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TACTICAL CONSTRAINTS AND PRESIDENTIAL INFLUENCE ON VETO OVERRIDES

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One little explored area of a President's relationship with Congress is his ability to influence votes to sustain his veto. We know that Presidents use the veto infrequently, that vetoes are seldom overridden by Congress, and that often the mere threat of a Presidential veto may force Congress to drop the project in question. We also know that Congress is more prone to override a President's veto after a mid-term election and during times of economic uncertainty.[1] However, we know very little about the process by which a President attempts to persuade Congress to sustain his veto. As this paper will argue, the President is not entirely free in attempting to influence Congress on the matter of veto overrides. Rather, his influence with Congress here is severely constrained by considerations that are designed to preserve his options and to protect his overall power.

The Reagan Administration's relationship with Congress in its first two years in office will provide the case study for the generalizations made in this paper. In particular, this paper will focus on Congress' successful override in September 1982 of the President's veto of a $14.2 billion supplemental appropriations bill. This paper will draw on interviews conducted in the fall of 1982 and winter of 1983 with Republican Senators, a member of the Republican leadership in the House, staff members of the Republican congressional leadership offices, members of Reagan's Congressional Liaison Office, and a representative of the President's legislative office at the Office of Management and Budget.

The Unique Factors in the September 1982 Veto Override

Given Reagan's general record of success with Congress in his first two years in office and the generally recognized sophistication of Reagan's legislative lobbying efforts and his Congressional lobbying team,[2] the override of the supplemental appropriations measure came as quite a shock to Washington. Few observers, if any, predicted that a two-thirds override majority could be mustered in a Senate where a partisan Republican majority had consistently supported the President's budget-cutting measures over the course of the preceding two years.

Still, the forces pressing for override did have a number of factors operating in their favor. First, the passage of some supplemental appropriations measure was necessary if the government was to have the funding to continue its operations past the end of September. If this veto were to be sustained, Congress and the President would still have to come to an accommodation on another supplemental appropriations bill.

Second, the bill was loaded with funding for such popular and constituency-pleasing programs as student loans, community service employment for the elderly, and education for the disadvantaged. As a result, Congressmen were subjected to intense lobbying from representatives of these clientele groups in the days before the vote.

A vote to override also allowed Congressmen, moderate and conservative Democrats and Republicans alike, with the mid-term elections less than two months away, to put some distance between themselves and a President whose economic performance and extensive budget cutting no longer appeared to be overwhelmingly popular. Newspaper articles, public opinion polls and the rhetoric of Democratic congressional candidates all seemed to point to Reagan and his supporters' vulnerability in cutting programs favored by the middle class.

Congressional opposition to the Reagan veto was also spurred on by what one White House aide called "the institutional issue."[3] Especially in the Senate, where the President fell only one vote short of having his veto sustained, this aide reported that Congressmen "felt they just had to assert some sense of independence as a separate branch of government." Members of this Congress, especially Republicans, at this point in time were sensitive to the charges that they were "Reagan robots" who simply marched to the President's orders. As ranking Republican on the House Appropriations Committee Sylvio Conte explained the reasons underlying the override vote in the House: "You just don't have 435 robots up here in Congress that are going to vote in lockstep."[4]

The institutional issue was compounded in that Members felt that the President had unfairly intruded on Congress' domain in deciding how money was to be spent. Many Members resented the fact that the President portrayed them as voting for a "budget-buster" when the total spending remained below the President's proposed overall ceiling and the President only disagreed as to how the funds were to be divided.[5] In fact, the supplemental bill Congress had voted for was almost $2 billion less than the $16.1 billion Reagan had requested in supplemental appropriations. Yet, the Congressional measure also reduced defense spending by about $2 billion and reallocated about half that amount to more social welfare-type programs. Republican Representative Raymond McGrath explained his frustration as well as the frustration of others in voting to override the President on this measure: "It is still the prerogative of the House and of Congress to make adjustments in spending bills."[6] One White House legislative lobbyist summarized quite succinctly the difficulty of justifying this particular veto to Congressmen: "The bottom line figure in that bill was not over the budget."[7]

The fact that the money in the supplemental bill subject to debate really represented only a quite small percentage of the nation's total spending helped to facilitate Congress' willingness to buck the President on this issue. As Republican Sid Morrison (WA) justified his vote against the President, the bill "did not do violence to Reagan's overall budget blueprint."[8] A member of the House Republican leadership who supported the President simply called it a "relatively easy throw-away vote"[9] where Republicans could cheaply establish their independence from the President, and Congress could also at little cost show its independence from executive dominance.

Tactical Constraints on Presidential Action

The above-mentioned explanations offer only an incomplete account as to why President Reagan failed to get Congress to sustain his veto of the supplemental appropriations bill. The consensus of the interviews conducted was that the President himself and a breakdown in the usually well-oiled process of White House lobbying of Congress were to blame. Among the more serious criticisms were that the President and the White House left the Congress "somewhat bewildered by the veto in the first place"[10] and that they failed to lay the groundwork for the veto by clearly telling Republicans when they first voted for the bill that the President would veto it.[11] As a result of Reagan's failure to give Congress a clear signal as early as possible, it was now difficult for Members, especially Republicans sympathetic to the President, to change their mind on a bill they had already gone on record as voting for.

The Reagan White House was also criticized for not orchestrating the override vote very well.[12] Especially in the Senate, where Reagan lost by only one vote, (the vote was 60 to 30 to override), the feeling was that had the President started lobbying early enough, and had his team counted votes accurately enough noting who was in town and who was out of town, the winning vote could have been brought in.

The criticism of Reagan's legislative lobbying operations here stands in sharp contrast with the plaudits the White House received for its smooth, professional handling of an earlier veto override vote. On that earlier vote, the White House lobbying team convinced the Senate to sustain the President's veto of a bill giving him emergency power to allocate oil supplies. Twice previously the Senate had voted overwhelmingly for the bill. But, in contrast to the lateness and ambiguity which characterized the Reagan White House effort on the supplemental bill, on the oil bill, "The effort began well in advance of the veto" and the President vetoed the bill only "after phoning advance warning to both sides."[13]

Why, then, was the White House so guilty, as one White House legislative liaison admitted, of "not sending a strong enough signal early enough"[14] on the veto to the supplemental appropriations bill? Why, in particular, was the President so late in coming to an accommodation that would have delivered him the votes to sustain the veto? Just before the vote the President agreed that if his veto were not overridden he would in a future supplemental accept the $211 million in funding for community service employment for the elderly and would not attempt to restore fiscal 1982 defense spending to the level he had previously proposed. But this compromise came too late; Republican congressmen had already told the press and senior citizen groups that they would vote to override the veto.[15]

The White House's failure on the supplemental veto was not purely the result of accident or over-confidence. The apparent "sloppy"[16] nature of the President's veto here was as much the result of deliberate calculation designed to maximize the President's influence as it was the result of White House oversight or neglect.

