overriding actions.

Besides this party link, the popular standing of the president is often considered an important factor in his power position with the Congress. The fact that he is the only official, with the exception of the vice-president, who is accountable to the national electorate is apparently a source of executive-legislative conflict. One can entertain a hypothesis that the greater the popular support a president can rally behind him, the more likely he is to be

¹⁸ *Politics, Parties and Pressure Groups* (New York: Thomas Y. Crowell Co., 1942), 709.

¹⁹ The data on presidential careers were compiled from Joseph Kane, ed., *Facts about Presidents* (New York: The H. W. Wilson Co., 1968), *passim*.

²⁰ *Constitutional Government in the United States* (New York: Columbia University Press, 1911), 177.

assertive in dealing with Congress when a conflict of preferences occurs. Of critical importance here is the president's over-all popularity rather than his standing on a particular issue.²¹ A straightforward measure of this general support is the percentage of popular or electoral votes he received in the previous election.

This consideration provokes another hypothesis on the possible effect of expecting that a president will remain in office. Laski suggests that it is the simple psychology of leaders on Capitol Hill to try to maintain friendly relations with a president who is likely to stay longer in the White House.²² An example is the apparent erosion of leadership for "lame-duck" presidents. Because of difficulties involved in attempting to measure the expected stay in power, however, this study did not fully incorporate this hypothesis. Yet this phenomenon can be partly covered by distinguishing the presidents who did not run for another term, *ex post facto*. Thus a dummy variable takes one if the president ran for re-election, zero otherwise. For many one-term or two-term presidents, this variable actually denoted the first term.

Another dummy variable is generated by distinguishing the periods before and after the midterm election. Apart from the fact that the Congresses elected at midterm tend to have fewer presidential partisans because they lack a "coattail effect," these Congresses have three distinctive characteristics. First, they do not have a "honeymoon period" with the president because by definition the "honeymoon" refers to the first session of a president's term of office. As Laski puts it: "A President who has something real to say and do—the condition is important—can usually count on a honeymoon period. What he asks for will in large measure have assurance of being granted. It is usually toward the end of the first congressional session that the buttons are taken off the foil."²³ Secondly, Congresses elected at midterm encounter a president who has been in power for at least two years; this tenure suggests that the "coalition of minority" might have taken effect²⁴—

²¹ Harold Laski, *The American Presidency* (New York: The Universal Library, 1940), 144-145; V. O. Key, Jr., *Public Opinion and American Democracy* (New York: Alfred A. Knopf, 1964), 284-287.

²² *American Presidency*, 138.

²³ *Ibid.*, 140.

²⁴ John Mueller, "Presidential Popularity from Truman to Johnson," *American Political Science Review*, 64 (March 1970), 20.

a term which refers to the phenomenon of gradual erosion of political support for a president as he is forced to act on a variety of issues, thus alienating many of his former supporters. Since John Mueller measures this effect simply by the number of years passed since inauguration, it is virtually identical to the dummy variable in this study for midterm election Congresses except that the number of categories is reduced because of biennial aggregation. The third feature is the fact that presidential elections are near. There is no way of separating these complicating factors. One simplifying factor is, however, that these factors tend to predict erosion of support for a president after the midterm congressional election, thus increasing the recalcitrance of the Congress elected at midterm. In this sense, this dummy variable measures the effect of the expectation of power which is not measured by the variable on the effect of running for re-election.²⁵

Environment

It is hardly deniable that the internal or external setting of the nation has tremendous consequences for the president and Congress. Edward Corwin, Pendleton Herring, Harold Laski, Clinton Rossiter, and other scholars have hypothesized at least briefly on the causal relationship between presidential influence and concurrent national crises or societal developments.²⁶ A well-grounded proposition is that in times of foreign crisis or serious involvement in world affairs, Congress is willing to co-operate with presidential leadership. When national survival is perceived to be at stake, there is less likelihood of conflict.

One dramatic evidence in support of this proposition is that of over 2,000 vetoes, few are related to foreign or military affairs, a fact which indicates that foreign or military issues have received deferential treatment.²⁷ And one can further hypothesize that

²⁵ Partisan composition in Congress was based on *Guide to the Congress of the U.S.* (Washington, D.C.: Congressional Quarterly Service, 1971), *passim*. Other political variables including electoral votes are compiled from Kane, *Facts about Presidents*, *passim*.

²⁶ Rossiter, *The American Presidency* (2d ed.; New York: Harcourt, Brace and World, 1960), 113-128.

²⁷ This generalization excludes tariff issues over which the veto was fre-

military crisis is likely to reduce the chance of conflict on a wider range of issues because the Congress is willing to follow presidential leadership. As a measure of military or foreign crisis, the number of armed forces per 1,000 population was employed.

On the other hand, over-all economic environment is allotted by the general price level. One simple hypothesis is based on the assumption that economic instability is likely to find an outlet in congressional debates and criticism which increase the chance of congressional assertion. One difficulty is that there is still some dispute over what the price level really ascertains. Some analysts still argue that higher prices are simply a side effect of economic growth or expansion. Yet it should be emphasized that those who live with high prices tend to view them as a pressure rather than as a sign of prosperity.²⁸ In popular perception the effect of high prices is more visible and stringent than the additional income generated by the total expansion of the economy.²⁹ Moreover, United States economic history shows that the serious inflation reflected in high prices was an undesirable consequence of wars that were financed by producing additional currency.³⁰ If economic instability is in general a cause of loss of public trust for a president, this measure is expected to have positive association with congress-

quently used, often arousing a severe political controversy. There are also several vetoes on immigration bills, most of them private bills. See Carlton Jackson, *Presidential Vetoes, 1792-1966* (Athens: University of Georgia Press, 1967), 12-36. A discussion of congressional attitudes in contemporary context is given by Aaron Wildavsky, "The Two Presidencies," *Transaction*, 3 (December 1966), 7-14.

²⁸ The relevant empirical findings are well reviewed in Gerald Kramer, "Short Term Fluctuations in U.S. Voting Behavior, 1896-1964," *American Political Science Review*, 65 (March 1971), 131-133.

²⁹ Charles Lindblom, "Historical Magnitudes and Developments Affecting the Amount and Type of Federal Expenditure," Joint Economic Committee, 85th Congress, *Federal Expenditure Policy for Economic Growth and Stability* (Washington, D.C.: Government Printing Office, 1957), 8; and Jong R. Lee, "Changing National Priorities of the United States," in *Military Force and American Society*, ed. Bruce Russett and Alfred Stepan (New York: Harper and Row, 1973), 89-95.

³⁰ Lawrence Murdoch, Jr., "Inflation vs. Unemployment; Must We Choose?" in *Readings in Economics*, ed. Heinz Kohler (New York: Holt, Rinehart, and Winston, 1968), 187-195.

sional recalcitrance, other factors being equal. The actual index used is the wholesale price index adjusted with 1910 as 1,000.³¹

MULTIPLE REGRESSIONS

These independent variables were subjected to multiple regression analyses in an attempt to assess the independent impact of each variable on frequency of vetoes and overriding actions. The analyses involved two difficulties: (1) apparent nonlinearity of the relationship, and (2) intercorrelation among independent variables. These problems were treated in a rather conventional manner within the general framework of linear regression models.

First, the nonlinearity of the impact of the independent variables in the frequency of veto behavior is apparent in the skewed distribution as well as in the analytic relationship between the absolute frequency and the propensity to veto or override. To overcome this problem, this research specified two nonlinear forms of equation. The first model becomes: $V_p = B (b_0 + b_1 X_1 + u)^2 \dots \dots \dots (1)$ where, V_p denotes frequency of presidential vetoes, B , the number of bills passed, X_1 , the independent variable and b_1 , its associated coefficient, and u , random disturbance. Here it is assumed that u , denoting the effect of other variables not included in this equation and measurement errors, fits the standard assumption of regression models. The expression in the parentheses in the above equation can be interpreted as the propensity to veto. The actual estimation of this model was conducted by regressing the square root of $V_p/B \times 100$ on the specified set of independent variables.

An alternative formulation is based on the assumption that the proportion of vetoes decreases as the number of bills increases. That is, it is unreasonable to expect that a president who vetoes 10 bills out of 100 would veto 100 bills when there are 1,000 bills. This consideration leads one to devise an exponential model as follows:

³¹ The data on military personnel and wholesale price index are based on *Historical Statistics of the United States from Colonial Times to 1957* (Washington, D.C.: Government Printing Office, 1965), *passim*; *Supplement to the Historical Statistics of the United States* (Washington, D.C.: Government Printing Office, 1965), *passim*; and U.S., Bureau of Census, *Statistical Abstracts of the United States* (Washington, D.C.: Government Printing Office, 1964-1970), *passim*.

$$V_p = Bb_0 e^{(b_1 X_1 + u)} \dots\dots\dots (1-2)$$

A natural logarithmic transformation of this equation was used in estimating the associated parameters in this model.

A parallel formulation was applied to the congressional overriding actions as well. Further, on the basis of observation that Congress does not even attempt to overturn many of the vetoes, some measure of significance of a bill was needed. One feasible way is to see whether Congress has ever attempted to overturn a veto by putting it to a vote in either House. Actually the percentage of overriding actions with respect to total overriding attempts is highly correlated with the percentage of overriding actions with respect to the total frequency of vetoes.³² The form of equation for Congress can be given as follows:

$$R = A (c_0 + c_1 X_1 + v)^2 \dots\dots\dots (2-1)$$

where A denotes the frequency of attempts to override. And the logarithmic model is also given as follows:

$$R = V^{c_0} e^{(c_1 X_1 + v)} \dots\dots\dots (2-2)$$

Secondly, intercorrelations among the independent variables are hard to avoid. The usual way is to observe the effect of adding or dropping variables in the equation. This experimentation makes it apparent which variables are essential and which variables are redundant, once certain variables are represented in an equation.³³ The additional influence of each variable, given other variables in the equation, is considered statistically significant at .05 level when the standard error is less than half of the estimated coefficient.

The result reported here is the regressions based on the data for 71 Congresses, the 21st through the 91st. This is the maximum time span during which the elections operated in some form of a two-party system. The nonlinear transformation employed makes it difficult to translate the effect of each independent variable in terms of the frequencies. Yet the statistical significance will give a direct indication of relative potency of the variables. Each equation is significant at less than .001 level, though the additional effect of each variable is not uniform.

The result of the multiple regressions shows in general that presi-

³² The product moment correlation coefficient is 0.75 for the entire history.

³³ Arthur Goldberger, *Econometric Theory* (New York: John Wiley & Sons, Inc., 1964), 192-201.

TABLE 1
RESULTS OF REGRESSION MODELS

Independent Variables	Dependent Variables	Presidential Vetoes		Congressional Overriding	
		Model 1	Model 2	Model 1	Model 2
Congressional Experience		-.028*	-.039*	-.111*	-.018
		(.011)	(.014)	(.055)	(.015)
Governorship Experience		.054	.049	.637*	.077
		(.049)	(.061)	(.253)	(.064)
Democratic Party		.449*	.623*		
		(.140)	(.175)		
Electoral Votes Percentage		.015*	.021*	.095*	.015*
		(.005)	(.007)	(.032)	(.007)
Opposition Party in Congress		.129	.307*	1.180*	.259*
		(.102)	(.123)	(.580)	(.130)
Run for Re-election		-.270*			-.162
		(.102)			(.190)
Midterm Election Congresses		.075		1.678*	.404*
		(.138)		(.786)	(.179)
Military Force		-.002	-.003	-.070*	-.021*
		(.006)	(.008)	(.035)	(.008)
Economic Instability		.002	.002	.024*	.006*
		(.002)	(.004)	(.008)	(.002)
Public Bills Passed (log)			1.050*		
			(.180)		
Total Vetoes (log)					.231*
					(.073)
Trend (t)		.003		.003	
		(.003)		(.015)	
Constant		.093	-5.950	-1.980	-1.254
Explained Variance		.40	.67	.41	.46

* Indicates the coefficients which are statistically significant at the .05 probability level. Standard errors are given in parentheses.

dential behavior is more significantly accounted for by a president's background and power situation than by socio-economic environment, whereas congressional reactions are better accounted for by power situation and environment. Since alternative forms of equations inevitably affect the relative significance of some variables, final judgment on the impact of each variable should be based on the results of both models.

The first equation reported in Table 1 is a typical result of re-

gressions based on Model 1-1. This equation explains about 40 percent of variance in presidential propensity to veto, with a combination of 1- predictor variables. Most important is the impact of the party of the president. Democratic presidents tend consistently to veto more bills than Republicans do. In a sense this tendency is not surprising at all, because the two distinguished veto presidents were Democrats. On the other hand, the number of years spent in the national legislature tends to proportionately reduce the propensity to veto.

The independent impact of political variables is somewhat sensitive to adding or dropping variables in the equation since many of them are interrelated. For instance, opposition party control occurs very often as a result of midterm elections. Also, those presidents running as an incumbent for another term of office tend to receive a higher percentage of electoral votes than do the newly incoming presidents. Moreover, the percentage of electoral votes in a presidential election is correlated with the average of the percentage of presidential partisans in each House of Congress. It is due to this confounding fact that the average of the percentages of presidential partisans in each House of Congress is not significantly associated with the frequency of veto.³⁴ The trichotomous variable, "opposition party control," performs consistently better in various combinations of independent variables. And it is clearly seen that the greater the percentage of electoral votes a president received, the greater his propensity to veto, as hypothesized.

This situation is similar in the second equation, based on a logarithmic transformation as specified in Model 1-2. Here, opposition party control contributes a significant amount of explained variance in the propensity to veto. As in the first equation, congressional experience, electoral votes, and Democratic party are significant independent influences in presidential vetoes. This equation explains 66 percent of all variance. This improved predictive power was achieved partly by including the number of bills as an independent variable. As one might expect, the coefficient for the variable is close to unity, indicating a convergence of results for the two models.

The effect of socio-economic environment on presidential vetoes

³⁴ Only the percentage of presidential partisans in the House of Representatives shows a significant association (-.236) with the rate of overriding action to regular veto, and -.285 with successful overriding actions per attempts.

seems to be negligible in both equations. One can infer that this statistical insignificance is partly due to the historical fact that Democratic presidents, more often than Republicans, tended to preside over "extrovert," "liberal," and "executive" periods of the nation, as observed by historians.³⁵ Allowing for the effect of the party of the president, there is no additional variation that is accounted for by the two socio-economic variables. However, the environment significantly affects congressional behavior.

It should be pointed out also that independent impact of governorship experience is not very significant, although the sign of the coefficient is correct. This result reinforces rather than refutes the hypothesis on the differentiation of political career styles—legislative versus executive politicians. These two career paths to the White House are almost exclusive of each other. Except for William McKinley, who spent much time in Congress before he assumed a governorship, congressional experience was not the asset of those presidents who advanced from gubernatorial office to the presidency—Rutherford Hayes, Grover Cleveland, Theodore Roosevelt, Woodrow Wilson, Calvin Coolidge, Franklin Roosevelt. It is because of the negative correlation between the two career variables that governorship experience does not perform a significant role in the equation. The result shows that the number of years in Congress is a better predictor of veto behavior as a summary measure of career styles.

The significance of variables somewhat shifts in equations on congressional overriding actions. First, the dummy variable for the Democratic presidents shows significance in neither a statistical nor a substantive sense. In other words, there is no indication that Democratic presidents tend to confront assertive Congresses. Instead, the effect of socio-economic environment becomes conspicuous. It also turns out that the Congresses elected at midterm are much more rebellious than might be expected simply from the loss

³⁵ These expressions are characteristics of the times which tend to show some cyclic patterns in American history. See Frank L. Klingberg, "The Historical Alternation of Moods in American Foreign Policy," *World Politics*, 4 (October 1951), 241-260; Arthur M. Schlesinger, *Path to the Present* (New York: Macmillan Company, 1949), 87-88; Galloway, *History of the House*, 236-269; Egger and Harris, *President and Congress*, 63; Charles Sellers, "The Equilibrium Cycle in Two Party Politics," *Public Opinion Quarterly*, 29 (Spring 1965), 16-38.

of presidential partisans. With the effect of "opposition party" allowed, the dummy variable for midterm election Congresses shows a significant independent impact on congressional reaction.

The third equation in the table on success rate of overriding actions as a percentage of attempts to override explains 41 percent of variance. As hypothesized, size of the military force has a negative coefficient while price level is positively correlated with overriding actions, given other political and career variables in the equation. This fact upholds the hypothesis that Congress is ready to follow presidential leadership when the country is involved in foreign affairs while economic instability tends to generate criticism and discontent. In addition the equation shows that the opposition party, post midterm election, and career style of the president tend to have a significant impact on congressional reactions to vetoes, as expected.

The fourth equation on frequency of congressional overriding actions parallels in functional form the second equation on presidential vetoes. On the whole, regression based on this model shows poorer empirical fit than regression based on vetoes. Part of the reason can be found in the fact that the frequency of overriding actions is much lower than that of vetoes, as indicated by the absolute size of the coefficient associated with the veto included in the equation. That is, only a small fraction of presidential vetoes ever becomes the concern of congressional actions. Nevertheless, this equation still accounts for 46 percent of variance. Although the standard error of some coefficients became larger, the basic pattern of the third equation is retained to a large extent in this fourth equation. The notable exception is the career style of the president, which became insignificant in this equation.

Of particular importance in these two equations on congressional reactions is the persistent impact of the midterm election Congresses. Midterm election Congresses have some distinctive characteristics that incline toward reinforcing the tendency to be rebellious against presidential leadership. The equations show that midterm election Congresses overturn more vetoes, even when the effect of other variables including "opposed party" is fully allowed. Therefore, it is possible to say that a president's power to sustain his veto will probably be seriously reduced in the later period of his administration.

To substantiate this point, it can be noted that out of 19 cases

of truncated majority, 16 occurred as a result of midterm election. It is apparent that the incidence of opposition party control and the distinct characteristics of midterm election Congresses combine to produce a high rate of presidential vetoes and congressional overriding actions. Yet it is on the congressional reactions that the midterm election has an independent impact.

DISCUSSION

One basic finding which emerges from the regression analysis is that presidential vetoes and congressional reactions are in substantial part responsive to personal characteristics of the president, objective changes in the power situation, and internal or external setting. Not all of the "strong" or "active" presidents resorted to the power frequently. Nor was congressional reaction favorable toward presidential exercise of power all the time. Even within a short time span, the executive-legislative relationship manifest in veto behavior is subject to influence from shifts in the objective situation.

If one has a previous knowledge of those indicators used in this analysis, the frequency of vetoes and overriding actions can be predicted within the range of stated statistical accuracy. Particularly, presidential vetoes are well predicted by the indices of opposition party control, percentage of electoral support, the president's partisan origin, and his previous congressional experience, whereas congressional overriding actions are significantly accounted for by incidence of opposition party control, electoral support, post midterm election, the size of military forces, and over-all economic instability.