The Need For a President to Preserve His Options

In contrast to the oil bill where the President was opposed to the principle of assuming new resource allocation powers, the supplemental appropriations bill contained items that Reagan wanted. The bill, for instance, contained $350 million of military and economic assistance under the President's Caribbean Basin Initiative. Also, some supplemental funding bill had to be passed if the government—including the military—were to continue to function without disruption at the end of the month. Hence, the President could not communicate early and strongly his unqualified intention to veto the bill. Instead, he had to wait to see just what the exact mix of programs was contained in the final bill before he could decide if this was something he could accept or something he was compelled to veto.[17] Hence, Reagan could not lay the groundwork for the veto; he could not tell Republicans when they first voted for the bill that he was certain to veto it. As a result, Reagan put those Republicans who had gone on the record in an embarrassing position; it would now be quite difficult to get them to change their mind and sustain the veto. In seeking to preserve his options—in waiting to see the final shape of the amended bill before deciding that it was a "must" veto—Reagan helped lay the seeds for the eventual veto override.

The Need For a President to Preserve His Bargaining Advantages

A President who gives the appearance of being unmoveable in his intentions to veto a bill increases the chances that Congressmen will bend toward his point of view—but only at a cost. 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" position acceptable to both the President and Congress can be found. On the supplemental bill, Reagan avoided this early "all or nothing" veto posturing, choosing instead to give Congress time to come up with a compromise measure that would contain funding for his priority programs and which would not, to his mind, bust his budget ceilings. To commit too early on a bill is to lose his bargaining flexibility—for no President can afford to say that he will definitely accept or veto a measure and then, in later reversing himself when a new accommodation is reached, pull the rug out from under friendly Congressmen who had earlier gone on record supporting the President's initial position.

Similarly, a President maximizes his strength only by working whatever house of Congress first moves to override the veto. Critics of Reagan's handling of the supplemental appropriations veto override observed that the White House was quite late in starting its lobbying efforts in the Senate where, the feeling was, that a little more White House effort could have certainly produced the one additional vote that would have sustained the veto.

But what these critics ignore is the fact that the White House could not afford to work the Senate earlier than it did. The override move began in the House of Representatives—hence, the White House focused its initial efforts to gather the votes to sustain the veto in the House. To do otherwise, to have worked the Senate any earlier, would be to have sent a signal that the President lacked the confidence that he could win in the House.[18] To have done so would only have admitted presidential weakness and would have catalyzed the appearance of votes opposed to the President among House Members and Senators alike. Unless a President is going to stir up opposition to his veto, he has to work first whichever house of Congress first initiates the move to override.

A Trade of Short-Term Influence for Long-Term Influence

As has already been noted, the veto override came as a great surprise to the Washington community. Still, the White House had been advised beforehand it would not be in the most advantageous position possible in rounding up votes to sustain this particular veto.

First, Senate Majority Leader Howard Baker felt that as the supplemental measure had widespread Senatorial support—even on the Republican side of the aisle—it represented the best deal the White House could get.[19] Second, the supplemental measure had the strong support of key Republican committee chairmen in the Senate—Budget Committee Chairman Pete Domenici and Appropriations Committee Chairman Mark Hatfield.[20] Hatfield in particular was committed to the bill as he had worked hard to craft it from a much larger Democratic proposed measure. Finally, as has also been noted, there was great confusion as to whether the bill was truly a budget buster as the President had attempted to portray it.

Still, despite this advice, the President felt he had to veto the measure. Reagan viewed the "shuffling" of dollars in the bill from defense to social spending to be "a harbinger of bad news"[21] for the upcoming year. Should he not lay down a firm Presidential position on the matter, Reagan felt that the new Congress—one that was likely to include an increased Democratic membership—would be even more prone to question his spending priorities. Though Reagan obviously preferred not to lose the supplemental appropriations battle, nevertheless he felt it was a battle he could not avoid. Even should he lose this vote his veto would still serve as a signal to Congress as to what he would and would not accept in the future.

Conclusions

As this article has shown, despite the President's general record of success in getting Congress to sustain his vetoes, the President is much more constrained in his ability to influence veto override votes than is commonly believed. Especially if the proposed measure in question contains items in it that a President wants, the President can not clearly and unambiguously announce his intentions to veto the bill. In seeking a middle ground, however, a President fails to communicate any exact, firm final position to Congress. Faced with what they see to be a lack of Presidential resolve, members of Congress will go on record in support of constituent-pleasing programs—only to later find that they are in a bill whose final shape the President will not accept. Furthermore, a President is constrained to lobby initially only that chamber of Congress that first initiates the override action. To do otherwise is only to admit weakness that will spur further opposition to his veto.

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Finally, as this article has shown, a President who achieves a strong record of success in gaining passage of his legislative program may eventually build up a backlash as Congress feels it must demonstrate its independence from the President as a co-equal branch of government. To the extent that this is the case, the supplemental appropriations veto override, while dramatic given its context, was not a great defeat for Reagan. The override allowed Congress to "blow off steam" and only concerned, really, a dispute over the allocation of a rather small sum of money. To the extent that a sense of institutional prerogative was "re-claimed" by Congress on this vote, it was not a force which Reagan would have to face on future votes. Hence, Reagan could soon thereafter talk about the possible veto of a jobs package with too much "pork" in it without having to worry about Congress feeling the need to demonstrate its institutional independence on that particular matter.

It is commonly known that a President who does not wish to appear too docile will at least on occasion search for a bill he can veto to remind Congress of his power.[22] It appears that Congress, too, can play this game and use its override powers to remind the President of the constitutional prerogatives as well.

Notes

1. For an overall survey of the knowledge on the subject of Presidential vetoes, see, George C. Edwards III, *Presidential Influence In Congress* (San Francisco: W. H. Freeman, 1980), pp. 19-25. See, also, Jong R. Lee, "Presidential Vetoes From Washington to Nixon," *Journal of Politics* 37, no. 2 (May 1975):522-546.
2. See, Hedrick Smith, "The President as Coalition Builder: Reagan's First Year" in *Rethinking the Presidency*, Thomas E. Cronin, ed. (Boston: Little, Brown, 1982), pp. 271-286.
3. White House legislative liaison staff member I, interview October 13, 1982.
4. Andy Plattner, "Congress Overrides Veto of Funding Bill," *Congressional Quarterly Weekly Reports* (September 11, 1982):2237.
5. OMB legislative staff person, interview October 12, 1982; and, Member, House Republican Leadership, interview September 14, 1982.
6. Andy Plattner and Pamela Fessler, "Former Backers Deserted Reagan on Veto," *Congressional Quarterly Weekly Reports* (September 11, 1982):2238.
7. White House legislative liaison staff member I, interview October 13, 1982.
8. Plattner and Fessler, op. cit.
9. Member, House Republican Leadership, interview September 13, 1982.
10. Senate Republican Leadership aide I, interview February 2, 1983.
11. Member, House Republican Leadership, interview September 13, 1982.
12. Republican Senator I, interview September 15, 1982.
13. Bill Keller, "Duberstein Starts At Fast Pace As Top White House Lobbyist," *Congressional Quarterly Weekly Reports* (May 1, 1982):972.
14. White House legislative liaison staff member II, interview October 15, 1982.
15. Plattner, op. cit.
16. Republican Senator II, interview September 15, 1982.
17. White House legislative liaison staff member I, interview October 13, 1982.
18. Senate Republican Leadership aide II, interview January 31, 1983.
19. Senate Republican Leadership aide I, interview February 2, 1983.
20. Republican Senator II, interview September 15, 1982.
21. White House legislative liaison staff member I, interview October 13, 1982.
22. Richard E. Neustadt, *Presidential Power* (New York: John Wiley and Sons, 1960 and 1980), p. 63.

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Heritage Foundation Reports

July 8, 1985

SECTION: BACKGROUNDER; No. 443

HEADLINE: REAGAN'S TRUMP CARD: THE VETO

BYLINE: James Gattuso, Policy Analyst; Stephen Moore, Research Associate

Holding down government spending is like protecting your virtue. You have to learn to say no. n1

Ronald Reagan

n1 Donald Rothberg, Associated Press, March 5, 1980.

INTRODUCTION

Seldom has a President adopted a tougher stance with a Congress than has Ronald Reagan in the first months of his second term. He has vowed to veto congressional efforts to raise taxes or pass budget-busting spending bills. He even has taunted Congress to "make my day" by passing a tax increase. The message is clear and welcome: Ronald Reagan would appear to relish vetoing the actions of an irresponsible Congress. He seems to recognize that the veto is a President's trump card.

The problem is that, despite this tough talk, Reagan actually has been very timid in playing this trump thus far in his presidency. This apparent aversion to vetoing may seriously impair Reagan's ability to prod Congress to act responsibly, particularly in slashing federal spending -- where few major victories have been won since 1981.

An aggressive veto strategy is feasible and necessary if the Reagan team is to continue to reduce the size and role of the federal government. Reagan's lopsided electoral victory last November demonstrated that he has very broad public support to carry through on veto threats. And furthermore, the more fractious and independent-minded Congress now confronting Reagan may make the veto vital for reasserting the presidential role in the legislative process. In short, Reagan is in an unusually strategic position to adopt an aggressive veto strategy. Political factors are likely to make it increasingly essential for him to do so. The fate of the Reagan revolution well may depend on how skillfully he wields the veto weapon.

THE VETO AND PRESIDENTIAL ACTIVISM

The veto is perhaps the President's most formidable constitutional power. The veto was placed in Article I of the Constitution, which governs the legislative process, because it makes the

President the central figure presiding over legislative affairs. The importance of the veto has been underscored most concisely by historian James Bryce:

The strength of the Congress consists in the right to pass statutes; the strength of the president in his right to veto them. n2

n2 Quoted in Jong R. Lee, "Presidential Vetoes from Washington to Nixon," Journal of Politics, Vol. 37, 1975, p. 522.

Veto power has two components. First, it can block a measure that a President opposes, providing he can muster one-third support of either house to uphold his veto. Since only about 5 percent of all presidential vetoes have been overridden, the presidential veto power is considerable. n3 Second, merely the threat to veto often can mold legislation into statutes that conform to administration goals. William Timmons, Gerald Ford's chief congressional liaison, believes that, as a result of Ford's 66 vetoes in two years, some 20 to 30 bills were "cleaned up sufficiently" by Congress so that the President could, with clear conscience, sign them. n4

n3 Charles L. Black, Jr., "Some Thoughts on the Veto," Law and Contemporary Problems, Spring 1976, p. 92.

n4 Erwin C. Hargrove and Michael Nelson, Presidents, Politics, and Policy (Baltimore, Maryland: Johns Hopkins University Press, 1984), p. 209.

Those Presidents who have proven most skillful in dealing with congress have tended to use the veto aggresssively. During the early years of the Republic the veto was considered to be such a powerful weapon that Presidents reserved it for bills deemed unconstitutional. Andrew Jackson, one of the most legislatively successful Presidents in history, broke with this tradition by blocking the passage of bills simply because "they didn't commend themselves as being wise." n5 The veto, however, was not used extensively by any President until after the Civil War. Abraham Lincoln, for instance, vetoed six bills during his four presidential years. And altogether, only 57 bills were vetoed from 1789 to 1865. n6

n5 Kendrick Lee, "Veto Power of the President," Editorial Research Reports, April 1947, p. 296.

n6 Ibid., p. 298.

In the contentious years after the war, the veto finally came into regular use. President Grover Cleveland, for instance, eclipsed all previous Presidents with a mammoth 414 vetoes during eight years in office.

Early in this century, Woodrow Wilson, himself a Constitutional scholar, contended that a president active in the legislative process must routinely exercise his right to veto. n7 Franklin Roosevelt, whose 635 vetoes make him the uncontested veto champion, held similar views; he believed that, rather than confirming presidential weakness, frequent employment of the veto effectively reasserts presidential primacy over legislative affairs. Indeed, whenever Congress became recalcitrant or unruly during his twelve years in office, FDR reportedly demanded of his aides: "Find me a bill I can veto." n8

n7 Black, op. cit., p. 88.

n8 Richard Neustadt, Presidential Power (New York: John Wiley & Sons, 1960), p. 84.

Harry Truman, faced with a hostile Congress during much of his term, vetoed almost as frequently. Among the controversial bills vetoed by Truman were measures which would have authorized segregated schools on federal property, and provided draft deferments for farm workers. Truman's tough stance with Congress became a major theme of his successful 1948 reelection campaign. Dwight Eisenhower relied heavily on the veto during the latter part of his presidency to reassert presidential authority over an increasingly antagonistic Congress. During his second term, Eisenhower vetoed a water projects bill, a bill providing high price supports to wheat farmers, and a proposal to subsidize lead and zinc producers. He twice vetoed a large omnibus housing bill, forcing Congress to submit a more acceptable proposal. Ike's top congressional liaison, Bryce Harlow, notes that during the latter part of his presidency Eisenhower "made a conscious decision to be more aggressive -- more confrontational with Congress if need be -- to reestablish his declining power base." According to Harlow, Ike regarded the veto as a sign of legislative activism. n9

n9 Conversation with Bryce Harlow, April 1985.

In general, Presidents ranked by historians as "great" or "near great" have far higher veto utilization rates than those rated "average" or "failures" (see Table 1). Compromise with Congress is not always, as many would have Reagan believe, a sign of "statesmanship." Rather, it is often an indication of ineffective leadership.