On the whole, the estimated influence of these variables is stable over the period. In spite of the development of the "modern" presidency in this century, some basic pattern seems to persist. First, the residuals in the regressions do not show any systematic pattern for the twentieth century. This research further sought to learn whether there is any fundamental change in the relationships by running separate regressions on the observations for this century. The result is not reported here, but it can be said that the statistical significance of the independent variables is maintained with the exception of price level. This price deviation is understandable since the first half of the century was plagued with several serious

depressions rather than with inflation. If one had included the unemployment rates, he could have estimated the differential effects of economic instability on veto behavior. However, the unemployment rates were not available before this century.

One suspects that the index used for military crisis might have resulted in an underestimation of the effect of military crisis or postwar conflict upon the president and Congress. Continuing presence of the military forces, which are reduced gradually rather than dismantled immediately after a war or crisis is over, may account for such an underestimation. The equations might have achieved a better fit if one had taken this military holdover into account. In spite of these limitations, the analysis tends to support the hypothesis that military crises diminish congressional propensity to override vetoes, whereas price instability tends to increase that propensity. One might add that it has been an historical pattern that Congress, while willing to support the president in pursuit of military goals, usually reasserts itself after the crisis is over, a thesis which is partially confirmed in this study on veto behavior. The emphasis should be put, however, on the finding that it is rather the congressional attitude which the environment directly affects.

The variables that are important both for the president and Congress are the incidence of opposition party control in Congress and the degree of electoral support. These variables not only contribute to a high propensity to veto but also to a high propensity to override, a result earlier designated as a conflict pattern. What spurs speculation is the finding that the electoral strength of the president tends to increase rather than reduce the chance of conflict in the use of veto power. Part of the reason is the interactional nature of conflict. When a president, reinforced by landslide or strong popular support, becomes assertive in dealing with Congress, Congress feels compelled to reassert itself once in a while and has enough resources to frustrate presidential dominance if there are no countervailing factors present that induce it to be co-operative.

In a sense, lack of assured party support and rivalry between the two institutions are built-in features of the political system. The complexity of the electoral process and the different roles assigned to the two institutions tend to give rise to different political bases and resources which come into play in the presidential-congressional relations. Then conflict is a more familiar process when the

factors that compel co-operation are absent. Although veto behavior is merely one tip of the iceberg in the presumably complex interaction network, it seems apparent that attitudes manifested in veto behavior reflect an important aspect of the executive-legislative relationships. Particularly, if the presidential party does not control the Congress and the president has reason to believe that he has a public mandate, one can predict with a certain degree of confidence that there is going to be conflict.

If one turns his attention to contemporary relations, specific characteristics of this nuclear era have apparently reduced the effect of some variables. One notable example will be the career style of the president. In this era no president was recruited to fill the White House from the gubernatorial office. It is suggestive, however, that this phenomenon occurred in times when the importance of or stake in foreign policy has assumed unprecedented dimensions. Under a sustained feeling of crisis or intense United States involvement in world affairs in recent decades, the gubernatorial office might have lost some of its appeal to the electorate as a source of presidential timber because a governor does not deal with foreign policy problems. It may be that the gubernatorial career will regain its strength in comparison with senatorial experience if domestic issues become predominant in national politics.³⁶

It will be risky to predict the probable pattern in the years ahead from this short analysis of historical data. A useful direction for further research might be to include personality traits of presidents as well as substantive characteristics of the bills under deliberation as additional explanatory variables. One available source for this purpose seems to be presidential veto messages, which tend to reveal motivations and rationales for veto actions. Understanding the role of the president in national politics will be enhanced by incorporating various aspects of the office into a meaningful framework of analysis. For the time being, one can only speculate, in broad perspective, on the implications of the findings presented in this paper. A careful examination of the variables that are found important in this analysis helps to explain political difficulties sur-

³⁶ Daniel J. Elazar, "Which Road to the Presidency?" in *The Presidency*, ed. Aaron Wildavsky (Boston: Little, Brown & Co., 1969), 337-346.

rounding the presidency in the early 1970's—the period which is not covered in this analysis.

The first is an isolationist mood generated by the war in Vietnam and serious economic instability associated with the war.³⁷ These two factors were found to increase the assertiveness of Congress. No less important, the two institutions are dominated by different political parties. Under such adverse circumstances, any president might find it difficult to establish effective leadership or maintain a co-operative relationship with Congress. The 91st Congress, the most recent data point in this research, already showed a congressional authority pattern, for it overrode two of nine vetoes. There was indication that the second Nixon administration might be characterized by a conflict pattern (with the motivating factor being the landslide re-election) in an attempt to counter growing congressional assertiveness. One dramatic sign is the exchange of veto versus overriding action over the war powers limitation bill. Undoubtedly, the idiosyncratic circumstances generated by the Watergate events and former President Nixon's handling of the matter aggravated his power situation. Yet the circumstantial factors comprising the political environment of the presidency seem to weigh too heavily to be ignored. Thus one might even suggest that a "crisis of the presidency" was amply predictable had there not been a unique event such as the Watergate affair. If the turn of events continues to prescribe a reduced role for the presidency in national politics in the years to come, whoever may come to occupy the office might find it necessary, sooner or later, to rely on the veto power as a legislative weapon at his disposal.

SUMMARY

This paper examined a series of hypotheses on the frequency of presidential vetoes and congressional reactions. The pattern in veto behavior is not easily described in terms either of trends or of long-term or short-term cycles. Yet regression analysis shows that a significant amount of variation in presidential veto behavior is explained by the president's background and partisan or electoral

³⁷ Jong R. Lee and Jeffrey Milstein, "A Political Economy of the Vietnam War," *International Peace Science Society Papers*, 21 (Philadelphia: International Peace Science Society, 1973), 41-63.

factors, whereas congressional behavior is well predicted by objective changes in political and socio-economic environment. Specifically, with other factors being equal, presidential propensity to veto increases:

- (1) when the president is a Democrat;
- (2) in an inverse proportion to the number of years he spent in Congress;
- (3) when Congress is controlled by the opposition party;
- (4) in direct proportion to the percentage of electoral votes he received in previous elections.

On the other hand, congressional propensity to override vetoes tends to increase systematically:

- (1) when Congress is controlled by the opposition party;
- (2) in direct proportion to the percentage of electoral votes for the president in previous elections;
- (3) when Congress convenes after the midterm election;
- (4) in direct proportion to the level of economic instability;
- (5) in an inverse proportion to the degree of military crisis.

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Divider Title: _____

Advising the President on Enrolled Legislation: Patterns of Executive Influence

STEPHEN J. WAYNE
RICHARD L. COLE
JAMES F. C. HYDE, JR.

The decision to approve or disapprove bills and resolutions passed by Congress is an important presidential function, one that brings the executive into the final stages of the legislative process. This decision is not perfunctory. From Washington's administration to 1978, there have been 2,379 vetoes with 610 since the Truman administration alone. Only 90 vetoes have been overridden by Congress.

There have been various studies of presidential vetoes. Their number, their form, their rationale, and even the constitutional power to veto itself have been subject to scrutiny.¹ Few studies, however, have concentrated on the process by which the president makes his decision,² and none has analyzed that process

¹ Joseph A. Condo, "The Veto of S. 3418: More Congressional Power in the President's Pocket?" *Catholic University Law Review* 22 (Winter 1973): 385-402; Louis Fisher, *The Constitution Between Friends* (New York: St. Martin's Press, 1978); Carlton Jackson, *Presidential Vetoes, 1779-1945* (Athens: University of Georgia Press, 1967); Jong Lee, "Presidential Vetoes from Washington to Nixon," *Journal of Politics* 37 (May 1975): 522-546; Richard A. Riggs, "Separation of Powers: Congressional Riders and the Veto Power," *University of Michigan Journal of Law Reform* 6 (Spring 1973): 735-759; Harry C. Thomson, "The First Presidential Vetoes," *Presidential Studies Quarterly* 8 (Winter 1978): 27-31; Clement E. Vose, "The Memorandum Pocket Veto," *Journal of Politics* 26 (1964): 397-405.

² Richard E. Neustadt, "Presidential Clearance of Legislation" (Ph.D. diss., Harvard University,

STEPHEN J. WAYNE, associate professor of political science, is the author of *The Legislative Presidency*. RICHARD L. COLE, associate professor of political science, is the author of the forthcoming book, *An Introduction to Political Research*. JAMES F. C. HYDE, JR., a professional lecturer, formerly worked in the Legislative Reference Division of the Office of Management and Budget. The authors are all affiliated with George Washington University.

from the perspective of how executive branch advice affects presidential actions. This article provides such an analysis. Its objective is to test an empirical model of executive action based on the recommendations of the Office of Management and Budget (OMB), the department(s) most affected by the proposed bill (lead agency), and other concerned executive departments and agencies.

THE ENROLLED BILL PROCESS

These executive branch recommendations on legislation are made in the course of an advisory process that has remained relatively stable since its development during the Franklin Roosevelt administration. Facsimiles of all legislation passed by Congress are routinely sent to the Office of Management and Budget (before 1970, the Bureau of the Budget) while the parchment original, the one that contains the signatures of the presiding officers of both houses, is carried by special messenger to the White House. The Legislative Reference Division, a small unit within OMB, immediately refers copies of the facsimile bill to executive departments and agencies affected by, or having an interest in, the legislation. These departments and agencies are usually the same ones with which the Legislative Reference Division worked in the central clearance process at the beginning of the legislative process.³ Simultaneously, the Legislative Reference Division solicits the opinions of budget examiners within OMB whose programs are involved in the legislation. Each of the agencies normally has forty-eight hours in which to prepare a recommendation for presidential action and a statement providing the rationale for its recommendation. Not all departments and agencies provide such statements, but those that have a primary interest in the legislation usually do. Agency recommendations to veto are normally accompanied by veto messages that the president can use if he vetoes the bill.

It is expected that agencies will reflect their own interests in their advice to the president. They enjoy the autonomy to do so. In those instances, however, where agencies do not view their interests as being directly affected by the legislation, they may voice no objection, defer to another agency, or simply take no position.

The Legislative Reference Division then collects the recommendations and prepares a cover memo for the president. This memo briefly describes the pur-

1950). Stephen J. Wayne and James F. C. Hyde, Jr., "Presidential Decision-Making on Enrolled Bills," *Presidential Studies Quarterly* 8 (Summer 1978): 284-296.

³ Central legislative clearance, which has also preserved its same general form since the Roosevelt administration, requires all executive agencies to submit proposed positions on legislation to OMB before such positions are transmitted to Congress. It is the function of OMB to determine the relationship of the agency's proposed position to the program of the president. The position may be cleared without change, cleared with changes, or disapproved. For further information on this process see Neustadt, "Presidential Clearance of Legislation"; Stephen J. Wayne, *The Legislative Presidency* (New York: Harper & Row, 1978), pp. 70-100; James F. C. Hyde, Jr. and Stephen J. Wayne, "White House-OMB Legislative Relations," in *Readings on Presidential Policy-Making*, eds. Steven Shull and Lance LeLoup, forthcoming.

pose of the bill, lists the department and agency positions, indicates the OMB recommendation, and discusses the major issues of the legislation. The cover memo and the accompanying statements of the departments and agencies are then forwarded to the White House not later than the fifth day of the ten-day period within which the president must act.⁴

From the Truman administration to the mid-1960s, Legislative Reference's enrolled bill file constituted the bulk of the information at the president's disposal when he considered the legislation. Although the file was reviewed in the White House, it did not receive in-depth scrutiny. The White House staff lacked the size and expertise to undertake this task except in rare instances.

Within the Bureau of the Budget (BOB), Legislative Reference enjoyed considerable clout during the Truman, Eisenhower, and Kennedy years. Staffed by career civil servants and operating with relative independence from the budget director, the division drew on the expertise of the budget examiners in effectively determining the BOB recommendation, summarizing the critical issues, and reviewing executive branch views in its enrolled bill memo to the president. In effect, it operated as a staff arm of the White House.

Commencing in 1965, major decision-making components within BOB and the White House began to evolve, although the procedures for collecting department and agency advice remained essentially the same. In the White House a trend toward an enlarged and more formalized policy staff that had begun in the Johnson administration was greatly advanced by the early 1970s. The assistant to the president for domestic affairs, who also supervised the policy staff, assumed major responsibility for the enrolled bill process.⁵ Theoretically, he reviewed and signed off on all enrolled bill recommendations before they were sent to the president. In practice, however, only the most controversial bills were examined. Most attention focused on those bills in which executive branch opinion was divided or unanimous in recommending a veto.

The domestic policy staffs were organized along subject matter lines. Their size permitted greater expertise and time to be devoted to enrolled bills than was possible in the pre-1965 period. Moreover, the establishment of an internal distribution list within the White House assured consideration of political factors from a variety of quarters. Beginning with the Nixon administration the congressional liaison office was regularly consulted on all bills.

⁴ The ten-day period commences when the legislation is officially received by the executive clerk in the White House. During occasions of extended foreign travel for the president or in cases of very long and complex bills, after its passage legislation may be held in the Congress until the president and his staff are able to consider it. This can be done by either of the presiding officers of the Senate or House simply withholding his signature from the parchment original. Legislation requires the signature of both presiding officers before it can be formally presented at the White House. Although delays are not standard practice, they have occurred from time to time and do provide the ten-day period with some flexibility.

⁵ This description concerns legislation that is primarily domestic in character. The reference to the policy staff is to the domestic policy staff. Since 1960, bills involving national security questions have been sent to the president's adviser for national security affairs in addition to the regular distribution list within the White House itself.

This increased White House scrutiny seemed to have two major effects: a greater amount of information and politically based points of view at the president's disposal; and a shift of key presidential advisement closer to the Oval Office. White House advisers presumably were more influential by virtue of the way the process was structured and sequenced. Their recommendations were made last but appeared first in the file the president received. Since all recommendations were confidential, the departments and agencies did not know what White House advisers or OMB, for that matter, had recommended.⁶ Under these circumstances and within the time constraints imposed by the ten-day period, appeals were difficult. The White House cover memo which summarized the OMB summary and included White House opinion was the one the president was likely to read most thoroughly most of the time. It was shorter and its format was tailored to his wishes.

Despite this enlarged White House staff role, there were also changes within OMB that worked to preserve its influence. Four new positions were created at the top of the OMB organizational structure and staffed by political appointees. Titled program associate directors, they were given authority in budgetary, legislative, and management matters within broad, though distinct, subject areas. Working closely with their opposite numbers on the domestic policy staff, these associate directors became involved in the formulation of enrolled bill recommendations as part of their ongoing legislative responsibilities. The director and deputy director of OMB also participated more regularly in determining the office's recommendations.

As a consequence of these structural changes, OMB's advisory mechanism seemed to be more sensitive to political factors and, conversely, less oriented toward making its recommendations solely on the substantive merits of the legislation.⁷ In short, during the 1965-1976 period, the process seemed to become more politicized, with the president's policy aides appearing to exert a greater influence.

DATA AND METHODOLOGY

The data for this study come from page one of the enrolled bill memorandum the Office of Management and Budget prepares for the president. The first page of this memorandum contains a variety of information, including a listing of the congressional sponsor of the legislation, a synopsis of the purpose of

⁶ Knowledge of recommendations related to the order in which advice was given. OMB was aware of department and agency recommendations but generally not those of the White House staff. The latter had the advantage of knowing all executive branch recommendations. The head of the policy staff and, of course, the president had complete access to all White House recommendations although other aides could usually obtain this information if they desired.

⁷ The thesis that OMB became more politicized during the Nixon and Ford presidencies has been advanced by Hugh Heclo in his article, "OMB and the Presidency—The Problems of Neutral Competence," *The Public Interest* 38 (Winter 1975):80-98; and Hyde and Wayne, "White House-OMB Legislative Relations."

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the bill, and a brief discussion of its origin and impact on the president's program. It also summarizes department and agency recommendations and OMB advice (see Appendix).

We have compiled the recommendations made in every enrolled bill memorandum prepared by the Legislative Reference Division for the Nixon presidency and through June 30, 1976, for the Ford presidency. We focused on these presidencies because they were recent, because they were Republican, and because they were saddled with more liberal, Democratic Congresses. Although we expected the ideological and partisan factors to maximize the veto situation, we found that the vast majority of enrolled bill recommendations were unanimous to approve the legislation. In such cases, the president's choice is not difficult; he almost always goes along and signs the bill into law. We found only one instance in which he did not do so.⁸

We eliminated all unanimous recommendations to approve legislation from our study. Lacking controversy, these recommendations dictated positive presidential responses. In a statistical sense there was no variance, nothing to explain. However, we did include unanimous recommendations to veto because they indicated controversy and did not always induce a particular presidential response. Thus, our universe consists of all enrolled bill memos in which there was at least one recommendation to veto. We consider these bills "controversial" in the sense that a difference of opinion existed between the executive branch and the legislature and often within the executive branch itself. This difference could only be resolved by presidential action.

During the frame of analysis, January 1969-June 30, 1976, there were 238 of these controversial bills.⁹ President Nixon acted on 144; President Ford, 94. Sixty percent of this legislation originated in the House of Representatives and almost 75 percent was sponsored by Democrats. Most of the enrolled bills were public (90 percent) and almost twice as many were passed during the second session of the Congress than the first. Sixty-four percent of these controversial bills were ultimately approved by the president.

We employ nominal level statistical measures in our analysis. Departments and agencies couch their recommendations to the president in a variety of ways: approval, no objection, disapproval, defer (to some other agency), and no position. For the most part, we have reduced this advice to three categories: approval, disapproval, and defer. Almost all of our statistical analysis concerns the approval and disapproval categories. Bar graphs are used to present the distribution of the data.

In our analysis, we are primarily interested in what the executive branch recommends and what the president does. Since presidential action is the final

⁸ In 1974, Congress passed legislation to name the United States Court House and Federal Office Building in Grand Rapids, Michigan, the Gerald R. Ford Federal Building. Despite unanimous approval within the executive branch, Ford vetoed the bill on January 4, 1975, on the grounds that no other federal office building was named for a sitting president. The veto message thanked Congress for its sentiment but cited precedent as reason for the president's action.

⁹ During this same period, a total of 2,868 bills and resolutions became law.

step in the enrolled bill process, in this study we view the president's decision as a dependent variable while executive recommendations to the president are considered independent variables.¹⁰ OMB's advice is seen both as dependent on department views and an independent influence on presidential action.

Three analytic sections follow. The first examines the relationship between presidential actions and the recommendations of lead agencies (those most directly affected by the legislation),¹¹ all other agencies, and the Office of Management and Budget. The second illustrates these patterns by focusing on the recommendations of three departments: Agriculture; Health, Education and Welfare; and Interior. The final section contrasts the actions of Presidents Nixon and Ford on enrolled bills. Here we examine patterns of executive branch recommendations and presidential decisions over the time frames of individual Congresses. In this way, we illustrate the cues that each president may have considered in making his judgments on enrolled bills.

PRESIDENTIAL CUE TAKING: THE LEAD AGENCY AND OMB

The recommendations of all departments and agencies on all bills are not equally important. Next to OMB, the lead agency tends to be the most important. Non-lead agencies that are asked to make recommendations seem to have relatively little impact on OMB's advice or presidential action.