Table 1
Vetoes by Historian's Rating of Presidents
(1789-1981)

Rating	Vetoes Per President	Number of Vetoes Per Year
Great	137.4	17.2
Near Great	127.3	19.1
Average	25.5	5.1
Below Average	12.7	3.8
Failure	49.5	8.3
Not Ranked	23.2	6.6

Source: Raymond Tatalovich and Byron W. Daynes, Presidential Power in the United States (Monterey, California: Brooks/Cole Publishing, 1984). Presidential ratings from: Arthur M. Schlesinger, "Our Presidents: A Rating by 75 Historians," in New York Times Magazine, July

29, 1972. "Not Ranked" includes Presidents not ranked in Schlesinger survey.

That activist Presidents have tended to be heavy veto users does not mean that a President must veto frequently to be successful, or that Presidents who veto often will necessarily be successful. The historical record, nevertheless, does underscore the fact that the veto in the hands of an activist President can be a vital tool to overcome political and institutional barriers to translating his agenda into public policy.

REAGEN'S USE OF THE VETO

During Reagan's first term, he vetoed only 39 bills, placing him slightly below average in historical terms (see Table 2).

Table 2
Presidential Vetoes and Congressional Overrides
(1901-1984)

President	Years in Office:	Vetoes:	Vetoes Per Year:	% Vetoes Overriden
T. Roosevelt	1901-1909	82	10	1.2
Taft	1909-1913	39	10	2.6
Wilson	1913-1921	44	6	13.6
Harding	1921-1923	6	3	0.0
Coolidge	1923-1929	50	8	8.0
Hoover	1929-1933	37	9	8.1
F. D. Roosevelt	1933-1945	635	48	1.4
Truman	1945-1953	250	35	13.3
Eisenhower	1953-1961	181	23	2.5
Kennedy	1961-1963	21	7	0.0
Johnson	1963-1969	30	6	0.0
Nixon	1969-1974	43	8	12.5
Ford	1974-1977	66	22	17.0
Carter	1977-1981	31	8	6.4
Reagan	1981-1984	39	10	10.2
AVERAGE		104	18	

Source: U.S. Senate Library, Presidential Vetoes, 1789-1979 (Washington, D.C.: U.S. Government Printing Office, 1979). Data for later years from Congressional Quarterly, November 17, 1984.

The Reagan White House defends its sparing use of the veto by arguing that the President has been faced with very few bills deserving the veto. Said White House Chief of Staff Donald Regan, when asked why more appropriations bills have not been vetoed: "Congress keeps slipping in, just over the edge, just taking a little bit, so there has been nothing mammoth to veto." n10 n10 Quoted in David R. Burton, "If Congress Is Spendthrift, Where Are Reagan's Vetoes?," The Wall Street Journal, September 11, 1984.

A second White House defense of its veto record is that the Administration has been very adroit in hammering out compromises with key members of Congress, rather than taking an unyielding confrontational approach and then having to veto unacceptable legislation. Administration officials also contend that the White House does not want to waste the vital political capital purportedly consumed by vetoing legislation of marginal importance. Political consultant Paul Charles Light, for example, maintains that vetoes may "alter the climate in Congress, creating greater hostility and resistance." n11

n11 Paul Charles Light, The President's Agenda (Baltimore, Maryland: Johns Hopkins University Press, 1984), p. 114.

Has There Been Nothing to Veto?

It seems that there should have been plenty of bills for Ronald Reagan to veto. After all, a series of congressional spending bills have pushed the budget far above the level the Administration projected in 1981. n12 The "compromises" obtained by the White House resulted in 1984 federal spending some $80 billion higher than Reagan pledged it would be in 1980. Indeed, government spending under Reagan, as a percentage of GNP, has accelerated at a faster pace than under Carter. n13 And Congress has preserved virtually every domestic program that the White House has sought to terminate, including Amtrak, Job Corps, the Small Business Administration, and Export-Import Bank direct loans, to name but a few.

n12 For a detailed discussion of Reason's failure to cut federal spending during his first term, see Stuart M. Butler, Privatizing Federal Spending (New York: Universe Books, 1985), pp. 5-31; and Doug Bandow, "The Budget Revolution That Wasn't," Reason, May 1985, pp. 39-44.

n13 Bandow, op. cit., p. 40.

Congress has presented Reagan plenty of bills of dubious merit which he chose to sign rather than veto. The 1983 Dairy and Tobacco Bill, for instance, contained massive subsidies for milk producers and North Carolina tobacco growers. It was incompatible with Reagan's firmly stated goal of shifting U.S. agriculture back to market-oriented conditions. Nevertheless, the President signed it into law. More recently Reagan signed the 1984 Head Start Authorization Bill, which, despite its name, was little more than a package of pork barrel social spending progrms that the White House has been trying to eliminate. These include Community Services Block Grants, Low Income Energy Assistance, and various Department of Education programs. And last fall a Vocational Education authorization bill won the President't signature, despite his insistence that vocational education is primarily a responsibility of state and local governments. The bill authorized spending levels 30 percent above his budget request. n14

n14 "Bill Shifts Vocational Education Emphasis," Congressional Quarterly Almanac, 1984,

p. 455.

Clearly there have been plenty of bills that President Reagan could have vetoed. He simply chose not to do so.

The Pitfalls of a Strategy of Compromise

To be sure, Reagan achieved considerable legislative success early in his first term, most notably in securing the passage of tax cuts and defense increases. Then his hitting streak faltered badly. The Congressional Quarterly calculates that Reagan's success rate, as measured by "victories on congressional votes where the president took a clear-cut position" started at 82.4 percent in 1981 and then dropped to 72.4 percent in 1982, 67.1 percent in 1983, and 65.8 percent in 1984. n15 Surely it is time for the White House to end this slump by changing tactics.

n15 "1984 Partnership More Rhetoric Than Voting," Congressional Quarterly, October 27, 1984, p. 2802.

Compromise, moreover, is only a useful tool if it leads to real victories at the bargaining table. But given the continued growth of federal spending, it is unclear just what concessions the Administration has won from Congress.

The Veto and Political Capital

The least persuasive rationale for Reagan's veto shyness is that the Administration Wants to conserve political capital. Yet the veto actually may consume less political capital than any of the many other options available to the President. University of Oklahoma political scientist Gary Copeland, who has thoroughly studied the veto power, explains: "The veto certainly consumes less political capital than proposing legislation, and then spending months bargaining to line up the votes to assure the bill's passage." n16 Once a veto is made, the political burden shifts to the bill's proponents from the President. The override battle, moreover, typically lasts no more than two weeks. And most important, the President needs only to obtain one-third of the votes cast in one chamber to sustain his veto. On the other hand, a compromise requires a majority in both chambers. Finally, since strong Presidents have tended to be heavy users of the veto (see Table 1), using the veto surely does not drain political capital and impose debilitating political costs.

n16 Conversation with Gary Copeland, April 1985.

In sum, there is no reason for Ronald Reagan to hesitate vetoing a bill that violates his principles or undermines his policies. To the contrary, the main beneficiaries of the his veto policy have been Reagan's congressional opponents.