The lead agency recommended presidential approval of legislation more often than OMB. For our sample, the lead agencies advised the president to approve 56 percent of the controversial legislation compared to 34 percent for OMB. The reason that lead agencies are more favorably disposed toward the legislation is that they often have a direct stake in it while OMB usually does not. Legislation that extends agency jurisdiction, enlarges its staff, expands its budget, or enhances its influence is likely to be supported by its beneficiaries. When OMB as an executive branch agency is affected in this manner, it too can

¹⁰ As students of formal modeling know, any recursive model somewhat oversimplifies reality. Ours is no exception. Other linkages might be incorporated within the model, such as between Congress and the White House, or some linkage might be considered reciprocal. For example, the president's own position, if known, might at times influence the recommendations of departments and agencies. We concede, therefore, that more elaborate models might eventually be developed. However simplistic, models are useful in making explicit the underlying behavior and relationships that are being examined. On the whole, we believe that this model accurately depicts the interrelationships among OMB, the lead agencies, and the White House—the principal actors in the enrolled bill process. The model's ability to predict accurately ultimate disposition of legislation will serve as its own test of validity. We anticipate refinements in the model as additional information from more presidencies is examined and as more is learned about White House decision making.

¹¹ In most cases, there is only one lead agency. In a few cases, there are several. Determining the lead agency is relatively easy. The subject matter of the legislation normally falls within the jurisdiction of a single department or agency. In some cases, the agency is even mentioned in the bill. In addition, OMB normally lists the lead agency's recommendation directly after its own in reporting the advice to the president.

be counted on for support. For OMB, however, other presidential interests normally predominate. Charged with budget preparation, legislative clearance, and management oversight, its orientation is to recommend the approval of legislation that conforms to the president's budget estimates and program objectives and to oppose legislation that does not. Having the president as its principal client has placed OMB in a unique position to claim a presidential perspective and to resist outside pressures, pressures to which other executive departments and agencies must be responsive. OMB has traditionally been concerned with maintaining precedent and avoiding exceptions to the rules. As a consequence, it has earned the reputation as the agency that says no.

Despite being insulated from some of the political pressures that affect the rest of the executive branch, OMB is not totally indifferent to the views of other departments and agencies. Making decisions on the merits of legislation requires considerable substantive knowledge, the kind lead agencies with a stake in the legislation are likely to offer in support of the recommendation. Rarely can OMB afford to disregard completely this knowledge and advice in favor of its own expertise. Our data indicate that when the lead agency recommended that the president approve the legislation, OMB approval recommendations rose from 34 to 45 percent; when the lead agency recommended a veto, OMB veto recommendations rose from 66 percent to 75 percent. Thus, OMB appears to be influenced, at least to some extent, by lead agency advice.

Since presidents usually approve acts passed by Congress, it is not surprising that when both the lead agency and OMB supported the enrolled bill, the president almost always approved it (96 percent). Lead agency support alone was frequently compelling. Presidents approved 79 percent of the bills that lead agencies recommended be signed. OMB's approval was an even more certain indication that Presidents Nixon and Ford would approve the legislation. In 95 percent of the cases in which OMB advised approval, the president approved the bill. In fact, during the six and one-half year period that we studied enrolled bill recommendations, the president vetoed only four bills that OMB had supported!

While OMB's advice to approve seemed to be regarded as an all-clear signal at the White House, an OMB recommendation to veto was taken only as a warning. If reinforced by other executive agencies, notably the lead agency, this warning tended to induce a negative presidential response. Of all the legislation in our universe of controversial bills, presidents vetoed only 36 percent of it. When both OMB and the lead agency advised disapproval, however, presidential vetoes rose to 63 percent. When a majority of the other agencies also opposed the legislation, this percent increased still further (75 percent). Clearly, the key to presidential vetoing seemed to lie in the threshold of executive opposition. The greater that opposition, the more likely the president would veto the bill so long as OMB had opposed it.

The most difficult situation for the president and his staff was when the lead agency recommended approval and OMB disapproved. In such situations

Presidents Nixon and Ford tended to follow the lead agency, signing 65 percent of the bills that fell into this category. Their sensitivity to political pressures seemed to account for this tilt in favor of legislation. The percentages of presidential responses to different patterns of lead agency and OMB approval and disapproval recommendations are presented in Figure 1.

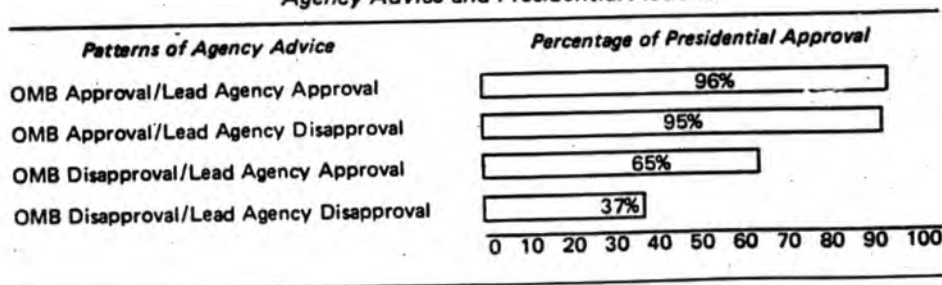
THE IMPACT OF THE DEPARTMENTS OF AGRICULTURE, HEW, AND INTERIOR

Some agencies have been more successful than others in convincing the president to follow their advice. A variety of factors have contributed to this success: public and congressional support of the department and its programs; the size, prestige, and political muscle of its clientele; the persuasiveness and supportiveness of its secretary and other political appointees; and the reputation, expertise, and skills of its career civil service. The policy preferences and political sensitivities of the president and his staff also have an effect on which recommendations are followed and which are not.

Assuming the level of agreement among an agency, OMB, and the president on enrolled bills to be a reflection of a department's persuasiveness, we examined the recommendations of three departments: Agriculture; Health, Education and Welfare; and Interior. These departments were chosen for several reasons: their views on legislation were solicited on more enrolled bills than were other departments and agencies, except, of course, OMB; their needs, objectives, and policy preferences bore differing relationships to Nixon's and Ford's legislative programs; their clientele varied in their support of each president; and finally, the personality, reputations, and "clout" of their secretaries were different. Agriculture had a secretary who was influential and clientele who were unified and generally supportive of presidential policy. HEW changed secretaries frequently during this period and was only occasionally viewed as being "close" to the president. In addition, HEW's clientele were less unified and less important (some might even say hostile) to the president's program. Interior fell between these extremes. Both presidents enjoyed backing from Interior's user and producer groups but had less support from that department's consumer and conservation interests.

FIGURE 1

Agency Advice and Presidential Actions



We expected to find the highest levels of agreement among Agriculture, C.I.B., and the president and the lowest levels among HEW, OMB, and the president. These expectations were only partially borne out by the data. Both OMB and the president, in fact, were more often in accord with the Department of Agriculture than they were with either the Departments of Interior or Health, Education and Welfare. However, most disagreement developed between Interior and OMB. Presidential support was approximately equal for HEW and Interior.

Agriculture had the most success with OMB and the president but only when it made recommendations as a lead agency. When it did so as a non-lead agency, its ability to influence the president appeared to be no greater than HEW, Interior, or for that matter, other non-lead agencies. This supports our proposition that the recommendations of non-lead agencies were not a particularly important influence on presidential actions regardless of the prestige of the agencies or the subject matter of the legislation.

Agriculture was more favorably disposed to legislation than were most other lead agencies. It advised presidential approval two-thirds of the time on this controversial legislation compared to 56 percent for all lead agencies (51 percent for HEW and 65 percent for Interior). This relatively high approval rate for Agriculture undoubtedly contributed to that department's success in getting the president to accept its recommendations. It is easier to persuade a president to sign legislation than to veto it. Agriculture's strong and relatively cohesive clientele could also be counted on to apply significant political pressure, usually to approve the bill. Finally, OMB evidenced a slightly higher level of agreement with Agriculture on recommendations to approve (56 percent) than it did with lead agencies in general (45 percent). This level of agreement undoubtedly also contributed to the president's inclination to approve Agriculture's legislation. Both OMB and the president agreed with Agriculture's recommendation to veto 88 percent of the time.

It is probably not surprising that HEW under two Republican presidents was less positively disposed toward controversial legislation than was Agriculture, since both Nixon and Ford were suspicious of and objected to high-cost social-welfare programs at the national level. What is somewhat surprising, however, is that HEW was almost as supportive of controversial enrolled bills as were lead agencies as a whole. The department obviously had to try to be responsive to the views of the presidents as well as to its more liberal clientele.

Presidents Nixon and Ford agreed with HEW's recommendations to approve 78 percent of the time and with its recommendations to veto 47 percent. These percentages were also similar to the average level of presidential agreement with all lead agencies. OMB, however, evidenced a somewhat lower level of agreement with HEW than it did for other lead agencies, perhaps reflecting the budget agency's sensitivity to high-expenditure legislation and its skepticism of the cost-effectiveness of large social programs.¹²

¹² The department's disagreement with OMB on enrolled bill recommendations may also

OMB tended to be even more negative on legislation affecting Interior. The president, however, was more supportive. The budget agency's highest level of agreement with Interior came on recommendations to veto; conversely, the president's greatest support came on recommendations to approve. This pattern of agency advice and presidential action suggests that the Department of Interior did not possess much influence with either OMB or the president. Unlike Agriculture, which enjoyed success with both OMB and the president on both its recommendations to approve and disapprove, Interior was successful only when its recommendations accorded with the typical inclination of OMB to say no on controversial legislation and the president to say yes.

The reasons for presidential support and OMB opposition seemed to correspond to the nature of the legislation with which the Department of Interior regularly dealt. Many of the so-called pork barrel bills came within its purview. The department and the president could be expected to be sensitive to the political pressures for approving this legislation; OMB, as guardian of the president's budget, would not nearly be as sympathetic.

The confrontation between OMB and Interior highlights some of the tension that can and often does exist between lead agencies and OMB. OMB is supposed to take the president's program into account. However, despite its so-called politicization, OMB and the president were clearly not on the same wavelength for much of this controversial legislation. Moreover, as lead agencies, these three departments tended to be more successful than OMB in convincing the president to support their recommendations. Put another way, OMB was not able to sustain its negative recommendations against these three lead agencies most of the time, and in the case of Interior, it was not able to sustain it even with the department's support.

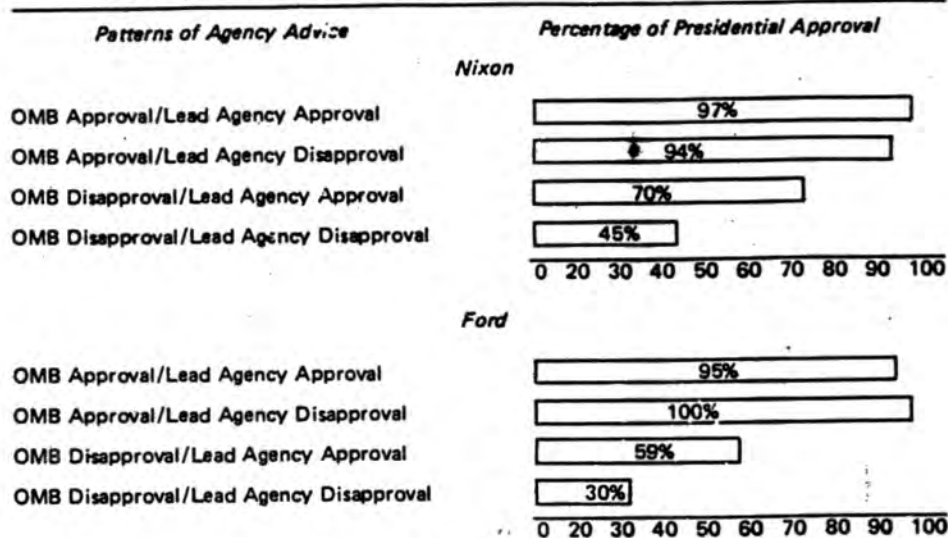
VARIATIONS IN PRESIDENTIAL BEHAVIOR

In reaching their decisions on enrolled bills, Presidents Nixon and Ford differed in the weight they placed on the recommendations of individual agencies. As indicated in Figure 2, Nixon was somewhat more likely to follow the lead agency's positive recommendations than was Ford. He signed 83 percent of the bills approved by the lead agencies compared with 74 percent for Ford. On the other hand, Ford was more willing to concur with OMB's negative advice. He vetoed 56 percent of the legislation OMB advised him to compared with 41 percent for Nixon (not shown in Figure 2).

We would hypothesize that Nixon's larger policy staff increased the political sensitivities and technical capabilities of the Nixon White House and, conversely, decreased its dependence on OMB's analysis and perhaps its

indicate that OMB's politicization during this period has been exaggerated. To say it simply, OMB obviously took different (and presumably less partisan) factors into account in rendering its recommendation to the president on HEW legislation.

FIGURE 2

Agency Advice and the Separate Actions of Presidents Nixon and Ford

incentive for following OMB's recommendations. Ford, on the other hand, had a smaller domestic policy staff, one that had experienced considerable turnover during the 1974-1975 period. As a consequence, he and his aides had to rely more on OMB. They saw it as the one agency that could be counted on to take a presidential perspective, albeit with a naysaying orientation.

OMB's negative recommendations increased as each administration progressed. While President Nixon vetoed only 26 percent of OMB disapproval recommendations during the Ninety-first Congress, he vetoed 46 percent during the Ninety-second Congress and 63 percent in the Ninety-third. President Ford vetoed 51 percent and 63 percent, respectively. It stands to reason that Republican presidents saddled with Democratic Congresses would have become more receptive to OMB's veto recommendations as their honeymoon with Congress ended and the time for the next election neared.¹³

While OMB's increased negativism and the nearness to the next national election may help explain Ford's greater inclination to veto legislation, another factor, greater agreement between lead agency and OMB, also may have

¹³ When a president faces a Congress dominated by the opposite party, differences in legislative judgment between the White House and the Congress will be most at variance as the time for the presidential election nears, and to a lesser extent, as the time for the off-year congressional election approaches. With a Republican in the White House who is more conservative than a Democratic majority in Congress, the expected pattern of behavior would be increased presidential vetoing, especially in policy areas that the president had chosen to differentiate his position from the opposition's in Congress. OMB could be expected to reflect these presidential policy positions, so its veto recommendations should increase over time.

contributed to the same result. As shown in Figure 2, there were more instances in which both lead agency and OMB lined up against legislation in the Ford administration than in the Nixon presidency. This unity of opposition made it easier for Ford to go along with negative recommendations.

Naturally, we would not expect increased presidential vetoing to occur if one party controlled both the presidency and Congress. On the contrary, we would anticipate less vetoing closer to the election and, relatively speaking, more in non-election years when the political ramifications might not be as severe. The political environment combined with the president's inclination undoubtedly affects advice he receives, probably more so as the election approaches, and especially, if the president is a candidate. Despite their own interests, agencies directed by political appointees who have a personal stake in the outcome of the election are not oblivious to the president's political and policy needs.

CONCLUSION

The decision to sign or veto legislation is vested in the president alone, yet its exercise has become a function of the institutionalized presidency. Touching relevant bases obviously enhances the president's perspective, alerting him to a wide range of substantive and political issues. It also serves another purpose. It extends the parameters of policymaking, thereby giving executive departments and agencies and even members of Congress an input. To public servants and legislative representatives, anxious to maintain their own credibility and desirous of affecting policy judgments, such an input is considered very important.

From the president's point of view, the inputs are not equal. OMB has consistently enjoyed greater influence than any other executive agency. The reasons for this influence relate to OMB's position, its orientation, and its resources. OMB runs the process and prepares the basic enrolled bill memo. It is a presidential agency, cognizant of the president's policy objectives. OMB applies these objectives in making its recommendations. Moreover, it has the benefit of other agency views and a fairly large staff of its own. Naturally, presidents and their policy aides have turned to OMB for cues.

During the Nixon and Ford administrations, an OMB recommendation to approve generally signaled the absence of major problems. With OMB support, the odds became heavily weighted in favor of presidential approval, regardless of what others recommended. OMB's advice to veto, on the other hand, did not have as predictable a presidential response. The reason probably is the presumption in favor of most enrolled bills. Nonetheless, an OMB veto recommendation remained the important danger signal that alerted Presidents Nixon and Ford and their policy aides to look closely at other cues, most particularly the position of the lead agency. The expectation that the lead agency would support the legislation suggests why lead agency negative recommenda-

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tions combined with OMB's advice to veto were such powerful influences on presidential behavior.

If the two main cues (OMB and the lead agency) were not lined up in the same direction, the president's choice was much more difficult. Nixon's and Ford's major problems stemmed from split recommendations in which the expectation of lead agency approval and OMB disapproval was realized. Under these circumstances, which occurred with considerable frequency on the controversial bills we examined, there were few other executive branch cues. The views of other agencies may have been considered but unless their interests were central and their arguments compelling, they were apt to be discounted. This suggests the situation in which the president's own domestic policy aides were apt to be most influential.

In cases of split recommendations, one basic trend stood out. Enrolled legislation was given the benefit of doubt. Presidents Nixon and Ford signed almost two-thirds of the legislation that fell into this category.

We conclude that the strong association between lead agency recommendations, OMB advice, and presidential actions on controversial legislation indicates that much cue giving and taking does occur within the executive advisory mechanism. Thus, not only does the president not decide in a vacuum, but also the White House policy staff does not exert countervailing pressures. The White House may take sides, but it rarely goes it alone. More often than not, its recommendations are shaped by other executive advice, most notably OMB and the lead agency. This is why it is usually possible to predict a high percentage of presidential actions on enrolled bills simply from a knowledge of lead agency and OMB recommendations.

Of the three departments we examined, Agriculture seemed to be in the president's camp politically and ideologically. Its clientele in the executive and on Capitol Hill coincided most closely with the president's electoral constituency. The department's advice was seriously considered and usually followed. Interior and HEW had less success, especially on their recommendations to veto. The nature of the legislation, its public impact, and its political consequences may have had something to do with both presidents' inclinations to approve bills these departments opposed. Even OMB was unable to persuade the president to veto bills that Interior had recommended be disapproved, although the joint opposition of HEW and OMB was usually sufficient to induce a negative presidential response.

The ebb and flow in the recommendation patterns between OMB and the agencies illustrate some of the checks and balances within the executive branch and also help explain the differences in President Nixon's and Ford's reaction to enrolled bills. That Ford was more negative than Nixon owes primarily to OMB's increased negativism during his administration and the greater unanimity on the veto recommendations between OMB and the lead agency. Also Ford's smaller and less influential domestic policy staff was not in a position to challenge OMB as had Nixon's staff under John Ehrlichman. There were, of

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course, other factors: the nearness of the 1974 congressional election to his succession to office; the size of the Democratic majority in the 1974-1976 period; the Reagan challenge and the necessity to appeal to a more conservative Republican constituency; and the president's own policy views.

In generalizing about the Nixon-Ford experience, we would hypothesize that presidential decisions on enrolled bills seem to be governed by two instincts: to rule and to win. For presidents faced with an opposition Congress, these instincts lead to different decisions over time. To govern, presidents have no choice but to cooperate with Congress. Otherwise, policymaking becomes a hollow exercise with little chance of success. But to run for reelection and support the election of members of the president's party involves taking stands that are consistent with the party's political constituency. In certain situations, vetoing encourages this, probably more so with a Republican in the White House and Democrats in the majority in Congress. By saying no to Democratic legislation, Republican presidents can reassert the purity of their policy views while at the same time, declaring their independence from Congress.*

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* The authors gratefully acknowledge the research support received from The George Washington University Committee on Research.