WHY REAGAN SHOULD VETO MORE IN HIS SECOND TERM

Reagan's landslide electoral victory last November positions him ideally to wield the veto more aggressively. In his analysis of the veto, Gary Copeland discovered that Presidents enjoying huge electoral victories normally employed the veto frequently. Copeland feels that Reagan's overwhelming victory in the 1984 election will allow him to pursue as aggressive a veto policy as any President has. The President, after all, rightfully can claim a popular mandate. And the size of his victory will facilitate the coalition building necessary to sustain vetoes.

Further, once Reagan's election mandate loses some of its momentum, he is likely to face a Congress antagonistic toward his second term agenda. The lesson of history is that Congress grows more and more assertive during a President's incumbency. Face with a similar situation, Eisenhower used numerous second term vetoes successfully to shift power back to the executive.

Using the Veto to Control Federal Spending

Reagan should move quickly to wield the veto to tackle the issue atop his legislative agenda -- controlling federal spending. With the annual budget deficit approaching $200 billion, a number of alternative approaches to cutting federal spending have been proposed. A legislated line-item veto, for instance, would allow the President to strike out unfavorable provisions of an otherwise acceptable spending bill. The shifting of federal assets and services into the private sector, or privatization, has helped balance the books in Great Britain and U.S. municipal governments.

In the short term, these strategies are not available. As such, Reagan must start to veto spending bills routinely if he is to make any dent in federal spending. The compromise strategy has failed, and its prospects for the future do not appear bright. Office of Management and Budget Director David Stockman admits that eliminating even some of the most egregiously wasteful domestic programs is unlikely. Said Stockman recently: "I can't foresee that anytime in this decade we will have the kind of people in Congress who will abolish these things." n17 If Congress dares not abolish "these things," then the President can with his veto. Yet Reagan continues to be veto shy. Ironically, Gerald Ford, whom Reagan condemned in 1976 as "soft on spending," vetoed appropriation bills at a rate four times that of Reagan.

n17 "Ronald Reagan Veto," The Wall Street Journal, January 31, 1984, editorial page.

For the Administration to curb the spending epidemic, the White House must set stringent benchmark levels for domestic spending. Reagan then should vow to veto all appropriations bills surpassing these levels, just as he has vowed to veto any tax increase. The stand against a tax increase clearly has intimidated Congress.

Such a veto strategy can bring spending down. Past experience shows it can work. Example: experts widely acknowledged that Gerald Ford's 39 spending vetoes contributed to markedly lower spending levels than Congress otherwise would have passed. Reagan's own 1981 veto of a continuing resolution, shutting down the government for a day, successfully achieved its objective. Not only did Congress send him a revised bill with lower spending levels, but the veto influenced the spending levels of subsequent appropriations.

What If a Veto Shuts Down the Government?

If the President and Congress are at a budget impasse at the start of the next fiscal year, nonessential federal agencies would have no money to continue operating. This is a serious matter, but not necessarily a disaster.

The one-day closure caused by Reagan's 1981 veto helped refine procedures for orderly shut-downs. These procedures require "excepted personnel," such as heads of agencies, military personnel, prison guards, and other essential employees to continue working during the budget standoff. National security and other essential government functions, moreover, remain unaffected.

By vetoing congressional spending bills, of course, the President invites political heat. But so does Congress. By voicing a clear and unequivocal message that he will veto a bill authorizing spending over a certain level, Reagan would shift the responsibility for shutting down the government to Congress.

If Reagan were to veto an appropriations mesure early in this budget cycle, it would sent an unambiguous signal to Congress that he is firmly resolved to control the deficit. This would increase significantly his subsequent bargaining power.

FOUR CAVEATS IN USING THE VETO

As the most powerful tool in the President's arsenal, the veto must be used with care. Among the key considerations in deciding to veto are:

1) Overrides are politically damaging.

Nothing dissipates a President's political clout faster than a vote by two-thirds of each house of Congress to override the veto. An override signifies vulnerability and weakness. As such, the Administration should place top priority into building coalitions to assure that its veto will be sustained. But it Reagan has promised unequivocally that he will veto a bill, such as a tax increase, he must do so even if an override is probable. The cost of making empty threats and having the bluff called is greater than the cost of the override. And there is a potential cost to those voting to override: an electoral backlash for thwarting a presidential pledge.

2) The veto should be employed only for clear cause.

The President cannot afford to be perceived as an obstinate obstructionist. In 1982, for example, Reagan vetoed a $14.2 billion appropriations bill, which he claimed would "bust the budget." In fact, the bill's spending levels were lower than his original request. The veto was overridden, largely because of Reagan's unconvincing reasons for his decision. n18 n19 If a bill is to be vetoed, therefore, the reason for it should be unambiguous, sound, and consistent with the President's stated priorities.

3) The President's intention to veto a bill should be stated as early as possible.

A second lesson of Reagan's overridden veto of the 1982 appropriations bill is that waiting too long before alerting Congressmen that they risk a veto increases the chances of an override. Reagan failed to warn Congress until after the 1982 bill was passed. Since many Republican Senators had voted for it, a number refused to reverse their position and hence voted to override. n20 Political scientist Myron Levine points out that a President needs to reach a balance between committing as early as possible on a bill on one hand, and maintaining his bargaining flexiblity on the other.

4) A veto must be accompanied by constructive alternatives.

The veto is most powerful when it is linked with steps for taking the initiative on the issue. Successful veto strategies link the veto pen with White House initiatives, thereby keeping the President in control of the legislative agenda.

n18 Myron Levine, "Tactical Constraints and Presidential Influence on Veto Overrides," Presidential Studies Quarterly, 1984, p. 647.

n19 Ibid., p. 649.

n20 Ibid., p. 649.

CONCLUSION

Few Presidents have been in a better position to promote their political agenda by vetoing than Ronald Reagan. As a President with as strong an electoral mandate as any President can hope to win, he has the support of the American people to wield all his constitutional powers -- including the veto -- to further his political agenda. While some may warn that a veto devours political capital, it is just as true that it creates political capital. The veto, moreover, is a very effective device for grabbing the public's attention and focusing it on the President's struggle to pursue policies on behalf of all the people and against special interests. A veto message may be a President's most effective bully pulpit.

The veto is a particularly useful device in curbing government spending -- an issue that surely tops the President's list of priorities. The President continually has requested a line- item veto to tackle huge multiprogram appropriation bills without having to reject or accept the entire package. If

Reagan is given that power by Congress, it will help restore balance in the legislative process. Meanwhile, the President would be taking a major step toward putting a lid on government spending if he were to employ his existing powers more agressively. It is time for Ronald Reagan to say "no."

Clinton Presidential Records
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Divider Title: **14**

The New York Times

June 26, 1983, Sunday, Late City Final Edition

SECTION: Section 4; Page 4, Column 3; Week in Review Desk

LENGTH: 1111 words

HEADLINE: VETO BATTLES SET THE STAGE FOR '84

BYLINE: By STEVEN V. ROBERTS

DATELINE: WASHINGTON

BODY:

As the House of Representatives was about to pass a Federal budget last week, Budget Committee chairman James R. Jones had the floor. "These conference agreements are only the first step," the Oklahoma Democrat said. "Now we have to enforce them."