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The President's Veto Power

By RICHARD A. WATSON

ABSTRACT: Drawing upon experiences with legislatively dominated government at the state and national levels in the post-Revolution period, the Founders granted the president the power to veto bills passed by Congress. An analysis of all vetoes cast by modern presidents in office from 1933 to 1981, beginning with Franklin Roosevelt and ending with Jimmy Carter, indicates that Roosevelt used the power most frequently. If, however, one focuses on public bills of national significance and takes into account the number of years each of these presidents served, Gerald Ford was the most significant vetoer of the period. Harry Truman vetoed more major bills than any of the other modern presidents and was also overridden most frequently by Congress on such bills. Most vetoed bills are eventually passed and signed by the president in a different form. The president can also affect legislation by threatening to veto proposed bills: such action may prevent their passage at all or may influence Congress to put them in a form that is acceptable to him.

Richard Watson, professor of political science at the University of Missouri, Columbia, received LL.B. and Ph.D. degrees from the University of Michigan. He has served as a fellow at the Center for Advanced Study in the Behavioral Sciences at Stanford and as a guest scholar at the Brookings Institution. His two most recent books are The Politics of the Presidency (coauthored with Norman C. Thomas) and The Presidential Contest, both published in 1988. He is working on a study of presidential vetoes and national policymaking.

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THE most potent legal weapon available to the president in his perennial battles with Congress is the veto power by which he can prevent at least temporarily, and often permanently, the enactment of measures passed by that legislative body. In his classic *Congressional Government*, Woodrow Wilson characterized the power as, "beyond all comparison," the president's "most formidable weapon"; in exercising the veto, he explained, "the president acts not as the executive, but as a third branch of the legislature."¹

Today, among all the leaders of the world's major democratic countries, only the American president possesses and actually uses the executive veto power in the process of policymaking.² This article traces briefly the establishment and development of the president's veto power and then focuses on the use of that power by modern presidents, beginning with Franklin Roosevelt and ending with Jimmy Carter. It next analyzes congressional responses to these modern vetoes and concludes with an assessment of the impact of the president's veto power on policymaking by the national government.

ESTABLISHMENT OF THE PRESIDENT'S VETO POWER

While the origins of the president's veto power can be traced back to the early Roman Republic and later to England, its more immediate precedents

developed here in America at the state level. Most of the governorships in the period following the Revolution were weak offices overshadowed by state legislatures, reflecting the colonists' unfortunate experiences with the arbitrary executive power exercised by King George III and colonial governors sent as emissaries of the Crown. There were, however, two exceptions to that rule. The British occupation of New York required that state to develop a strong governorship free of legislative dominance in order to handle its military and civilian affairs. In Massachusetts, the voters adopted a constitution that included a popularly elected governor, who was eligible to succeed himself. Both states granted the governor substantial powers, including that of vetoing legislation passed by the state legislature.

Experiences with the national government in the post-Revolution period paralleled those of the states. The distaste for executive power was reflected in the Articles of Confederation, which provided for a national legislative body but no executive branch at all. Attempts to administer laws through ad hoc committees, councils, or conventions proved to be unsuccessful. Ultimately, Congress was forced to create departments of diplomacy, war, and finance and to appoint eminent people, such as Robert Livingston, John Jay, and Robert Morris, to head their activities.³

Thus experiences at both the state and national levels with weak and non-existent executives convinced those who gathered for the Constitutional Convention that there should be some type of national executive and that he should

1. Woodrow Wilson, *Congressional Government: A Study in American Politics* (Boston: Houghton Mifflin, 1885), p. 52.

2. The monarch of Great Britain still theoretically possesses the power to withhold assent from measures passed by Parliament, but no British monarch has actually utilized that power since 1707.

3. C. C. Thach, Jr., *The Creation of the Presidency, 1775-1789: A Study in Constitutional History* (Baltimore, MD: Johns Hopkins University Press, 1922), chap. 3.

possess the veto power, as did the governors of New York and Massachusetts. The fact that the governors of those two states served effectively without endangering political freedom convinced many of the delegates that a strong chief executive accountable to the people was not to be equated with a tyrannical king or colonial governor.

A number of arguments were made in favor of vesting the veto prerogative in the president, the principal one being that the executive needed such a power to protect itself against encroachment at the hands of Congress. James Madison also stated at the convention that it would help to prevent "popular or factious injustice,"⁴ by which he meant rule by the capricious majority or by selfish minorities. It would also be "an additional check against the pursuit of those unwise and unjust measures which constituted so great a portion of our calamities."⁵

While the delegates were in agreement on the desirability of an executive veto, they disagreed on the form the veto should take. One basic issue was whether the executive should exercise the veto in conjunction with the members of the judiciary, as was provided for in the New York Constitution, or alone, as was done under the Massachusetts Constitution. Madison argued that the president would be more firm in his resolve to use the veto if he exercised it jointly with the judges and that having the latter share in the veto power would help to avoid the passage of laws that were unwise in principle or incorrect in form. Elbridge Gerry of Massachusetts countered that "the Executive while standing alone would be more impartial than

when he could be covered by the sanction and seduced by the sophistry of the Judges"⁶ and that blending the judicial and executive departments in that way would "bind them together in an offensive and defensive alliance against the Legislature and render the latter unwilling to enter into a contest with them."⁷ Ultimately, Gerry's arguments prevailed, and the president alone was granted the power to veto laws passed by Congress.⁸

Another major issue concerning the veto was whether it should be absolute or whether it should be qualified, that is, subject to being overridden by the two houses of Congress. Despite the fact that Alexander Hamilton and James Wilson favored the absolute veto, the delegates ultimately adopted the qualified form of the veto, with a two-thirds veto in both houses required to override the president's veto. They did, however, provide for one variant of the absolute veto. If a bill was presented to the chief executive at the end of a legislative session and he took no action on it, and if Congress had adjourned by the end of the ten-day period he had to consider it, the president was said to have exercised a pocket veto, one that could not be overridden by Congress.

Thus the veto power that emerged from the deliberations of the Constitutional Convention became a potentially important weapon for the president in his struggles with Congress. It remained to be seen, however, how that weapon would actually be utilized by our chief executives.

6. *Ibid.*, 1:139.

7. *Ibid.*, 2:78.

8. It should be noted, however, that the Supreme Court does possess a type of veto through the power of judicial review, whereby it can declare congressional laws unconstitutional and thus render them null and void.

4. Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven, CT: Yale University Press, 1966), 2:587.

5. *Ibid.*, p. 74.

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DEVELOPMENT OF THE
PRESIDENT'S VETO POWER

Early presidents were not inclined to use the veto power. Three years passed in George Washington's administration before he vetoed an act of Congress, and another four years before he cast his second and final veto. John Adams, Thomas Jefferson, and John Quincy Adams cast no vetoes at all, and James Monroe vetoed only one piece of legislation. The only early president to use the power with any frequency was James Madison, who vetoed seven bills in all. Thus the first six presidential administrations, covering a period of 40 years, from 1789 to 1829, witnessed a total of ten vetoes, and as indicated, seven of those were attributable to Madison alone.

When early presidents did veto legislation, they tended to emphasize constitutional objections. For example, Madison's use of the power on legislation relating to Protestant churches cited the First Amendment language that "Congress shall make no law respecting an establishment of religion."⁹ The fact that the president thought a bill was unwise—that is, constituted bad public policy—was not generally considered a sufficient reason for vetoing it.

When Andrew Jackson assumed the presidency in 1829, the use of the veto power changed radically. Jackson vetoed 12 bills in his eight years in office, more than all his predecessors combined. Moreover, he did not hesitate to substitute his judgment on policy matters for that of the Congress. In his famous message vetoing a bill regarding a national bank, Jackson not only cited constitutional grounds for his disapproval but also

emphasized concerns of social and economic justice in order to gain the support of the "humble members of society" for his action.¹⁰ Joseph Kallenbach suggests that the veto message "was a powerful appeal to the citizenry of the country for support, a campaign document for the forthcoming presidential election."¹¹

Subsequent presidents continued to differ on the extent to which they cast vetoes and their reasons for doing so. Some continued the early tradition: Van Buren vetoed only one bill; Harrison, Taylor, and Fillmore, none at all. John Tyler, however, followed the Jackson precedent by vetoing ten bills, which led his opponents in Congress to introduce a resolution to impeach him for "the high crime and misdemeanor of withholding his assent to laws indispensable to the just operations of government, which involved no constitutional difficulty on his part."¹² The resolution failed.

For the most part, however, what Kallenbach terms Jackson's "tribunative" view of the veto authority ultimately prevailed. Andrew Johnson cast 29 vetoes; Grant, 93; and Grover Cleveland, a total of 584 in his two administrations. Writing at the end of the first century of the nation's existence, Edward Mason summarized the major differences between the veto in 1789 and 1889 as follows: "[In 1789] it was used sparingly and in a cumbrous manner as a weapon of constitutional warfare; today it is used frequently and easily as a means of preventing mistakes in the administration of the business of government."¹³

10. Ibid., 2:590.

11. Joseph Kallenbach, *The American Chief Executive: The Presidency and the Governorship* (New York: Harper & Row, 1966), p. 354.

12. *Congressional Globe*, 27th Cong., 3d sess., 12:144.

13. Edward Mason, *The Veto Power: Its Origin, Development, and Function in the Govern-*

9. James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789-1897* (Washington, DC: Authority of Congress, 1900), 1:489-90.

For the most part, presidents who cast vetoes prevailed in their conflicts with Congress. None of Jackson's 12 vetoes was overridden. It was not until 1845, the day that President Tyler left office, that Congress first overrode an executive veto. Prior to Franklin Roosevelt's ascension to office, only Andrew Johnson, who suffered 15 overrides, lost a significant number of veto battles with the national legislature.¹⁴

USE OF THE VETO POWER BY MODERN PRESIDENTS

Students of the presidency generally consider Franklin Delano Roosevelt as the first of the modern presidents.¹⁵ With his administration, the national government established the concept of the positive state, whereby it undertook the obligation to provide for the welfare of all the American people. In the process, Roosevelt pushed major domestic programs through the Congress, reorganized the executive branch, became an effective molder of public opinion through the use of his fireside chats and press conferences, and led the nation in a world war that spanned several continents. Thus the present analysis of modern presidential vetoes begins with Roosevelt and ends with Jimmy Carter, the most recent president who has finished his term of office. This 48-year span, from 1933 to 1981, covers eight presidencies, one-fifth of those over our 200-year history.

Table 1 shows the incidence of the use of the veto power by each of the presidents who served during this period. Franklin Roosevelt in just over 12 years cast 635 vetoes, exceeding the 584 that Grover Cleveland exercised in his eight years in office. Next in line were Harry Truman and Dwight Eisenhower, whose 250 and 181 vetoes, respectively, rank them as third and fourth among all the persons who have served in the office. In contrast, John F. Kennedy and Lyndon Johnson cast only 21 and 30 vetoes, respectively; of the presidents serving in this century, only Warren Harding, with 6 vetoes, exercised the power on fewer occasions.

In assessing the importance of vetoes cast by presidents, however, it is important to distinguish between those relating to private and public legislation. The former names a particular individual or entity such as a business that is to receive relief from the federal government in the form of a claim based on a financial loss, the payment of a pension, a granting of citizenship, and the like. In contrast, a public bill relates to matters affecting all individuals and businesses, or those belonging to certain categories or classifications. Public bills are more significant because they affect a much broader range of individuals and groups than private bills do.

Table 1 indicates the number of private and public bills vetoed by each of the presidents in the period from 1933 to 1981. It should be noted that during the first five presidencies, that is, from Roosevelt through Johnson, vetoes of private legislation were more numerous than those of public bills. Beginning with the Nixon presidency and continuing through the Carter administration, the opposite situation prevailed: vetoes of public bills far exceeded those of private ones. A

ment of the United States, 1789-1889 (Boston: Ginn, 1891), p. 140.

14. Next in terms of frequency was Woodrow Wilson, who was overridden on six occasions.

15. See Fred Greenstein, Larry Berman, and Alvin Felzenberg, *Evolution of the Modern Presidency: A Bibliographical Survey* (Washington, DC: American Enterprise Institute, 1977).

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TABLE 1
VETOES CAST BY PRESIDENTS ROOSEVELT THROUGH CARTER, 1933-81

President	Bills Vetoed			Number of Years Served	Vetoed per Year
	Private	Public	Total		
Roosevelt	497	138	635	12.37	51.33
Truman	169	81	250	7.63	32.77
Eisenhower	103	78	181	8.00	22.62
Kennedy	12	9	21	2.90	7.24
Johnson	16	14	30	5.10	5.88
Nixon	3	40	43	5.69	7.56
Ford	5	61	66	2.31	28.57
Carter	2	29	31	4.00	7.75
Total	807	450	1,257	48.00	26.19 (average)

SOURCES: *Presidential Vetoes, 1789-1976*, comp. Senate Library (Washington, DC: Government Printing Office, 1978); *Presidential Vetoes, 1977-1984*, comp. Senate Library (Washington, DC: Government Printing Office, 1985).

major reason for this change was the passage in 1966 of a law that greatly facilitated the consideration by the United States Claims Court of private cases referred to it by Congress.¹⁶ As a result, in recent years, Congress has passed far fewer private bills that presidents could veto.¹⁷ In addition, Presidents Nixon and Carter vetoed a smaller percentage—less than 1 percent—of private bills that were passed by Congress than any of the other six presidents.¹⁸

While the distinction between private

16. The legislation authorized trial commissioners of the Claims Court, rather than the Court itself, to consider and report on congressionally referred cases. *Guide to Congress*, 3d ed. (Washington, DC: CQ Press, 1982), p. 359.

17. For example, in just over five years of the Johnson administration, Congress passed 1088 private bills; in the same five and three-fourths years that President Nixon served, 494 such bills were enacted; and during the four years of the Carter administration, 293 private bills were passed.

18. Franklin Roosevelt vetoed 497 of 3916 private bills, which represents about one in eight of those passed by Congress during his administration. Next in terms of frequency was Harry Truman, whose 169 vetoes of 3453 private bills constitutes about one of every twenty such laws enacted during his presidency.

and public bills is significant, it should also be noted that not all public legislation is of equal importance. For example, some of it deals with essentially local matters, such as the sale of the Port of Newark Army Supply Base to the city of Newark, or minor national legislation, such as the authorization of the postmaster general to operate motor vehicles seized for violations of customs laws. An analysis of the 450 public bills vetoed between 1933 and 1981 determined that 259 of them involved significant policies of concern to the nation.¹⁹

Table 2 focuses on the incidence of vetoes of public bills over the period 1933-81, with particular attention to those relating to legislation of national significance. The three most recent presidents not only vetoed more public than

19. As a check on my subjective judgments on the matter, I compared my list of significant presidential vetoes cast since 1945 against vetoes discussed in *Congressional Quarterly*, which began publication that year. I found in almost all cases that it covered the same vetoes as were on my list. When it did not, I resolved the matter in favor of inclusion of vetoes that appeared on either of the lists.

TABLE 2
VETOES OF PUBLIC BILLS BY PRESIDENTS ROOSEVELT THROUGH CARTER, 1933-81

President	All Public Bills Vetoed		Number of Years Served	Significant Bills Vetoed per Year
	Nonsignificant	Significant		
Roosevelt	78	60	12.37	4.85
Truman	44	37	7.63	4.85
Eisenhower	44	34	8.00	4.25
Kennedy	5	4	2.90	1.38
Johnson	5	9	5.10	1.76
Nixon	2	38	5.69	6.68
Ford	6	55	2.31	23.81
Carter	7	22	4.00	5.50
Total	191	259	48.00	5.40 (average)

SOURCES: *Presidential Vetoes, 1789-1976*; *Presidential Vetoes, 1977-1984*.

private bills, as previously noted, but a high proportion of the public bills they vetoed were also of national significance. When the length of term is taken into account, all three of them cast more vetoes of significant bills per year than did any of their five predecessors. That statistic also indicates that President Ford was by far the most important vetoer of the 1933-81 period, while Presidents Kennedy and Johnson were the least important vetoers.

One final aspect of presidential vetoes cast during the 1933-81 period should be assessed, namely, which of the eight presidents vetoed the greatest number of major bills, that is, those of most importance to the nation? This judgment is admittedly a very subjective one, but I believe that Harry Truman earns the distinction. Among the 37 nationally significant bills that he vetoed were a number relating to both the domestic economy and internal security. Included in the former category were the Taft-Hartley law regulating labor-management relations and the McCarran bill that sought to convey title to offshore oil resources—mistakenly referred to as “tidelands” oil—owned by the national government to the states. Included in

the latter were the Internal Security Act, also sponsored by Senator McCarran, which required the registration of Communist and other suspect groups with the attorney general and authorized the detention of persons thought likely to commit espionage and sedition, and the McCarran-Walter Act, controlling the immigration and deportation of “subversives” and persons with Communist affiliations. In addition to this historic legislation, President Truman also vetoed the Kerr bill, exempting independent gas producers from regulation by the Federal Power Commission, and three separate tax bills, even though presidents generally defer to Congress on revenue measures. Truman’s own assessment after he left office that he “found it necessary to veto more major bills than any other president with the possible exception of Grover Cleveland”²⁰ would also apply to the veto record of the six presidents who succeeded him in office.

CONGRESSIONAL RESPONSE

When a president casts a regular veto—not pocket veto—he returns the affected bill to the house in which it

20. Harry S. Truman, *Memoirs*, vol. 2, *Years*

originated, the Senate or the House of Representatives. He also issues an official veto message setting forth his reasons for exercising the veto. The chamber involved must then decide what to do about the matter. It may take an immediate vote to sustain or override the veto, or the vote may be postponed to a fixed date. The matter may also be referred to a committee, and if it is not reported back to the entire chamber—which is typically the case—the veto is considered to be unchallenged. A vote to sustain the president's veto or not to challenge it ends the matter. If the chamber decides by a two-thirds vote²¹ to override the president's veto, the bill is sent to the second chamber, which has similar options in dealing with it. Only if the second house also votes to override the bill by a two-thirds vote is the veto overridden by the entire Congress; the bill thus becomes law.

The infrequency with which Congress overrode presidential vetoes, noted for the earlier period, continues in the modern era. Of the 1257 vetoes cast between 1933 and 1981, only 42 were actually overridden by both houses of Congress.²²

of Trial and Hope (Garden City, NY: Doubleday, 1956), p. 479.

21. The Supreme Court has held that the two-thirds requirement applies to the override vote itself—providing a quorum is present—not to the membership of the chamber. *Missouri-Pacific Railway Co. v. Kansas*, 248 U.S. 276 (1919).