The point was well taken. Both houses of Congress approved the conference report providing spending of $849.6 billion, projecting a deficit ranging from $170 billion to $179 billion and calling for $12 billion in new taxes for fiscal year 1984. But the hard part comes now: passing legislation that implements the guidelines the budget lays down.

All along, President Reagan vigorously opposed the compromise between House and Senate plans. Each would have increased military spending less and domestic spending more than he wants to. But he has no veto power over budget resolutions. In the next phase, that of specific taxing and spending measures, that changes, and Mr. Reagan lost no time last week in renewing his promise to veto "again and again and again" bills he does not like. Many conservatives agree with Representative Bud Shuster, Republican of Pennsylvania, that Washington this summer is "going to be better than Disneyland."

The White House would like the show to resemble Frontierland, with President Reagan starring as the two-fisted fighter for leaner budgets and lower taxes. Mr. Reagan's critics say they are already reminded of Fantasyland, complete with economic fairy tales and political puffery.

One act of the drama will be the fight over the 13 spending bills that are supposed to be adopted by the start of the fiscal year Oct. 1. The Administration has already picked out three or four as prime candidates for rejection. In fact, the President is so eager to flex his muscles that he might veto a supplemental spending bill for fiscal year 1983 that could clear Congress this week.

But Republican leaders in the Senate, who do not want to get caught a cross-fire, may well delay appropriations bills Mr. Reagan does not like and roll them into an omnibus Continuing Resolution as the October deadline approaches. Even if Mr. Reagan risks disrupting Government services by vetoing such a measure, Senate leaders would face only one fight, not a half-dozen.

The second act will feature taxes. The House made the first stab at revenue-raising last week, limiting to $720 per taxpayer the tax cut scheduled to take effect on July 1. That would raise half the $12 billion revenue target, while preserving, Democrats say, benefits to the poor and the middle class. Because the July cut is the third stage of the tax program enacted in 1981 as the cornerstone of his economic policy, Mr. Reagan is itching to veto the limit; it is unlikely to become law.

Eventually, however, Congress is likely to come up with a package of user taxes and loophole closings that meet the $12 billion target. The legislators are already thinking of ways make to a tax bill more palatable to the President, such as packaging it with spending cuts in, say, Medicare. Mr. Reagan said again last week he would like to cap the health care program for the elderly; he might be hard-pressed to veto a tax bill that also meets his Medicare request.

Mr. Reagan enters the next phase of the budget process in a strong position. The shape of last week's compromise shows that his economic program no longer commands a majority in Congress. But he needs only the support of one-third of one house to sustain a veto. During the budget conference, Representative Ed Bethune, an Arkansas Republican, told the negotiators that the President could count on those votes in the House. "What you're seeing in this room," Mr. Bethune said, "is the senior members of Congress. What I represent is the force that is prepared to sustain the President's vetoes. The Establishment is not in control. We are."

The practical effect of such vetoes on the budget deficit is open to question. Only 18 percent of the Federal budget is appropriated every year; the rest is spent automatically, on such items as Social Security checks and interest on the debt. But the President's real point is political. He has always felt more comfortable as an outsider, running against the Government, and he intends to use the veto strategy to refurbish his Lone Ranger image for 1984.

In another sense, however, the budget passed last week demonstrates a significant deterioration in Mr. Reagan's position. The elections of 1982 and the continued sluggishness of the economy returned the Democrats to effective power in the House, and for the first time during this Administration Senate Republicans negotiated with them, accepting a compromise that differed sharply from the President's priorities. Many Congressmen from both parties believe that the President simply does not understand how the balance point in Congress has shifted toward the center. The White House, they say, is still operating on its perception of the mandate of 1980, while Capitol Hill is listening to the messages of 1982. One of the 19 Republican Senators to vote for the budget, and against President Reagan, was Senator Nancy Landon Kassebaum of Kansas, a senior member of the Budget Committee. "I don't think any of us were comfortable" with going against the President, she said, "but we hope he'll come to appreciate some of the things we've done here."

To Senator Kassebaum and others, Mr. Reagan made a mistake in pushing for more defense spending and deeper domestic cuts than the voters wanted. They also fear that his veto strategy will hinder the economic recovery he wants to nurture. "We're going to see interest rates go higher than they otherwise might be," said Senator Mark Andrews of North Dakota, another Republican member of the Budget Committee. As the majority, Senate Republicans feel a responsibility to make compromises and exercise leadership. Even Senator Howard H. Baker Jr., the majority leader and a Reagan loyallist, commented that "a veto strategy is not the premium way to run a Government."

In the weeks ahead, Congress will be pushed and pulled apart by the conflicting impulses of confrontation and conciliation, pragmatism and ideology. Their resolution will influence not only the economic game plan for the rest of this year, but the political game plan for next.

GRAPHIC: Illustrations: photo of House and Senate conferees

LANGUAGE: ENGLISH

The Washington Post

December 21, 1985, Saturday, Final Edition

SECTION: First Section; A4

LENGTH: 851 words

HEADLINE: Reagan Seldom Follows Through on Veto Threats; Compromises Since Labor Day With Congress Appear to Leave President Satisfied

BYLINE: By David Hoffman, Washington Post Staff Writer; Researcher James Schwartz contributed to this report.

BODY:

While vacationing in California last summer, President Reagan was described by senior White House officials as poised to launch a confrontational "veto strategy" against Congress. But the record of the last few months shows that he decided instead to continue negotiating rather than to fight with Capitol Hill.

For all of his threats about wielding a veto pen, the president has used it sparingly in the intensive period since Labor Day, blocking a trade bill and an appropriations measure.

Other veto targets set by the White House last summer, such as the farm and appropriations bills, were negotiated to Reagan's satisfaction. A veto threat was made yesterday against the budget-cutting measure being considered in the final hours of this congressional session.

Despite calls from some conservatives for more active use of the veto, Reagan has set a pattern of using it as a threat, then negotiating a compromise. He has issued fewer vetoes, on average, than other presidents of this century, according to a study last July by the conservative Heritage Foundation.

The approach of conciliation rather than confrontation was often employed by former Office of Management and Budget director David A. Stockman and continued this fall by the new White House team under chief of staff Donald T. Regan, even though the Regan group brandished the "veto strategy" last summer.

"The veto strategy was taken seriously enough that Congress brought domestic appropriations bills within the guidelines, their own budget resolution," OMB spokesman Edwin L. Dale Jr. said.

The budget resolution, as he and others noted, included more domestic spending and less for defense than Reagan originally sought.

Reagan identified the farm bill as a possible veto target in a radio address Aug. 17, insisting that Congress stick by its $34 billion budget goal for the legislation. Aides predicted confidently then that a "budget-busting" farm bill would be a prime veto target.

But, through more realistic crop assumptions and other changes, the price of farm legislation escalated, and the White House set a new $50 billion bottom line as Congress neared the end of the session. This week, Reagan agreed to sign next Monday a $52 billion farm bill that includes improvements he had sought, such as price-support reductions.

Aside from its cost, the farm bill includes sugar, milk and export provisions that White House officials describe as seriously objectionable.

Upon its passage this week, some presidential aides urged a veto. But others said a veto probably would not result in improvements by Congress, and Reagan was persuaded instead to seek changes next year.

"This is vintage Reagan. You get two-thirds of what you want and then ask, 'Can we fight another day on the rest?' " a White House official said.

The official noted that Reagan signed a catchall spending bill Thursday night despite a provision banning further tests of antisatellite weapons in space. Although the administration objected to the testing ban, "there were a lot of other good things in the bill" and Reagan decided to sign it, the official said.

The trade legislation, which would have sharply limited imports of textiles, shoes and copper, offered a different example. Reagan had made a concerted effort since Labor Day to head off protectionist pressure in Congress with administrative action seeking more open markets for U.S. goods and with a Treasury Department move to lower the value of the dollar gradually.

As a result, support for the trade bill decreased to the point that Reagan's veto could not be overridden immediately.

Last summer, Reagan also seemed to be heading for collision with Congress on sanctions against South Africa, but he compromised, averting confrontation by agreeing to limited sanctions.

"I thought we would see a lot more vetoes this year," said James Gattuso, a policy analyst at the Heritage Foundation who wrote a study last summer urging Reagan to use the veto as his "trump card" against Congress.

"The problem," he wrote then, "is that . . . Reagan actually has been very timid in playing this trump card thus far in his presidency. This apparent aversion to vetoing may seriously impair Reagan's ability to prod Congress to act responsibly, particularly in slashing federal spending -- where few major victories have been won since 1981."

Gattuso calculated that, in his first term, Reagan used the veto on average 10 times a year, compared with an average of 18 times a year for his predecessors in this century. For example, President Jimmy Carter averaged only eight vetoes a year, Gerald R. Ford 22 and Richard M. Nixon eight.

Yesterday, Gattuso attributed the low number of vetoes this fall to institutional pressures at the end of the congressional session.

"All the advisers are saying Congress won't be able" to reconvene to modify vetoed legislation. "It would cause chaos . . . . There seemed to be a feeling you can't veto at the end of the year. That's something the White House knew would be happening all along. They should have been prepared for that."

LANGUAGE: ENGLISH

The New York Times

September 18, 1986, Thursday, Late City Final Edition

SECTION: Section B; Page 10, Column 4; National Desk

LENGTH: 1184 words

HEADLINE: WASHINGTON TALK: CONGRESS;
KEY TO STRATEGY: THE POCKET VETO

BYLINE: By STEVEN V. ROBERTS, Special to the New York Times

DATELINE: WASHINGTON, Sept. 17

BODY:

As the final days of the 99th Congress approach, an old phrase is again buzzing through the corridors of the Capitol - "pocket veto."

A pocket veto has nothing to do with fashion or economics, even though one old conservative Congressman was fond of saying that he had his suits made without pockets because he did not believe in free spending.

Under normal legislative circumstances, when the President receives a bill, he has 10 days to sign it or veto it, not including Sundays. If he rejects the measure, it is returned to Congress; the lawmakers can then override his veto with a two-thirds vote in each house.

But, in the words of the Constitution, "unless Congress by their Adjournment prevent its Return" within 10 days after sending a bill to the President, he can kill the legislation by simply doing nothing. This is a pocket veto, because the President has figuratively taken the bill and put it in his pocket.

The issue is a hot one right now because Congress hopes to reach final adjournment of its current session on Friday, Oct. 3. So any bill that would be insulated against a pocket veto has to reach President Reagan's desk by the middle of next week.

Some Actions Speeded to Avoid Problem

Congress has already speeded up action on several measures to avoid the possibility of a pocket veto, and there are indications that other bills may also be hastened along.

The Supreme Court is also scheduled to take a look at the pocket veto in its new term, and for the first time in 57 years the rules on this procedure could be clarified. At issue is a pocket veto by President Reagan of a bill involving aid to El Salvador.

The most obvious candidate for a pocket veto this year was a bill that imposed economic sanctions on South Africa. It was strongly opposed by Mr. Reagan but had solid support in both chambers on Capitol Hill, and thus a normal veto seemed certain to be be overridden.

That made the White House eager to use a pocket veto, and Congressional leaders just as eager to thwart one.

Expedience Goeth Before Pride

The bill easily passed both the House and the Senate recently, but the versions differed significantly. Had a conference been called to reconcile the two versions, time might have dwindled, raising the possibility of a pocket veto.

So House leaders agreed to swallow their pride of authorship, accept the Senate bill, and get the measure to Mr. Reagan as fast as possible. It is now on his desk awaiting his signature or veto. But if there is a veto, it will be one that can be overriden by Congress, not a pocket veto.

In a similar way, House and Senate negotiators rushed through a conference last week on a bill reorganizing the military command structure. They wanted to keep Mr. Reagan from burying the measure without a fight.

Congressional negotiators are also racing to finish work on a bill expanding a program to clean up toxic waste dumps. They are worried that Mr. Reagan might pocket veto the measure if he objects to the way that the program is financed.

In addition, a bill authorizing dozens of new water projects would be vulnerable to a pocket veto if Congress does not get it to the President in the next few days.

The pocket veto is part of the Constitution. And like many other ways of doing business in Washington, it forms one thread in the sweeping tapestry of political and legislative history.

A Quarter of Vetoes by Roosevelt

Since Congress opened for business in 1789, the pocket veto has been used 1,032 times. More than a quarter of those vetoes, 263, were used by one President, Franklin D. Roosevelt.

Mr. Reagan has used the pocket veto 21 times, the most by any President since Dwight D. Eisenhower. Several of those vetoes rejected "private bills" designed to help particular people, but Mr. Reagan also killed measures that granted land to the Cocopah Indian Tribe of Arizona, provided funds for nurses' education and created a program to study arthritis.

One of the bills Mr. Reagan pocket vetoed, directing him to report to Congress on the human rights situation in El Salvador before the release of aid, is the basis for the current legal battle over the issue.

In 1929 the Supreme Court ruled that a pocket veto could be used whenever Congress was to be out of session for more than 10 days. The rationale was that since Congress often left Washington for months at a time, a bill could not so long remain in limbo.

Limited by Lower Court's Rulings

But since then a series of lower court rulings have limited the tactic to the sort of period that exists now, the waning days of an entire Congress. In other cases, the courts have said, the shorter recess periods and better communications mean that the legislators keep in touch with the capital and can deal quickly with any veto. When Congress adjourns for a vacation within a session it often designates someone remaining at the Capitol to receive vetoes for its action when it returns.