22. In addition to these 42 occasions when Congress actually voted to override presidential vetoes, two other vetoes cast by President Nixon were considered to be overridden because the federal courts ruled that his attempts to use pocket vetoes during short, intra-, and intersession adjournments of Congress were unconstitutional. In so ruling, the courts noted that Congress had made arrangements to have officers receive veto messages while it was in adjournment, and so the Congress had not prevented their return as is contemplated by the Constitution for valid pocket vetoes. Under these circumstances, the two bills became law and are counted officially as being

Thus fewer than 1 in 25 vetoes cast over the 48-year period ended in a clear defeat for the chief executive.

This overall statistic is very misleading, however. Of the 1257 vetoes, 517 were pocket vetoes of private and public bills that Congress had no power to override. Moreover, of the 807 private bills vetoed by Presidents Roosevelt through Carter, only one—by Truman—was overridden. Finally, Congress failed to override any of the 191 nonsignificant public bills referred to in Table 2. A better comparison of the relationship between presidential vetoes and congressional overrides involves only regular vetoes of public bills of national significance. Table 3 contains information on that category of presidential vetoes.

Table 3 indicates that Congress did override Presidents Roosevelt through Carter on many such occasions. As indicated by the final column on the right, 24 percent of presidential vetoes of public bills of national significance were ultimately overridden by Congress. Column 4 shows that Congress attempted to override presidential vetoes 62 percent of the time when it could do so, and 39 percent of those attempts were successful (see column 6).

The table also shows great variation in the way in which Congress responded to vetoes cast by the various presidents. President Truman was ultimately overridden the greatest percentage of the time, 37; however, Congress attempted to override President Nixon the most, on 87 percent of his vetoes. Presidents Truman and Carter share the dubious distinction of being successfully overridden by Congress on the greatest proportion of attempts, namely, 50 percent.

The overrides of President Truman's

overridden by Congress even though they actually were not.

TABLE 3
CONGRESSIONAL RESPONSE TO REGULAR VETOES ON
NATIONALLY SIGNIFICANT PUBLIC BILLS, 1933-81

President	Vetoed	Attempts to Override		Successful Overrides		Vetoed Overridden (percentage)
		Number	Percentage	Number	Percentage	
Roosevelt	38	19	50.00	9	47.37	23.68
Truman	30	22	73.33	11	50.00	36.67
Eisenhower	20	10	50.00	2	20.00	10.00
Kennedy	0	0	0	0	0	0
Johnson	4	0	0	0	0	0
Nixon*	24	21	87.50	5	23.81	20.83
Ford	42	28	66.67	12	42.86	28.57
Carter	11	4	36.36	2	50.00	18.18
Total	169	104	61.54 (average)	41	39.42 (average)	24.26 (average)

SOURCES: *Presidential Vetoes, 1789-1976*; *Presidential Vetoes, 1977-1984*.

*This row does not include action on two pocket vetoes that were later declared to be unconstitutional. See fn. 22 of the present article.

vetoed also occurred on the most important bills. Included were three of the four historic pieces of legislation listed in the previous section—the Taft-Hartley bill, the internal security bill, and the McCarran-Walter Act; Congress did not challenge his vetoes of the offshore oil and natural gas bills. Moreover, Congress also overrode one of his vetoes of income-tax legislation. In the period from 1933 to 1981, Congress was not inclined to try to override a president on private or public bills with no significance for national policymaking, but Congress attempted to override the president in about three of five vetoes of bills of national significance and was successful in overriding about one in four such vetoes.

EFFECT OF THE PRESIDENT'S VETO POWER ON SIGNIFICANT LEGISLATION

The exercise of the president's veto power does not end the battle between Congress and the White House over the

affected legislation. As indicated earlier, Congress may override the veto, which has the effect of enacting the bill into law, and the override may be considered a complete victory for the legislative body on that matter. Alternatively, Congress may persist by sending a similar bill back to the president or his successor and, if it is then signed by the chief executive into law, this procedure may be thought of as constituting a partial victory for Congress.

The president may also prevail in the battle. Congress's taking no further action on the matter may be considered a complete victory for the chief executive. Moreover, the president or a successor may sign into law a bill that is closer to the president's view on the matter than to Congress's.²³ This result constitutes a partial victory for the president.

23. In veto messages, presidents frequently indicate the specific provisions they object to in the legislation involved and may also suggest what they would like to see substituted in their place. They may also express their views in press conferences and other public forums.

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TABLE 4
OUTCOME OF PRESIDENTIAL VETOES OF
NATIONALLY SIGNIFICANT PUBLIC BILLS, 1945-81

President	Vetoed	Victory for Congress			Victory for President			Compromise between President and Congress
		Complete	Partial	Total number	Complete	Partial	Total number	
Truman	37	11	9	20	5	7	12	5
Eisenhower	34	2	7	9	6	8	14	11
Kennedy	4	0	1	1	1	0	1	2
Johnson	9	0	0	0	2	2	4	5
Nixon	38	7	5	12	3	2	5	21
Ford	55	12	8	20	9	9	18	17
Carter	22	2	2	4	3	7	10	8
Total	199	34*	32	66	29	35	64	69†

SOURCES: *Presidential Vetoes, 1789-1976*; *Presidential Vetoes, 1977-1984*.

*Includes two pocket vetoes that were held to be unconstitutional.

†Includes two vetoes of bills that involved legalities and hence were not considered to have resulted in a victory for either Congress or the president.

Finally, the battle may end in what is essentially a compromise. This occurs when subsequent legislation is passed that contains provisions favored by both the president and Congress and it is not possible to say the view of one prevailed over the other.

To determine the outcome of vetoes of nationally significant legislation, each of the affected bills was traced in the same and subsequent sessions of Congress²⁴ through the use of *Congressional Quarterly*. Because that journal did not begin publication until 1945, the analysis begins with that year and ends in 1981. It therefore covers seven administrations, beginning with that of President Truman and ending with that of President Carter. Table 4 contains the essential information on the 199 vetoes of nationally significant public bills cast during that period.

24. Bills were followed five years beyond the one in which the veto occurred, under the assumption that if follow-up efforts on affected legislation were to be made, they would occur during that period of time.

The table indicates that a veto of a nationally significant bill does not generally end the matter. On only 29 bills—those classified in Table 4 as complete presidential vetoes—or about 1 in 7 bills of the total of 199, did no further action take place. The eventual outcomes of conflicts between the president and Congress in the period 1945-81 were fairly evenly divided. Congress won complete or partial victories on 66 bills, the president on 64, and 69 ended in a compromise that favored neither branch. Table 4 also shows that Presidents Eisenhower, Johnson, and Carter tended to win in their battles with Congress over vetoed bills and that Truman and Nixon tended to lose while Kennedy and Ford split fairly evenly in their conflicts with the national legislature.

One final observation is in order with respect to the effect of the president's veto power on legislation. It should not be judged simply on the basis of how often it is actually exercised. Simply by threatening to veto a proposed measure, the president can often deter Congress

from passing it. Such a threat can also influence Congress to put a measure in a form that is acceptable to him. President Eisenhower successfully utilized the threat of a veto to affect social programs proposed by the Democratic Congress. This tactic worked because Democratic congressional leaders—Lyndon John-

son, as majority leader of the Senate, and Sam Rayburn, Speaker of the House—wished to avoid conflict with the popular chief executive and were willing to accept half a loaf rather than risk a presidential veto that they calculated could not be overridden.

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General Strategy

Divider Title: _____

March 30, 1995

MEMORANDUM TO MARK GEARAN

FROM: RUSSELL HORWITZ

RE: Veto Strategy

Levine⁹ analyzes the following general strategies a president can follow to implement a successful veto policy:

- To commit too early on a bill is to lose bargaining flexibility;
- a president who gives the appearance of being intractable in his intentions to veto a bill increases the chances that Congress will bend toward his direction;
- a president who appears unwilling to accept accommodations has adopted an "all or nothing" posture -- the bill will be changed to his liking or he will veto it. This confrontative posture, however, lessens the likelihood that a middle ground can be found.

Many of the variables discussed earlier (such as the electoral cycle, opposition party control, the health of the economy, public support, etc.) impact, to some degree, how and to what extent a president will use the power of the veto.

Some presidents, such as President Eisenhower, used the threat of the veto to affect social programs proposed by Congress. Congressional leaders, willing to avoid conflict with a popular president in this case, made concessions.

Other presidents, most notably President Ford, used the veto to repel Congressional influence into the Executive Branch.

Most presidents, specifically President Bush, utilized the veto to increase White House influence in the legislative process.

⁹ Levine, Myron, *Tactical Constraints and Presidential Influence on Veto Overrides*, Presidential Studies Quarterly, v. 13, Fall 1983: 646-650.

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Bush

Divider Title: _____

March 30, 1995

MEMORANDUM TO MARK GEARAN

FROM: RUSSELL HORWITZ

RE: President Bush's Veto Strategy

President Bush "has the smartest, most successful veto strategy of any President in recent history and is rewriting the book on presidential relations with Congress." [U.S. News and World Report, 7/2/90]

President Bush's veto strategy was widely regarded as one of the more effective applications of the veto power. In the past 30 years, only President Ford vetoed more bills at a comparable time in his Presidency. The Bush White House saw the veto as an essential tool in dealing with a Democratic Congress and enunciated a clear strategy in its application. White House Chief of Staff, John Sununu stated that their veto strategy was not designed "to threaten, but to define guidelines as early in the process as possible, so everyone understands the kind of bill [the President] can sign." [*Chicago Tribune*, 1/29/90]

There were three guiding principles to the Bush veto strategy:

- 1.) Declare intentions early;
- 2.) Once the decision to veto was made, remain consistent and clear in objections and requirements;
- 3.) Make clear to Congressional Republicans that every veto was a test of GOP strength in which their own power would be diminished if the President was weakened by an override.

President Bush made relatively few veto threats, but followed through on almost every one of them. This, consequently, gave the President considerably more influence over legislation than his Party's numbers would otherwise indicate. According to Norman Ornstein, President Bush "wielded the veto much less as a public relations weapon, much more as a quiet instrument of influence in the Congress." [AP 10/24/90] Many Democrats were frustrated over the fact that the President, who was not elected on a large public mandate for change, had "in effect, taken control of the legislative process." [*New York Times*, 9/29/90]

President Bush was careful in his application of the veto. Political scientist, James Sundquist, stated that when the President thinks he is going to lose, "he goes ahead and signs the bill." [CQ, 7/27/91] Generally, the President saw the veto as a negotiating tool to obtain concessions from Democrats on bills he was anxious to approve, such as clean-air legislation and an increase in the minimum wage. [See U.S. News and World Report article, 7/2/90]

However, to a certain extent, that strategy backfired when it came to the Family-Leave Bill and the Civil Rights Bill. President Bush's vetoes against these bills were used against him in the 1992 election.

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Divider Title: _____

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October 5, 1989 (Updating Backgrounder No. 443, "Reagan's
Trump Card: The Veto," July 8, 1985.)

SECTION: BACKGROUNDER UPDATE; No. 114

LENGTH: 827 words

HEADLINE: A WINNING BUDGET BATTLE PLAN FOR GEORGE BUSH: THE VETO

BYLINE: Stephen Moore, Grover M. Hermann Fellow in Federal Budgetary Affairs

BODY:

After nine months of bipartisanship and cooperation, George Bush and the Democratic Congress soon may clash in a succession of knockdown-dragout legislative confrontations. In recent weeks liberal lawmakers have vowed to torpedo each of the key pillars of the Bush electoral mandate by sending to the Oval Office a series of bills that would: prevent a capital gains tax cut, raise taxes, violate the terms of the Gramm-Rudman-Hollings budget law, provide federal funds for abortion, rearrange the national defense priorities of the Commander in Chief, and impose an anti-family child care law. With the spirit of goodwill between Capitol Hill and the White House clearly eroding, the President must adopt a new October strategy. He must begin to employ the most valuable tool that the Constitution empowers him with: the veto.

The authority to veto is the President's trump card over Congress. It allows him unilaterally to block the passage of laws that conflict with his legislative priorities or that he believes are injurious to the nation. For Congress, overriding a presidential veto has proved to be a rare and difficult task: in the era of the modern presidency, legislators have succeeded in rallying the two-thirds vote in each chamber needed to overturn a veto less than 8 percent of the time. If the President uses his veto pen prudently, moreover, then just by threatening to veto the White House can force Congress to change legislation to meet the President's objections. Bush recently used merely the veto threat to shoot down a proposal by congressional liberals to raise top marginal income tax rates.

Formidable Weapon. Some of Bush's advisers mistakenly believe that to veto is to admit presidential ineffectiveness and the vetoing thus should be used sparingly. The historical record disputes this. The veto generally has been wielded by the nation's strongest and most legislatively successful chief executives, not its weakest. In this century, Theodore Roosevelt, Franklin Roosevelt, Harry Truman, and Dwight Eisenhower routinely vetoed legislation they opposed. In fact, one of the nation's most legislatively active Presidents, Woodrow Wilson, went so far as to say: "The President is no greater than his prerogative of veto makes him."

So far the Bush Administration has used the veto infrequently, but skillfully. Bush has

issued about a dozen forceful veto threats, drawing a clear line in the sand, and using his veto pen on each of the three occasions Congress has crossed that line. A dramatic victory for Bush was the minimum wage bill that Congress passed with a \$4.55 an hour minimum after Bush had stated he would reject any bill with a minimum over \$4.25. Bush proved true to his word, vetoed the bill, and prevailed by 37 votes on the House override attempt.

Learning from Reagan Failures. Bush's veto strategy with that of his predecessor, Ronald Reagan. The Reagan Administration never developed a credible veto policy. As a consequence, Reagan had more than one in five of his vetoes overridden, a very high percentage. Worse, many of Reagan's veto threats were ignored near the end of his presidency because he so routinely signed bills that he previously had pledged to reject. The Bush White House apparently has learned from the failed Reagan veto policy.

To build on the success of his early veto strategy and to ensure his legislative success this fall, Bush should announce his resolve to veto unacceptable legislation in four crucial policy areas:

- ** Any reconciliation package that omits a capital gains tax cut;
- ** Any alternative to automatic Gramm-Rudman-Hollings spending cuts that contain a tax increase or further defense spending reductions;
- ** Any of the thirteen spending bills that still must cross his desk that violate the targets in the budget summit agreement or that contain unacceptable amendments, such as federal abortion funding; and
- ** Any child care legislation that discriminates against low-income traditional families or discourages use of home or religious day care.

Winning a High-Stakes Showdown. House minority whip Newt Gingrich of Georgia predicts that the next two months will be "one of the most important periods of the Bush presidency." With the President riding on a crest of 70 percent public approval ratings, and promising a clearly enunciated election mandate of budget restraint, no new taxes, and capital gains tax reduction, the White House likely would win any high-stakes veto showdown with a rudderless and scandal-plagued Congress. History demonstrates that the veto in the hands of a popular President is a formidable and highly effective weapon. Its judicious use only expands the chief executive's political capital and public standing.

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

LANGUAGE: ENGLISH

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COVER STORY

President's Mastery of Veto Perplexes Hill Democrats

Skill in saying 'no' gives Bush far more influence than the numbers would otherwise suggest

President Bush's persistent use of his veto power has become the cornerstone of White House legislative strategy, confounding Democrats and setting the stage for a long season of partisan standoffs.

The threat of a veto, which Bush has used 21 times without being overridden, hangs over dozens of bills now before Congress. That gives Bush considerably more influence over legislation than many expected from a president whose party is so vastly outnumbered in Congress. (*Veto threats*, p. 2042)

"Bush has made greater use of the veto than any president since Gerald Ford," said Stuart E. Eizenstat, who was a top adviser in Jimmy Carter's White House. "The veto is a power that's always been inherent in the Constitution, but it's not always well used."

On contested issues as diverse as abortion counseling, civil rights, labor laws and China's trade status, congressional leaders now routinely take account of the need to find support from two-thirds of the House and Senate — the number needed to override a veto — rather than the simple majority needed to pass a bill. The success of Democratic-backed legislation is increasingly judged in Washington on its ability to withstand a veto.

Among Democrats, Bush's omnipresent veto strategy has spawned a heated debate about whether they should actively invite confrontations by pushing hard-core Democratic proposals or act only on issues on which they can garner veto-proof margins.

"We have fallen into the trap of thinking that if we don't have a two-



R. MICHAEL JENKINS

thirds vote we should do nothing," said Rep. Vic Fazio of California, chairman of the Democratic Congressional Campaign Committee. With a more confrontational approach, Fazio said, "we might have fewer bills but more issues."

The president may have a tough time maintaining his winning streak as major legislation of the 102nd Congress takes shape. He has threatened to veto a highway bill and an emergency spending bill, both of which are packed with local projects that are the political lifeblood of lawmakers from both parties. And some abortion rights activists think that they could be the first to beat Bush with an override if he vetoes legislation lifting restrictions on abortion counseling.

"Obviously when it happens, it's going to be a significant event," said one White House official who asked not to be named. "It won't happen any time soon."

Bush's Six-Shooter

Bush has so far vetoed 21 bills, on matters ranging from the minimum wage to textile imports. In the past 30 years, only Ford vetoed more bills by a comparable time in his presidency. Faced with a heavily Democratic Congress in the wake of Watergate, Ford vetoed 66 bills in only three years and was overridden 12 times. (*Veto background*, 1990 *Weekly Report*, pp. 1934, 2991)

As impressive as Bush's success is in turning back override attempts, he has set no records. Dwight D. Eisenhower, for one, was well into his second term before he lost a veto fight. Eisenhower's final record: Congress overrode only two of his 181 vetoes.

Bush's prolific use of veto threats is, in one sense, a sign of a weak position in Congress. Bush came to office in 1989 with fewer Republicans in Congress than any other newly elected GOP president in this century. That left him with little influence except through the veto, an essentially defensive tool.

The veto was less central to President Ronald Reagan's power during most of his two terms because Republicans controlled the Senate until 1986 and the Democrats' majority in the House was less commanding in 1981-82. But with the loss of both those advantages, the veto became more important.

"The veto strategy as a weapon for battle between a Republican president and the Democratic Congress has become one of the standard tools," said Michael S. Johnson, a top aide to House Minority Leader Robert H. Michel, R-Ill., from 1977-90. "It's now what a six-shooter was to a cowboy — it's part of your political clothing."

Bush has shown what a powerful

By Janet Hook

President Bush's Vetoes

1989			
Bill	Bill Description	Date	Outcome*
HR 2	Minimum-wage increase	June 13	House sustained, 247-178
S J Res 113	FS-X plane co-development	July 31	Senate sustained, 66-34
H J Res 390	Thrift bailout bill	Aug. 16	No override attempt
	enrollment requirements		
HR 2990	Labor-HHS appropriations	Oct. 21	House sustained, 231-191
HR 3026	D.C. appropriations	Oct. 27	No override attempt
HR 2939	Foreign aid appropriations	Nov. 19	No override attempt
HR 3610	D.C. appropriations	Nov. 20	No override attempt
HR 1231	Eastern Airlines	Nov. 21	House sustained, 261-160
	strike resolution		
HR 1487	State Department authorization	Nov. 21	No override attempt
HR 2712	Chinese immigrant status	Nov. 30	House overrode, 390-25 Senate sustained, 62-37
1990			
Bill	Bill Description	Date	Outcome*
HR 2364	Amtrak authorization	May 24	House overrode, 294-123 Senate sustained, 64-36
HR 20	Hatch Act amendments	June 15	House overrode, 327-93 Senate sustained, 65-35
HR 770	Parental/medical leave	June 29	House sustained, 232-195
HR 4328	Textile import quotas	Oct. 5	House sustained, 275-152
H J Res 660	Continuing appropriations	Oct. 6	House sustained, 260-138
S 2104	Civil rights	Oct. 22	Senate sustained, 66-34
HR 4638	"Orphan drug" amendments	Nov. 8	No override attempt
S 321	Indian Preference Act	Nov. 16	No override attempt
HR 4653	Export Controls authorization	Nov. 16	No override attempt
HR 3134	Relief of Joan R. Daronco	Nov. 16	No override attempt ¹
S 2834	Intelligence authorization	Nov. 30	No override attempt

* Veto overrides require a two-thirds majority vote of both houses.

¹ Similar provisions were included in HR 5316, signed on Dec. 1 (PL 101-650).

weapon it can be even when a president's party is heavily handicapped in Congress.

He can effectively block legislation backed by a majority in Congress with as few as 34 allies — one-third of the Senate. It takes a two-thirds vote in both the House and Senate to override a veto.

"The president is ruling the country by the rule of 33 plus one," said Sen. Dale Bumpers, D-Ark. "It doesn't matter what 535 people think. What matters is 34 people in the Senate."

The Senate's July 23 approval, 55-44, of a bill to set conditions on China's trade status was just the latest in a series of measures that have been approved by a majority in Congress despite a Bush veto threat but have fallen short of the two-thirds needed to turn them into law. (*China*, p. 2053)

Earlier this year, House Democrats struggled mightily to garner a two-thirds majority for civil rights legislation bitterly opposed by Bush, but fell

15 votes short. A bill to bar employers from hiring permanent replacements for workers on strike passed the House 247-182, but did not have the 286 votes needed to show override strength. (*Civil rights*, *Weekly Report*, p. 1498; *striker replacement*, *Weekly Report*, p. 1987)

A Perfect Record So Far

In maintaining his unbroken string of successful vetoes, Bush has a big advantage that Ford lacked for most of his presidency: There are now enough Republicans in both the House and Senate to supply the one-third needed to sustain a veto.

Those Republicans have a powerful incentive to stick with the president. As members of the minority party, they have little influence without him.

Members of Congress and political analysts say that a key to Bush's success is that he has picked his fights cautiously.

Reagan, by contrast, often cast ve-

toes on bills — such as a politically popular water projects bill in 1987 — that he knew would be overridden. (1987 *Almanac*, p. 291)

"Bush has been careful in selecting his targets," said the Brookings Institution's James L. Sundquist, who has studied Congress and the presidency. "When he knows he's going to lose, he goes ahead and signs the bill."

Bush also has proved adept at shifting his position enough to win the support he needs to prevail.

In a campaign earlier this year to defeat a resolution to curb his power to negotiate a free-trade agreement with Mexico, Bush blunted much of his opposition by issuing a plan for responding to labor and environmental concerns about the Mexico pact. (*Weekly Report*, p. 1120)

But on other bills, Bush has demonstrated toughness and tenacity. Last year he vetoed civil rights and parental leave bills despite warnings from many Republicans that those vetoes would have disastrous political consequences. (1990 *Almanac*, pp. 462, 359)

"When he talks veto, people take it seriously," said Rep. Steve Gunderson, R-Wis.

Maintaining the Streak

Like Kentucky Democrat William H. Natcher's perfect voting-attendance record in the House, Bush's winning streak on vetoes may become as much a burden to maintain as a source of leverage. Adding to the drama of each potential veto fight is the question: Will this be the time the White House stumbles?

Some Republicans put high priority on maintaining Bush's record, saying the first loss could dilute his perceived power. That argument is often used by GOP leaders to help persuade wavering Republicans to sustain a presidential veto.

"Republicans know their leverage comes from the credibility of the veto threat," said Sen. Richard G. Lugar, R-Ind.

Said Frederick D. McClure, chief White House lobbyist, "We have been fortunate that we've been able to sustain the president's position. I'm not going to put any value on maintaining a streak."

Democrats have been looking for a chink in the president's armor, hoping to end his indomitable record by passing bills opposed by Bush with a veto-proof margin. But so far, they have not cracked the code.

Tests To Come

Some Republicans say Bush's veto strength will be facing more tough tests in the coming months.

Bush has threatened to veto any bill that overturns his administration's rules banning abortion counseling in federally funded family planning clinics.

Opponents of the counseling ban are optimistic that they could override a veto on those grounds, citing support they have received from members of Congress who traditionally take anti-abortion positions.

But the issue is fraught with uncertainty. When the matter came up during floor debate on a House health appropriations bill (HR 2707) and a Senate family planning bill (S 323), neither side of the abortion counseling issue was certain enough of where it stood to call for a roll call vote. (*Weekly Report*, pp. 1983, 1766)

The White House may also be taking a calculated risk in threatening to veto a pending supplemental appropriations bill, which includes \$1.75 billion in disaster-relief aid.

The money is strongly supported by many farm-state Republicans, who might support overriding a veto to help constituents who have been hit hard by drought and crop freezes. (*Supplemental*, p. 2059)

"It's going to be close," said Rep. Fred Upton, a Republican from a district in Michigan where cherry growers saw two-thirds of their crop destroyed by a freeze this year.

But the spending bill's progress also vividly illustrates the power of the veto threat to reshape, not just kill, legislation unacceptable to the president.

The bill had been on the fast track until the White House issued its warning. Then the House Appropriations Committee yanked it from the schedule. Behind-the-scenes efforts to draft a compromise could obviate the need for a veto.

Bush's power to influence a bill in progress may also be demonstrated in the fate of a big highway bill (HR 2950), which is laden with local projects avidly sought by members of Congress.

Bush has vowed to veto the version of the bill approved July 25 by the House Public Works and Transportation Committee because it proposes a 5-cent increase in the gasoline tax. Many Republicans say Bush is dead serious because he was lambasted within his party last year for compro-



"If he intends to veto everything, we ought to put out things that demonstrate the differences between him and us. You're going to see more of that."

—Sen. John Kerry, D-Mass.

"That's the irresponsible approach. Most bills are improved by compromise."

—Rep. Jim Cooper, D-Tenn.



mising on his no-new-taxes campaign pledge.

"I don't think it's an idle threat," said Sen. Steve Symms, an Idaho Republican who is a leading supporter of the Senate version of the highway bill.

Predicting that anti-tax fervor would be enough to rally GOP troops behind Bush, Symms said, "The veto would be sustained and the president would win."

But it may not even come to that. Bush's threatened veto was enough to make many House Democrats wary of pressing ahead with the gas tax increase.

"I don't know why the Democrats continue these exercises in futility when the president says he's going to veto," said Rep. Brian Donnelly, a Massachusetts Democrat who is a member of the tax-writing Ways and Means Committee.

That sentiment might kill the gas tax proposal when it goes before Ways and Means, which has to approve the revenue increase before it goes to the House floor as part of the highway bill. (*Story*, p. 2065)

Democratic Strategy Dispute

Bush's veto threats present Democrats with a recurring strategic choice: compromise or confrontation. Should they push legislation that seems destined for a veto? Or should they water down bills to garner a two-thirds majority, which inevitably must tap Republican ranks?

Intraparty divisions over that question have intensified in recent weeks. Some House Democrats' frus-

trations with the relatively non-confrontational approach of their top leaders surfaced during a recent campaign to choose a new majority whip.

And liberal Democrats in both chambers have been pushing their leaders to act on bills to liberalize unemployment compensation, provide tax relief for the middle class and protect striking workers — even though those measures seem certain to be vetoed.

"If he intends to veto everything, we ought to put out things that demonstrate the differences between him and us," said Sen. John Kerry, D-Mass. "You're going to see more of that."

But Democrats are hardly unanimous in that approach. House Ways and Means Chairman Dan Rostenkowski, D-Ill., has been loath to draft any bill increasing taxes. And some rank-and-file members are uncomfortable with the idea of forcing veto fights with the president for their own sake.

"That's the irresponsible approach," said Rep. Jim Cooper, D-Tenn. "Most bills are improved by compromise."

Bush himself may be taking a more confrontational tack as the election season gets into full swing.

"I think you will see a marked change from Labor Day until the election," said a White House official who asked not to be named. "There will be a variety of issues purely aimed at defining the differences between the parties. The president will begin doing more and more of that too." ■

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11

Divider Title: _____

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January 21, 1990, Sunday, FINAL EDITION

SECTION: PERSPECTIVE; Pg. 3; ZONE: C

LENGTH: 758 words

HEADLINE: Bush's power of veto is also a strategy

BYLINE: David Broder, (copyright) 1990, Washington Post Writers Group

DATELINE: WASHINGTON

BODY:

When Senate Majority Leader George Mitchell (D-Maine) thinks back to the 1989 session of Congress, one of the things that stands out is "how underestimated" the veto power of a President is. "It gives him enormous leverage," Mitchell said in an interview. "It really makes him dominant in the legislative process."

George Bush was anything but reluctant to exercise that power last year. He vetoed 10 measures in his first year and prevailed in every instance when the Democrats attempted to override him.

That winning streak likely will come to a screeching halt when Congress comes back this week. Democrats claim they have the votes to override the veto Bush issued eight days after Congress adjourned last November of a bill allowing Chinese students to stay in this country, rather than be returned to face possible punishment from their government.

Plans are being made to invite many of the students to gather around a replica of the Tiananmen Square Lady Liberty statue, to be built on the Capitol grounds, when the House votes on the measure later this week. House Minority Whip Newt Gingrich (R-Ga.), normally an intense partisan, has said: "My guess is that the vast majority of House Republicans will vote to override (the Bush veto)."

But that will not deter the White House from using - and threatening to use - the veto on other measures. Chief of Staff John H. Sununu sees it as an essential tool in dealing with an opposition party in Congress. In this election year, the Bush veto may well frame the issues for the mid-term campaign.

Few would have guessed a year ago that when Bush said in his Inaugural Address, "I am putting out my hand to you (leaders of Congress)," he would be holding a veto pen as often as he has. His 10 vetoes in 1989 more than doubled the annual rate for Presidents Nixon and Reagan.

White House officials say that Bush was urged by Republican congressional leaders at the start of his presidency to take a harder line than Reagan had taken. Reagan criticized Congress freely, but rarely confronted Congress when it sent him a bill he did not like. They admonished Bush to make his veto threats credible by carrying through on them.

As Sununu tells it, Bush did not need much urging. "He's served in Congress," the chief of staff remarked, "and he knows how it works up there. He wants them to understand that they can't just take a George Bush initiative, preserve the title, change the substance to suit themselves and expect it to be signed."

Citing two of the major bills on the 1990 agenda, where the administration and congressional Democrats have clear differences, Sununu warned: "Some folks think that just because he proposed a child care bill or a clean air bill, he cannot afford to veto something with that title. They are wrong." Lest that sound too confrontational, the chief of staff said Bush will continue to use the veto strategy "not to threaten, but to define guidelines as early in the process as possible, so everyone understands the kind of bill he can sign."

That sounds almost accommodating, but Mitchell argues that it was exactly that kind of "rigid" stance that made budget negotiations so "disillusioning" last year and provoked "unnecessary confrontations" on other issues.

The protestations of innocence on both sides should be taken with a grain of salt. Real power is at stake - and genuine political and philosophical differences. As long as they think it's in their interests, Democrats will pass bills that invite a veto and a Republican President will use that veto power.

The political calculus is bound to increase in importance in an election year, when Washington issues are translated instantly into campaign ads. In 1989, for example, Bush issued two vetoes of bills that would have eased restrictions on abortion in cases of rape or incest. Mitchell said he regards those as "disastrous mistakes." It takes no genius to figure out that the Democrats will find a way to remind voters of Bush's stance by furnishing veto-bait legislation in the abortion area.

Voters often react to such battles as proof that "squabbling politicians" are jockeying for advantage. But few questions other than Supreme Court nominations so sharply define the bottom-line philosophical differences between the parties as do veto battles. When voters give the Democrats control of Congress and Republicans a renewed lease on the White House, they invite such confrontations.

In this election year, neither side will back away from the fight.

GRAPHIC: (Illustration by) Anthony D'Adamo/(copyright) 1990, Newsday.

Proprietary to the United Press International 1990

March 29, 1990, Thursday, BC cycle

SECTION: Washington News

LENGTH: 429 words

HEADLINE: Bush has veto strategy to achieve goals

BYLINE: By HELEN THOMAS UPI White House Reporter

DATELINE: WASHINGTON

BODY:

President Bush, who assumed the White House with a conciliatory hand extended to Democrats, is ready to "draw the line" and use his veto power liberally in battles with Congress, his spokesman said Thursday.

Underlining Bush's determination to push his policy views by killing legislation, White House press secretary Marlin Fitzwater cited recent veto threats against legislation elevating the Environmental Protection Agency to the Cabinet level and a child care bill as part of a "strategy."

Fitzwater also said Bush has concerns about efforts in the Senate to change the clean air legislation drawn up after arduous negotiations.

The spokesman added that although Bush is "generally supportive of" the \$720 million plan to aid Panama and Nicaragua, "there are several millions of dollars for domestic programs" that have been tacked onto an overall emergency spending bill, including \$433 million for fire fighting, that Bush opposes.

Fitzwater reminded reporters, "The president has not lost a veto (override vote). The veto threat is real."

"We look at this as a positive approach," he said. "When our veto is sustained ... we have additional leverage. Sometimes you have to draw the line."

"We're not afraid to have a lot," he added, citing the experience of President Gerald Ford, who used the veto often during his 2 years in office.

Bush has used his constitutional veto power 10 times since taking office 14 months ago. In order to win a veto vote, Bush needs the support of only one-third of the House or Senate. To override a veto, Congress must muster two-thirds votes in both chambers.

On Capitol Hill Thursday, House Speaker Thomas Foley, D-Wash., was asked about Bush's threat against the child care bill.

"We'll see," Foley replied. "I'm not anxious to have an issue. I want to have a bill.

"However, we don't just fall over dead every time a president says that he's inclined to veto something. If that were the case, he would never have to exercise a veto, would he?"

Bush had promised to be less confrontational with the Congress and more conciliatory than President Ronald Reagan, declaring in his inaugural address that he was "putting out my hand" to Democratic congressional leaders and wanted to usher in "the age of the offered hand."

But Fitzwater said, "When you have a House and Senate that are in the opposite party, the veto weapon may be the only weapon you need."

He said the president believes satisfactory compromises can be worked out on measures after he wins a veto fight.

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Los Angeles Times

June 14, 1990, Thursday, Home Edition

SECTION: Part A; Page 5; Column 1; National Desk

LENGTH: 722 words

HEADLINE: THE WHITE HOUSE / SHAPING LEGISLATION;
UNDER BUSH, VETO IS POTENT TOOL FOR BATTLING CONGRESS;
THE PRESIDENT HAS LOST A LARGE NUMBER OF VOTES ON CAPITOL HILL. BUT
HE HAS BEEN SUSTAINED IN KILLING 11 BILLS.

BYLINE: By DAVID LAUTER, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

At the center of President Bush's record of wins and losses on Capitol Hill there is a puzzling contrast: Bush has won fewer votes in Congress than almost any other President in this century, but on the ultimate test -- sustaining vetoes -- he has the best record ever.

When the Senate late Tuesday night upheld Bush's veto of a bill authorizing money for Amtrak, it was Bush's 11th consecutive victory in a veto fight. He has not been overridden.

As a result, a senior White House aide said, the veto power has become a "crucial strategic tool" for the Administration, one that is central to the legislative strategy developed by Bush and his chief of staff, John H. Sununu.

PREDICTIONS DEFIED: The success has surprised those who predicted, when Bush took office, that Democratic control of the House and Senate -- coupled with a campaign that yielded few clear verdicts on policy -- would force the Administration to compromise and conciliate to achieve any legislative victories.

Bush has been defeated often in congressional votes. A study by Congressional Quarterly at the conclusion of Bush's first year in office found that the Administration had been defeated more than one-third of the time on votes on which the White House took a firm position. Only Gerald R. Ford, facing a huge Democratic majority and taking office in the wake of the Watergate scandal, had fared worse.

But, because of the veto power, the losses Bush has suffered seldom have had a major impact on policy. Last year, for example, Congress passed minimum wage legislation that the White House opposed. Bush vetoed it, Congress failed to override the veto, and, in the end, congressional leaders had to settle for a compromise on Bush's terms.

A NEW APPROACH: Bush's use of the veto power has been notably different from that of his predecessor, an official who served both administrations said. "The Reagan Administration was famous for saying they'd veto almost everything and actually vetoing almost nothing," the official said. By contrast, Bush has made relatively few veto threats but, in almost all cases, has followed through on them.

In doing so, Bush often has acted against traditional political wisdom. The Amtrak bill, for example, originally was passed by the House by a margin of 322 to 93 and cleared the Senate on a non-controversial voice vote. Presidents facing that sort of margin seldom venture a veto.

Traditionally, analysts of the presidency have seen the veto as essentially a negative power, a technique that could be used to block action but not something that could be used effectively to shape legislation. Under that analysis, overuse of the veto would be likely to lead to legislative gridlock.

So far, however, Bush has largely proved that analysis wrong. Because Bush has very few legislative initiatives he wants to see passed, he has less to fear from gridlock than congressional Democrats do. And, because he has been able to win every veto fight so far, Democratic leaders increasingly have been willing to negotiate with the White House rather than risk a confrontation they ultimately would stand a good chance of losing.

OPPOSITION CATCHING ON?: Although Bush and his aides so far have been able to outmaneuver the Democrats repeatedly, there are signs that the opposition is beginning to learn from its mistakes. And, in at least one case, civil rights, an Administration veto threat may have backfired.

On civil rights, the Administration, led by Atty. Gen. Dick Thornburgh, issued a veto threat aimed at a bill to overturn several Supreme Court decisions that have made it more difficult for plaintiffs to win discrimination suits. But, earlier this spring, the White House began to back down, worried that vetoing a civil rights bill would damage Bush's efforts to attract support in the black community.

Now, Sununu and other Administration officials have begun negotiations with key congressional supporters of the bill, particularly Sen. Edward M. Kennedy (D-Mass.). But White House officials admit that the public wavering on the veto threat has put them in a weakened bargaining position.

Supporters of the bill "may just figure the President wouldn't dare veto it or, if he did, we wouldn't have the votes to sustain a veto," one senior Administration official said. "I'm not sure."

GRAPHIC: Photo, Bush's effective use of veto has forced lawmakers to settle for compromises. Associated Press

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July 2, 1990

SECTION: U.S. NEWS; Vol. 109, No. 1; Pg. 18

LENGTH: 1689 words

HEADLINE: Bush's veto strategy

BYLINE: By Kenneth T. Walsh; Gloria Borger; Steven V. Roberts; Dorian R. Friedman

HIGHLIGHT:

His record is 12-0, but the toughest tests start this week

BODY:

Those who think George Bush is a caretaker with no vision should consider this: He has the smartest, most successful veto strategy of any President in recent history and is rewriting the book on presidential relations with Congress. He has been more creative than his predecessors in using the President's most potent legislative tool to bend a divided government to do his bidding -- and in shoring up his political base in the business community and among conservatives.

Bush has surprised even his own advisers by vetoing 12 bills so far without Congress's overriding him a single time. His latest success came last week when he persuaded 35 senators, one more than necessary, to sustain his veto of a measure liberalizing the Hatch Act, which would have allowed greater political activity by federal workers. What sets Bush apart from recent GOP Presidents, though, is his success in using the veto -- or the threat of one -- as a negotiating tool to get concessions from Democrats on bills he is anxious to approve. That is the key to the victories he has scored, for instance, on pending clean-air legislation and last year's bill hiking the minimum wage.

There is always the danger, though, that the strategy can backfire by handing Democrats a campaign issue. That is precisely the problem Bush faces when in the next few days he kills the family-leave bill. Instead of playing into Bush's hands by offering concessions to make the bill acceptable, Democrats plan to hold fast and charge that the President and his GOP allies have broken a campaign promise to America's families. Bush's vulnerability to political charges against his vetoes will grow greater as the election nears. And his use of vetoes will be much more politically delicate when he bargains with Democrats over this year's budget compromise on taxes, spending and the deficit. Over all, White House aides concede, a veto strategy is no substitute for a legislative agenda.

The Bush administration came into office with a sophisticated battle plan for using the President's naysaying power. Chief domestic adviser Roger Porter had spent years studying

the veto as a Harvard political scientist. One of Porter's major beliefs was that the veto should not always be considered the end of a bill's evolution but only part of an ongoing process of compromise.

Three principles. Many of Porter's ideas were turned into reality during

Bush's first veto battle last June over the minimum wage. Congress, in raising the minimum wage from \$ 3.35 to \$ 4.55 an hour, ignored Bush's warnings that he would accept nothing higher than \$ 4.25 and would insist on an even lower "training wage." But some of his advisers worried that he could never win an override vote. At a senior staff meeting, Chief of Staff John Sununu brought them up short. He announced that Bush would use three guiding principles in his veto strategy: Declare his intentions early, stick to his guns once he decided to veto and make it clear to congressional Republicans that every veto was a test of GOP strength in which their own power would be diminished if Bush was weakened by an override. The strategy worked. Not only was the veto sustained, but Congress then approved a minimum-wage measure to Bush's liking.

The President's inclination to wield the veto more forcefully was enhanced last November during the battle over a bill allowing Chinese students to stay in the United States after their visas expired. Bush argued that he would do by executive order what the legislation required, but Democratic leaders again ignored him and he concluded that the real issue was political. Explaining his veto, Bush told aides that the China bill was a congressional intrusion on his prerogative to set foreign policy and an attempt by congressional Democrats to embarrass him. On the morning of the override vote, Bush hosted Senate Republicans for breakfast in the State Dining Room and passionately urged them to "stand with me on this test." He persuaded 37 Senate Republicans that it was in their best interests as minority-party legislators to back him, and his veto was sustained. Bush still considers the China vote a pivotal moment in his Presidency. "We showed the Democrats that they can't push us around," says a senior Bush adviser.

One key to Bush's success has been avoiding the mistakes of his GOP predecessors. Richard Nixon, whom Bush served as Republican national chairman and United Nations Ambassador, was hobbled by deep distrust on Capitol Hill, especially as the Watergate scandal took its toll. Nixon vetoed 43 bills from 1969 to 1974 and was overridden seven times. Gerald Ford, whom Bush served as director of central intelligence, vetoed 66 bills during his two-year tenure and was overridden 12 times. Ford's stubborn naysaying helped produce a bitter legislative stalemate. Ronald Reagan vetoed only 78 bills in eight years and was overridden nine times. As his administration wore on, he made the mistake of threatening more and more vetoes, then backing off without extracting important concessions from Democrats. That damaged his credibility because his threats were not taken seriously and his GOP allies were never sure whether he would change his mind. The April, 1987, override of Reagan's veto of a popular \$ 87.5 billion highway and mass-transit bill ended his effectiveness on Capitol Hill because he seemed out of touch.

By contrast, Bush tries to avoid antagonizing large constituencies or inflaming congressional passions, even though that tactic will grow more complicated as the election

approaches. The White House, for instance, has sent mixed signals on a major civil-rights bill, threatening a veto because of alleged quotas while arguing that Bush wants to strengthen legal protection for minorities.

The President makes sure to keep his rhetoric bland so he does not offend frustrated Democrats. Last week's partisan sniping between White House spokesman Marlin Fitzwater and congressional Democrats over blame for the savings and loan fiasco showed how easily hard feelings can erupt. Concerned that bickering would endanger fragile deficit-reduction talks, Bush quickly lowered the decibel level. However, aides say Bush plans to make sure any budget compromise meets his requirements by threatening to veto changes in the Gramm-Rudman deficit-reduction law that are not part of a comprehensive agreement.

White House strategists have seen that it is just that kind of threat that often makes Democrats back off. On January 19, Bush wrote to congressional leaders suggesting that, although he wanted a clean-air bill this year, he would veto any plan that failed to meet five tests for "balance and reasonableness." That led Senate Majority Leader George Mitchell and other congressional leaders to pull a tough cleanup bill off the floor, begin negotiations with the administration and produce a compromise that bowed to Bush's demands that the bill not be as costly to business as the original version. The agreement has been unraveling, but Bush's influence on the outcome remains strong because of his potential naysaying.

Aiming carefully. In addition to forcing legislative results, most of Bush's vetoes have had political payoffs. He kept conservatives happy by vetoing four separate appropriations bills containing federal money for abortions but shunned hard-line anti-abortion rhetoric so pro-choice voters would not be riled. Likewise, he catered to his business constituency by vetoing the minimum-wage bill and rejecting two other measures that would have imposed new federal regulations on the railroad industry and injected the government into the Eastern Airlines strike of 1989. None of these were make-or-break issues for the President with most voters. "He is tending to his political needs very well," says University of Virginia political scientist Larry Sabato, "by protecting his political base."

Yet even Bush's advisers concede that his political position will inevitably erode. "If his popularity falls, the members of Congress from marginal seats won't support him any more on these vetoes," says Bush biographer and friend Victor Gold. And once he loses an override vote or two, his aura of invincibility will vanish. More important, no matter how much Bush uses the veto as a negotiating tool, it will always have limited value because it cannot substitute for positive programs from the administration. "The veto strategy lets us throw a monkey wrench into the Democrats' plans and keep them from governing from the Hill," says a senior administration official. "But over the long run, it really will not help us govern."

Bush's veto strategy, in the end, rests on the assumption that the Democrats will work with him and remain more interested in making laws than political points. If the partisan atmosphere worsens, as seems likely over difficult issues such as the S&L mess and deficit reduction, neither Congress nor the White House will have the power to enact its own program, only to delay and obstruct.

VETO ISSUES

President Bush's vetoes and veto threats have shaped these policies on Capitol Hill:
Minimum wage. Bush's veto forced lawmakers to accept his plan for a training wage and a \$ 4.25 minimum wage, considerably lower than the \$ 4.55 favored by Congress.

Clean air. The threat of a veto forced congressional Democratic leaders into serious negotiations to ease business burdens under the Clean Air Act. Civil rights. Veto threats over alleged "quotas" in proposed legislation pushed Senate Democrats into negotiations. The President later softened his objections, which increased the likelihood of a bill this year.

Abortion. Bush vetoed four appropriations bills that would have allowed federal funding for abortions. Congress was unable to override.

China. Bush rejected a bill to keep Chinese students from being sent back home. Congress's failure to override strengthened Bush's hand on foreign policy.

GRAPHIC: Picture, Forget family leave. Bush's plan to veto a measure helping working parents could become a serious campaign issue this fall, DARRYL HEIKES -- USN&WR;
Picture, No caption, CHICK HARRITY -- USN&WR

LANGUAGE: ENGLISH

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SECTION: Section 1; Page 10, Column 6; National Desk

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HEADLINE: Washington Talk;
Governing By Veto: Who Is In Control?

BYLINE: By NATHANIEL C. NASH, Special to The New York Times

DATELINE: WASHINGTON, Sept. 28

BODY:

As Congress begins its final push on major bills before adjourning for the fall elections, a sword hangs over the process.

President Bush, as part of his bargaining strategy, has threatened to veto almost everything the lawmakers are considering, from bills that would revamp campaign financing laws and the death penalty to legislation protecting the domestic textile industry and providing tax credits and grants for child care.

In his first 20 months in office, George Bush, with his 13 vetoes, has outpaced almost all other recent Presidents. Only Gerald R. Ford vetoed more bills in the same time. But even more striking is the fact that the Congress has so far failed to override even one Bush veto.

Many Democrats say they are increasingly frustrated by the fact that this President, who was not elected on a large public mandate for change, has in effect taken control of the legislative process.

"Since Bush did not have a great legislative program, he felt he had to establish the use of the veto early to take some control over the legislative agenda," said Charles O. Jones, professor of political science at the University of Wisconsin in Madison. "The Democrats are now trying to push two years of work through the Congress in six weeks, and the veto poses a real problem for them."

The task of overriding a Presidential veto is considerable: both the House and the Senate have to produce a two-thirds vote. But to sustain a veto the President needs only 34 senators voting in his favor, and there are 45 Republicans in the Senate. Thus, Mr. Bush does not even need to control all Republican senators' votes. And so far, Senate Republicans have shown themselves faithful.

While Democrats seethe, Republicans are ambivalent. A President who can control legislation through vetoes diminishes the power of the Congress. But Republicans, particularly House Republicans, have complained for years that the Democratic majority has locked them out of the legislative process, and by supporting Mr. Bush's vetoes, they are forcing the Democrats to include them in the legislative process.

"We have a situation in which the Democrats are viewed as the legislative party and the Republicans as the executive party, and so far there is greater initiative for Republicans to back their President," said Walter Oleszek, a senior specialist in American Government at the Congressional Research Service.

President Ronald Reagan often threatened to veto bills but then did not or surprised Congress with vetoes on legislation he had not seemed to oppose. President Bush almost always warns Congress far in advance, and seldom if ever changes his position. And during the legislative process he carefully instructs lawmakers on the basic elements that would make legislation acceptable to him.

"The veto is not just a way to stop a bill dead in its tracks, it is a way to bargain with Congress and get a bill more tailored to his specifications," said Norman Ornstein, a senior scholar at the American Enterprise Institute, a conservative research organization in Washington.

But both Democrats and Republicans warn that the power of the Bush veto may soon erode. They argue that in the face of the inability of Congress to override a veto, Democrats may decide behind the scenes to push legislation that has broad political appeal that they know will prompt a veto. That way they could accumulate political ammunition against Republicans on issues like revamping the nation's clean air laws, providing child care relief for working mothers and expanding civil rights laws.

"The fact is that you can't govern just negatively," said Senator Alan Cranston, Democrat of California. He warned that Democrats could become so frustrated that a main goal could become simply sabotaging the Bush legislative agenda.

Republicans who have been called upon to back up the President are quietly saying that they are getting tired of sustaining the President's vetoes on bills that they personally support, like legislation that protected Chinese students in this country from deportation after the Government crushing of the pro-democracy demonstrations in Tiananmen Square in June 1989.

"Bush had a honeymoon period, but that may be winding down," Mr. Cranston asserted.

Increasingly, Republicans are offering similar warnings.

LANGUAGE: ENGLISH

The Associated Press

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October 24, 1990, Wednesday, AM cycle

SECTION: Washington Dateline

LENGTH: 696 words

HEADLINE: To Bush, The Veto Threat Is a Big Club

BYLINE: By TERENCE HUNT, AP White House Correspondent

DATELINE: WASHINGTON

BODY:

President Bush's unbroken string of successful vetoes is built largely around a strategy of using the veto as a club to force concessions from Congress, say White House officials and political analysts.

Bush kept his record intact Wednesday when the Senate, by a one-vote margin, upheld his veto of a major civil rights bill. The White House hailed the vote and prodded Congress anew to enact Bush's version of the bill.

Bush has issued 16 vetoes; all have been sustained in the Democratic-controlled Congress. Over the last three decades, only Gerald R. Ford issued vetoes more frequently - and a quarter of his were overridden.

Bush uses the power of the veto differently from many presidents, who employed the veto simply to kill unwanted legislation and bills they deemed unconstitutional.

In large measure, Bush uses vetoes to force compromises from Congress. It is a tactic that makes the White House a player at the bargaining table as bills move through the House and Senate.

"He has wielded the veto much less as a public relations weapon, much more as a quiet instrument of influence in the Congress," said American Enterprise Institute analyst Norman Ornstein.

"Richard Nixon often used to veto bills at press conferences, making a statement as much as anything else," Ornstein said. "George Bush does it in a much more understated way."

In dealing with lawmakers, Bush has a big problem. He has the smallest share of his own

party members in Congress of any newly elected president in history.

With such a divided government, Bush does not have the clout to push a legislative program through Congress. Yet, there is enough GOP strength to sustain his vetoes when Republicans stick together.

"When you have two houses against you, you have no leverage, the odds are heavy against you," said White House press secretary Marlin Fitzwater. "So you've got to use a sledgehammer going in that says, 'We won't accept this.'"

In his day, Ronald Reagan coyly refused to say whether he would veto a bill. Bush does it all the time, while also carefully spelling out options to make a bill acceptable.

"You try to get as much change as you can before a bill is passed," Fitzwater said. "So by signaling early that you're going to veto, you tell them they need to seriously consider compromise."

Bush established the pattern with his very first veto. Democrats wanted to raise the minimum hourly wage to \$4.55 over three years. Bush said that was excessive and threatened a veto. Congress approved the increase anyway and Bush rejected the bill. When he was sustained, lawmakers and the White House struck a compromise.

Tom Cronin, a political scientist at Stanford University, said the president is using his vetoes "quite intelligently."

"He doesn't try to use the veto in a mean-spirited way. He just sees it as an instrument to try to get people back to the bargaining table," Cronin said.

Bush vetoed three appropriations bill to force the deletion of abortion financing from otherwise acceptable measures. Three other measures, including one dealing with Chinese students, were rejected to prevent what he viewed as an erosion of presidential authority.

Most recently, Bush vetoed a short-term spending resolution and partially

shut down the government to force progress on deficit-reduction negotiations. Monday's veto of the civil rights legislation came only after months of negotiations between the White House and Congress.

The president coupled his veto with a copy of a civil rights bill he would sign, but civil rights advocates denounced it as a sham.

Democrats routinely decry Bush's vetoes but they haven't been able to stop him.

Early in the administration, there was an understanding among Bush, Senate Minority Leader Bob Dole, R-Kan., and House Minority Leader Robert Michel, R-Ill., Fitzwater said.

"They agreed that the only way they would have any clout in the Congress is if, when it was called for, they could hang together," the spokesman said.

"Basically, on most of these vetoes we've been able to hold together. It gets more dicey when you can't hold all your Republicans. You've got to try to pick up some Democrats."

LANGUAGE: ENGLISH

July 29, 1991

SECTION: EDITORIAL; SECTION A; PAGE 15

LENGTH: 691 words

HEADLINE: Bush's veto strategy has served him well - so far

BYLINE: By Jack Germond and Jules Witcover

BODY:

WASHINGTON - President Bush won another of his strange victories the other day when the Senate passed 55-44 a bill to put tough restrictions on trade with China. That might look like a loss for the White House. But the operative thing was that the Democrats fell far short of enough votes to override the certain Bush veto.

In his two and a half years in office Bush already has vetoed 21 bills and come away a winner every time. Marshaling 34 votes in the Senate, the number needed to block an override, is easily within his reach. There are 43 Republicans and if some of them defect, as they did on China, Bush usually can round up a few stray Democrats with parochial reasons for backing him. In the case of most-favored-nation status for China, the defectors were farm belt Democrats reflecting the reality that China buys more wheat from the United States than any other nation.

Presidents dealing with a Congress controlled by the other party inevitably rely on the veto more often than those whose own party is in charge. Richard Nixon vetoed 40 bills during his five and a half years in office, and Jerry Ford, faced with a hostile Congress, vetoed 61 in his 29 months in office.

There are two things different about Bush's use of the veto. The first is his success in never yet having been overridden. Most presidents are overridden 20 to 25 percent of the time. Even Ronald Reagan had 10 of his 77 vetoes overridden. What seems most unusual, however, is that Bush's entire strategy for dealing with Congress seems to rest on the veto. Rather than sending Congress initiatives, then bargaining with congressional Democrats, Bush makes his point by vetoing bills and putting the opposition in a take-it-or-leave-it situation, then prevailing with minority support in Congress.

In the China case, the congressional sentiment has been overwhelmingly behind using trade restrictions to punish China on human rights grounds. The House passed its version 313-112, obviously enough to provide the two-thirds of those present and voting to override. But the Senate vote fell short after the White House made a few minor concessions to those grain belt Democrats.

The president also uses the veto to send political messages. That is what he did last year in rejecting the Democratic civil rights bill on the ground it provided for racial "quotas" in employment practices. In this case, Bush was clearly exploiting the political advantage since polls show so much hostility to affirmative action programs. And the White House has underlined the political intent by refusing to bargain seriously on a new version of the bill, even with moderate Senate Republicans. The message is clear: Bush would rather have the issue to use in 1992 than a civil rights bill.

The president may be facing a trickier situation, however, if he vetoes legislation to overrule the Supreme Court decision prohibiting federally funded clinics from offering advice on abortions - the so-called gag rule decision. The bill has assured veto-proof backing in the House and possibly enough votes in the Senate. In this case, the problem for the White House lies with Republicans in Congress who are unwilling to adopt the position that Bush holds.

Attempts to compromise the issue haven't worked. The White House alternative was such a token concession it was rejected by the Senate 64-35 - meaning with a majority within three votes of the two-thirds needed for an override. But if the president vetoes the bill, he can be expected to pull out all stops in calling on GOP loyalties. So no one would be surprised if, once again, the minority rules - even if at some political cost.

The point is that, whatever the issue, Bush is far more inclined to govern by acting as a gatekeeper to reject Democratic legislation than he is to try to negotiate with Congress. It is a strategy that has served him well so far. But it is not one that provides him with any record of accomplishment for his campaign next year. At the moment, that may not seem necessary but in politics nothing lasts forever.-(c1991.)

LANGUAGE: ENGLISH

LOAD-DATE-MDC: February 10, 1992

CIA stuck to its line not by defeating opposing arguments but by maligning those who made them. The refugees had "axes to grind." Solzhenitsyn was at best a dreamer and at worst a fascist. As for Pipes's team, CIA ran a campaign to discredit it with charges of "leaking." The consummation of CIA's work on the Soviet Union may be seen on August 1, 1991. Eighteen days before the Soviet Union died to practically universal cheers, George Bush went to Kiev to tell the Ukrainian people to be good Soviet citizens because the Soviet regime was reforming itself.

Never Wrong

ARE CIA analysts proud of their performance? The question is off the mark. They are proud of themselves for having been on the politically correct side of the issues. There is an old saying at CIA: "We may not always be right, but we're never wrong." This attitude has deep roots in the social composition of CIA analysts and in the way the analytical process has been organized.

Robin Winks's sociology of CIA recounts that when World War II came, "the coaches and the quarterbacks" of the nation's elite campuses went into espionage, while "the muscular athletes" went into special operations. "The weenies and the wimps," he writes, went into the Research and Analysis branch of the Office of Strategic Services. After the war, this overwhelmingly liberal group became the core of CIA analysts. The principal concern of this group was not so much providing expertise as gaining the bureaucratic prerogative to provide the basis for the U.S. Government's policies. A 1948 report by Allen Dulles, William Jackson, and Mathias Correa convinced President Truman to force all other government agencies to work under CIA to produce a single set of intelligence products on the most important issues. Thus protected from competition, this very peculiar group of people came to believe that, just as the Constitution is whatever the Supreme Court says it is, intelligence is whatever they say it is. During the height of their influence under the Carter Administration these analysts succeeded in calling themselves the National Foreign Assessment Center, as if no one else had a right to speak

authoritatively on foreign matters. When outsiders dare to speak on the subject, the CIA Brahmins ridicule them. When an insider breaks ranks, they try to exorcise him.

The analysts' attacks on Robert Gates, which made no sense as intellectual arguments, make perfect sense as social claims to bureaucratic turf. Mr. Goodman says that Gates sent reports to the President that "in terms of their message were at variance with the views of the Directorate of Intelligence." Horror of horrors, Gates also made "a conscious attempt to provide uncoordinated information to the NSC." And again, "The analysts . . . were not consulted." Miss Claudemans blames him for (gasp!) violating "an atmosphere and a culture." Gates did not "clearly distinguish what were his personal views and what were CIA or intelligence-community views." *Her* views, you see, were proper CIA views, while *his* were not. Harold Ford hit hardest: "Everyone's views were not listened to."

In January 1982 Robert Gates had read the riot act to CIA's senior analysts. He had chastised "analysts pretending to be experts who did not read the language of the country they covered . . . who were unfamiliar with its history or culture . . . and who argued that none of that mattered; flabby complacent thinking and questionable assumptions combined with an intolerance of others' views . . . verbose writing . . . and analysis that too often proved inaccurate or too fuzzy to judge whether it was ever right or wrong." Gates had also promised to compare each analyst's papers to actual events when deciding on salary raises.

So you see why Gates is unforgivable, and why the Gates hearings were a typical Washington foreign-policy fight: they had nothing to do with the outside world. You see also why the U.S. Government should begin to reform intelligence by sending most CIA analysts to contemplate their own importance at home, on their own time. □

The Presidency

GEORGE BUSH INTO THE BREACH

George Bush wields a mean veto, and the Constitution is the beneficiary.

TERRY EASTLAND

AMONG the least well reported aspects of the Bush Presidency are some very public acts: the President's responses to legislation presented for his signature. The President has vetoed 22 bills (no overrides), often sending detailed messages to Congress relating his objections. This fall he will add to his veto total: likely candidates include revised versions of the family-leave and civil-rights bills

he has previously vetoed. More frequently, of course, he has approved bills—more than seven hundred so far—and on some of these occasions he has issued careful signing statements.

Taken together, his vetoes and his signing statements reveal a President who takes seriously his responsibilities as a constitutional officer. While more could be wished from Bush in terms of cogent public arguments designed to advance conservative political ends before Congress passes a law, his performance once Congress presents legislation for his signature is quite strong. Indeed, it is doubtful

Mr. Eastland is a Fellow at the Ethics and Public Policy Center in Washington, D.C. His book on the Presidency will be published in the spring by The Free Press.

that any other President in modern times has used his opportunities to veto or approve legislation more conscientiously and effectively than Bush has. In this he has been well served by the Justice Department and White House Counsel Boyden Gray.

Article I, section 7, clause 2 of the Constitution says: "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to the House in which it shall have originated, who shall enter the Objections at large on their journal, and proceed to reconsider it."

This is the "presentment" clause, and it contains the veto power, though it is not explicitly mentioned. "Return" was the Framers' public language for "veto," a term they avoided because of its association with the absolute veto of King George. The Constitution equipped the President with the qualified veto—qualified because it can be overridden by a two-thirds vote of both houses.

Presidents may veto legislation for policy or constitutional reasons, or both. Most vetoes in any Presidency will be of the strictly policy variety. The President's view may differ in kind (he wants to kill the legislation) or in degree (he accepts the idea of the legislation but not its present incarnation) or in part (he wants not all but some part of a bill).

Bush has proved adept at all three kinds of policy vetoes. He wanted to kill the family-leave bill "absolutely," as White House Press Secretary Marlin Fitzwater put it, and indeed he did (in that session; he may have to slay it again this fall). On the other hand, agreeing with the general idea of raising the minimum wage but not with the amount Congress had legislated, he cast a veto that forced Congress to revise the wage downward. Finally, in the fall of 1989, Bush four times vetoed bills that were to his satisfaction except for their inclusion of provisions supporting abortion. The provisions never became law.

Bush also has used a policy veto to define the terms of public debate, no mean feat. I refer here to his branding

last year's civil-rights legislation as a quota bill. A "civil-rights" bill is not necessarily that.

Awed by Bush's use of the veto, *U.S. News & World Report* commented last year that he has "the smartest, most successful veto strategy of any President in modern history," that he is "re-writing the book on presidential relations with Congress." The magazine didn't know the half of it. As notable as Bush has been in blocking or forcing reconsideration of bills he objects to on policy grounds, he is even more

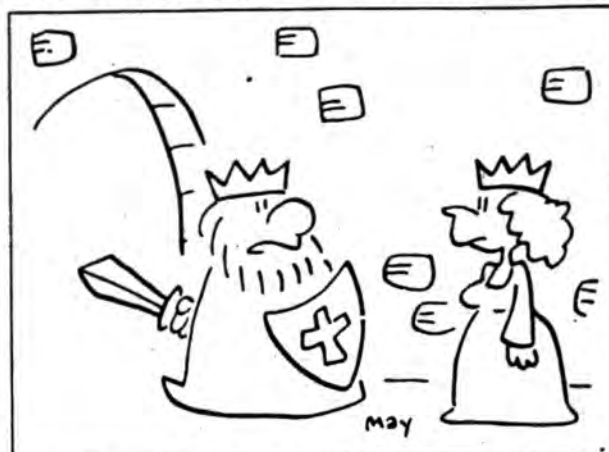
the constitutional rights of the executive." Lacking such a power, Hamilton wrote, the President would be "absolutely unable to defend himself against the depredations" of Congress. The importance of the self-defense veto lies in its essential relationship to separation of powers; a President who does not act to protect his powers may find them diminished by Congress.

The legislation Bush has vetoed in self-defense includes the bill regulating joint production of the FS-X fighter with Japan (he said it would

"tie my hands in the exercise of my constitutional responsibilities"; the appropriations bill for foreign operations and export financing (it would "interfere with my constitutional authority to conduct the foreign relations of the United States"); and the foreign-relations authorization bill for 1990 and 1991 (it "threatens to subject to criminal investigation a wide range of entirely legitimate diplomatic activity, the authority and responsibility for which is vested in the executive branch by the Constitution").

Perhaps President Bush's most significant self-defense veto was cast against the Intelligence Authorization Act for 1991. In his veto message he zeroed in on a section of the bill defining "covert action" as any "request" by the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States. This provision, said Bush, "purports to regulate diplomacy by the President and other members of the executive branch" and could "seriously impair the effective conduct of our nation's foreign relations." Bush also took aim at a provision that conditioned specific presidential actions on prior approval by congressional committees. "This language," he said, "is clearly unconstitutional under the Presentment Clause of the Constitution." Tired of efforts by Congress to enact "legislative vetoes," which the Supreme Court struck down in a 1983 case, Bush added: "I again urge the Congress to cease including such unconstitutional provisions in bills presented to me for signature."

Too few Presidents have understood the importance of the self-defense veto. The legislation most threatening to the Presidency is the independent-



"I shouldn't be too long—just veto everything until I get back."

remarkable in his vetoes cast for constitutional reasons—vetoes unnoticed by *U.S. News*, and, indeed, by virtually all commentators on this subject. The President takes an oath to "preserve, protect, and defend the Constitution," and he would be derelict in his duty if he did not judge the constitutionality of the bills before him.

In Self-Defense

A PRESIDENT may object to a bill for two basic kinds of constitutional reasons. He may see the bill as intruding on his constitutional prerogatives; or he may see the bill as violating some other part of the Constitution. Bush has yet to exercise a veto for the second reason. But, as he observed in a recent speech at Princeton, already he has cast six bills in defense of his powers.

It was primarily for this reason that the Framers decided to equip the President with the veto. "The primary inducement to conferring the power in question upon the executive," wrote Alexander Hamilton in *The Federalist*, "is to enable him to defend himself . . . against an immediate attack upon

counsel law. President Reagan reauthorized it in 1983 and again in 1987, hoping (in vain, as it happened) that the Supreme Court would strike it down. That law, by the way, will expire in late 1992 (a happy thought) unless Congress reauthorizes it; if independent-counsel legislation infringing on the President's prerogatives is presented to George Bush—and the chances are almost 100 per cent that it will be—he will have the chance to cast his most important veto.

Making It Stick

CREDIBLE veto threats are part of any effective veto Presidency. Unlike Reagan, Bush has used the veto in every instance in which his warnings have not resulted in changes he can accept. House Republican Vin Weber says that Reagan injudiciously threatened vetoes without casting them, whereas Bush has judiciously threatened and then deployed the veto. As a result, Bush's veto power is respected on Capitol Hill, and his threats have influence. A case in point: when, last spring, Bush threatened to veto an aid package for Nicaragua and Panama on account of an abortion-funding provision, Congress stripped it out, aware that just months earlier Bush had vetoed four bills in a row with similar provisions. "Read my lips" may have bit the dust, but not "no abortion funding."

Veto messages typically receive more (though not much) public attention than signing statements, which have been issued by Presidents going back to Andrew Jackson. That's unfortunate because Bush, according to students of the Presidency like Louis Fisher of the Library of Congress, has, far more systematically and meticulously than most other Presidents, reviewed the bills that arrive on his desk and stated his views of those he approves.

President Bush uses signing statements to speak directly to Congress and to his own Administration, and indirectly to courts, which may be called upon to interpret statutes. To Congress Bush has, among many other things, pointed out that what's in a committee report does not have the force of law. To his executive branch, Bush has discharged his constitutional duties to enforce the law and to supervise his subordinates (who do the

enforcing) by providing guidance on a new statute's interpretation and implementation. Statutes, it bears noting, are not self-enforcing and thus require interpretation. And in the absence of presidential guidance, executive agencies may implement statutes according to their own lights. Bush seems to understand that in regard to executing the law, the President is best positioned to counter the modern tendency toward unaccountable government.

Most significantly, Bush has used signing statements to register constitutional reservations. By my count, Bush already has voiced more than one hundred constitutional reservations of one kind or another. Some are based on constitutional provisions that do not implicate his powers but which, of course, he is sworn to uphold. No fewer than six times, for example, has Bush said that a preference based on race or sex is in apparent conflict with the Fourteenth Amendment's equal-protection clause.

But most of Bush's constitutional reservations represent efforts to protect his own powers. He has objected to 19 provisions that would regulate his power to conduct negotiations with foreign nations, to 18 that would interfere with his authority to supervise the executive branch, to 12 that would compromise his authority to preserve the confidentiality of diplomatic, military, or intelligence information, to 10 that would regulate his power as Commander-in-Chief of the military forces, and to 7 that would tinker with his power to recommend legislation to Congress. Bush has even objected to a provision that would interfere with his power to receive foreign ambassadors. Bush has identified at least 18 provisions with "appointments" problems of one kind or another, and he positively, absolutely dislikes legislative vetoes: Every one that Congress has legislated Bush has damned as not having the force of law.

Relying on his constitutional duty to enforce the laws, including the Constitution, Bush invariably treats a legislative-veto provision as "severable" from the rest of the bill. When his constitutional objection is not so strong, he indicates that he will construe the provision in question as "advisory" or "precatory" only. Sometimes his objection is milder yet; Bush merely says that he will interpret a provi-

sion in the light of his constitutional responsibilities.

Bush's use of signing statements may provoke controversy, especially if he should take the step of "item vetoing" an unrelated rider in an appropriations bill or, even more so, vetoing an actual appropriation. At Princeton, Bush seemed ready to item-veto an unrelated rider when he observed that Congress "frustrates the President's constitutional role" when it "bundles up a series of unrelated measures and calls it a single bill." He also seemed friendly to the item-veto of a spending measure when he said some experts "believe that I already have that power under the Constitution."

Congressional Vortex

THOSE ISSUES may await. For the moment, it is clear that Bush's signing statements evince an impressive understanding of his legislative role, his role in administering the executive branch, and, most of all, his role as protector of the presidential office and defender of the Constitution. This last is especially important, given the anti-executive virus in the current Congress. Madison could have been writing with our time especially in mind when he said, "The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex."

Bush's signing statements also invite reflection on whether he has been too timid with his veto power, notwithstanding his skillful use of it so far. At times Bush has expressed his constitutional views so strongly that it would seem he was duty-bound to return the legislation to Capitol Hill; the bills containing legislative vetoes are cases in point. So are some of those containing preferences for minorities and women.

But these are quibbles. Bush's performance once a bill is presented for his signature deserves good marks and indeed study by those who would some day be President. Now, if it were just possible to improve Bush's performance at the front end of the legislative process, to strengthen the content of his proposals and the public rhetoric in which he argues for them—if that were possible, then the legislative product of Congress, and President Bush, just might improve. □

The Associated Press

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December 29, 1991, Sunday, BC cycle

ADVANCED-DATE: December 26, 1991, Thursday, BC cycle

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HEADLINE: Bush's Low-Key Veto Tactic: I'll Sign This, But Won't Necessarily Follow It

BYLINE: By WALTER R. MEARS, AP Special Correspondent

DATELINE: WASHINGTON

BODY:

Presidents often ask, but never get, selective veto power to choose among the items in a bill instead of signing or rejecting the whole thing. President Bush has been doing it anyhow - signing some bills while telling Congress that he won't necessarily follow their instructions.

It's a lower profile side of the administration's veto strategy, written in lawyer's terms without the kind of announcements that would invite a confrontation with Congress. And it has not been tried on appropriations, where the administration would most like the itemized power to say no.

In three years, Bush is undefeated on outright vetoes, 24-0 versus the Democratic Congress. Administration compromises on such measures as a civil rights bill and extended unemployment benefits, which might otherwise have drawn the two-thirds majorities it takes to override a veto, have helped keep the streak intact.

Bush, like Ronald Reagan before him and presidents of both parties before that, has proposed a constitutional amendment to broaden veto powers. It would give the president line-by-line authority to knock out provisions he doesn't want, subject to the same, two-thirds override rules that now apply.

But Congress isn't about to yield the leverage that would go with that change. With the all or nothing system, it can force a president to spend money on programs he doesn't want in order to get funds his administration does want.

The governors of 43 states have authority to go through appropriations bills and reject specific items, with varying systems for settling with their legislatures on what stays and what goes.

White House lawyers said in 1989 that the Bush administration might try to exercise the item veto without a change in the law; congressional Democrats replied that they'd go to court. The Supreme Court has ruled that a president cannot refuse to spend money that Congress has appropriated in a bill he has signed.

But there's no direct ruling on a president's power to ignore Congress when it puts strings on spending. And that's where Bush is drawing lines, especially on matters of defense and diplomacy, insisting that he won't accept congressional intrusions on presidential powers.

Bush took that position on eight provisions of a \$ 291 billion defense budget bill he signed into law on Dec. 6, saying it generally supports administration priorities but includes strictures he won't necessarily heed.

"While I will respect the intent of these and similar provisions as far as possible, I sign the bill with the understanding that such provisions do not constrain my constitutional authority to deploy military resources," he said.

Among the sections he said he won't necessarily obey:

- A requirement that the administration negotiate new terms with Germany, Great Britain, Japan, South Korea and other allies on sharing the cost of U.S. bases and forces on their territory. Bush said he'd interpret that as a congressional request, not an order.

- A ban on the use of U.S. payments to NATO to build an air base at Cretone, Italy.

- Restrictions on defense intelligence agencies, and a demand that Congress be consulted on who heads them.

Bush has taken similar positions since 1989. In signing an appropriations bill that year, he said he would not comply with a provision barring the administration from requiring signed statements from federal employees promising not to disclose classified information. Approving another bill, he rejected sections that would have required Congress get notice of sensitive diplomatic missions and contacts with the PLO.

He's rejected provisions requiring reports directly to Congress from the Department of Education, and seeking 30 days notice of major military exercises.

Signing one batch of nine bills in 1990, Bush rejected 31 provisions he deemed unconstitutional infringements on his authority, although he said he would regard some as advisory, according to two Washington lawyers who have analyzed the process.

J. Gregory Sidak and Thomas A. Smith wrote in the journal "The American Enterprise"

earlier this year that Bush has been increasingly aggressive in claiming the authority to reject such provisions.

So far, while there have been some Democratic complaints about it, there's been no outright challenge.

EDITOR'S NOTE - Walter R. Mears, vice president and columnist for The Associated Press, has reported on Washington and national politics for more than 25 years. LANGUAGE: ENGLISH

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Reagan

Divider Title: _____

March 30, 1995

MEMORANDUM TO MARK GEARAN

FROM: RUSSELL HORWITZ

RE: President Reagan's Veto Strategy

"The Reagan Administration never developed a credible veto policy. As a consequence, Reagan had more than one in five of his vetoes overridden, a very high percentage. Worse, many of Reagan's veto threats were ignored near the end of his presidency because he routinely signed bills that he previously had pledged to reject." [Heritage Reports, 10/5/89]

President Reagan vetoed 78 bills in eight years and was overridden nine times. His Administration was not as diligent or consistent in the application of their veto strategy, as compared to Bush. They sought to use the veto as a threat, then negotiate a compromise. President Reagan's main focus with respect to the veto was spending bills. Initially, the Administration was prepared to go "toe-to-toe" with Congress to reduce spending. [New Republic, 5/11/87]

However, as his term in office wore on, the President made the mistake of threatening more and more vetoes, then backing off without extracting important concessions from Democrats. That, in turn, damaged his credibility with both Democrats and Republicans. After six years, President Reagan vetoed only 55 spending bills, while Ford vetoed 66 in less than three years.

President Reagan used the veto largely as a defensive tool when the Democrats regained control of Congress. The Administration goal was to use the veto, during that time, to get bills that were signable. Much like President Carter, President Reagan used the veto to highlight differences between the parties, specifically, with respect to wasteful spending.

(See Next Page)

Levine specifically discusses Congress's override of President Reagan's September 1982 veto of a \$14.2 billion supplemental appropriations bill. The author chronicles the following factors that contributed to President Reagan's defeat:

- Mid-term elections were less than two months away;
- the Administration failed to lay the groundwork for the veto by clearly telling Republicans when they first voted for the bill that the President would, in fact, veto it;
- Started lobbying too late to secure the appropriate number of votes, and
- Claimed the bill was a "budget-buster," when, in fact, Congress voted \$2 billion less than the President had originally requested.