On the Salvador measure, the Reagan Administration argued that until the Supreme Court ruled definitively, the 1929 decision was the law. A group of Congressmen challenged that interpretation and won in the Court of Appeals. The Administration took the case to the Supreme Court, which agreed to hear arguments this fall.

In the early days of the Congress, the tactic was known as a "silent veto," but the phrase "pocket veto" came into use about the middle of the 19th century. According to William Safire's Political Dictionary, however, the use of the term "pocket" as a synonym for "suppress" might well have started with Shakespeare.

Mr. Safire credits Senator Edward M. Kennedy with identifying this passage from "The Tempest" on the issue.

Antonio: "If but one of his pockets could speak, would it not say he lies?" Sebastian: "Ay, or very falsely pocket up his report." NUMERICAL SUMMARY OF BILLS VETOED, 1789-1986

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	Regular President	Pocket Vetoes	Total Vetoes	Vetoes Vetoes
Overriden				
Washington	2	-	2	-
John Adams	-	-	-	-
Jefferson	-	-	-	-
Madison	5	2	7	-
Monroe	1	-	1	-
John Q. Adams	-	-	-	-
Jackson	5	7	12	-
Van Buren	-	1	1	-
Harrison	-	-	-	-
Tyler	6	4	10	1
Polk	2	1	3	-
Taylor	-	-	-	-

Fillmore	-	-	-	-
Pierce	9	-	9	5
Buchanan	4	3	7	-
Lincoln	2	5	7	-
Andrew Johnson	21	8	29	15
Grant	45	48	93	4
Hayes	12	1	13	1
Garfield	-	-	-	-
Arthur	4	8	12	1
Cleveland	304	110	414	2
Harrison	19	25	44	1
Cleveland	42	128	170	5
McKinley	6	36	42	-
Theodore Roosevelt	42	40	82	1
Taft	30	9	39	1
Wilson	33	11	44	6
Harding	5	1	6	-
Coolidge	20	30	50	4
Hoover	21	16	37	3
Franklin Roosevelt	372	263	635	9
Truman	180	70	250	12
Eisenhower	73	108	181	2
Kennedy	12	9	21	-
Johnson	16	14	30	-
Nixon	26	17	43	7
Ford	48	18	66	12
Carter	13	18	31	2
Reagan	26	21	47	4
TOTAL	1,406	1,032	2,438	98

* Source: Senate Library

GRAPHIC: drawing

LANGUAGE: ENGLISH

The New Republic

May 11, 1987

SECTION: Vol. 196 ; Pg. 9; ISSN: 0028-6583

LENGTH: 1183 words

HEADLINE: Just saying no; White House Watch - veto power

BYLINE: Barnes, Fred

BODY:

JUST SAYING NO

PRESIDENT REAGAN'S favorite target in self-effacinghumor these days is hisstyle of White House management. "It's true hard work never killed anybody, but I figure why take the chance," he said at the Gridiron Club dinner on March 28. The joke came at an odd time, right when Reagan was working overtime to sustain his veto of the $ 88 billion highway bill. Four days later, he sat in Air Force One on the runway at Andrews Air Force Base and made phone calls to Capitol Hill in search of support. The next morning he showed up early at the Oval Office (8:30 a.m.) for breakfast with wavering senators. The breakfast never took place, but Reagan traveled to the Senate later that morning to make a final plea in person. He lost the vote, 67-33.

Don't cry for a crippled presidency. It was a tacticaldefeat but a strategicvictory. Howard Baker, the White House chief of staff, had been skeptical about the impromptu Reagan visit to the Senate. But at the senior staff meeting the morning after the vote, he changed his tune. "The president demonstrated his political judgment was right," Baker said. The rest of the staff quickly fell into line. "The consensus is we won that one even when we lost the vote," says a senior official. "It showed an activist president willing to get involved." In chatting with reporters during Reagan's Santa Barbara vacation for ten days over Easter, presidential aides adopted a shorthand phrase for this. "Reagan's back," they said, ad nauseam.

He is, after a fashion. Reagan's popularity hasn't rebounded,but he has sethimself up for a clash with Congress over spending. And if the clash goes well for him, if his vetoes are sustained repeatedly, the next step is a budget summit with Congress at which a grand compromise might be reached--a tax increase that doesn't involve individual rate hikes, deeper cuts in domestic spending, reform of the budget process. Reagan hasn't yet mustered the clout to risk a summit. If he had one now, he'd merely subject himself to pressure for higher taxes. The plan is first to go toe-to-toe with Congress on spending bills--the veto strategy--and worry later about a big compromise.

The strategy sounds like old hat, but it's new. Reaganhas been criticizingfederal spending for decades, but as president his denunciations proved to be so much bluster. He's been reluctant to veto spending bills. In six years he's vetoed 55 bills. President Ford vetoed 66 in less than three years. President Eisenhower had 181 vetoes in eight years, President Truman 250 in seven. Why Reagan's reluctance? Though nobody likes the deficit, spending bills are popular. If they weren't, they wouldn't pass. And Reagan is always wary of confrontation. "He'd rather negotiate and end up with something he can swallow," says an aide. That's what he did routinely when Republicans held the Senate for the first six years of his presidency. Now, with Democrats in charge of both houses, he's lost the upper hand in negotiations. This means he has to fall back on the only leverage he's got left, the veto.

Two things have encouraged Reagan's aides to believethey can win a vetobattle. One was the highway veto episode. The aides believe the White House performed clumsily and still lost by only a single vote on a very popular bill. "Once the decision was made to veto it, what you found was a lack of action on the part of those in the White House who ought to be players," says a senior aide. Reagan kept talking about his alternative bill, but there wasn't one. "There wasn't an alternative for anyone to see," the aide says. "You couldn't get it out of OMB. I think there's some laziness around here. People haven't been pushed to produce." The highway veto was a worst-case scenario come true. To remedy this, the legislative strategy group began gathering daily at the White House before the Easter break. Faced with a full-blown Reagan veto drive, the aide says, some of the 11 Republicans who voted for the highway override wouldn't dare buck Reagan again.

A week after the highway vote, Reagan aides turnedtheir attention to theHouse. Without Republican unity, a veto strategy would not be plausible. The test was the budget resolution pushed by Democratic leaders that calls for an $ 18 billion tax boost. Will Ball, the president's lobbyist on Capitol Hill, figured at least 150 Republicans and probably more had to vote against the resolution. Anything short of that would be evidence of GOP chaos. As it turned out, House Republicans voted 173-0 against the resolution. Ball was thrilled.

Budget resolutions don't come to the White House forsignature or veto, butReagan has plenty of veto prospects. He may have lucked out on the bill to spend $ 500 million on the homeless. The Senate version requires that the money be taken from another, unspecified program. This means the money may never be spent. It also means that Reagan will sign the homeless bill if it retains the offset provision. Who wants to be against the homeless? A certain veto is the supplemental appropriations bill, to which several arms control limitations have been attached in the House (abide by SALT II, only small nuclear tests, restricted anti-satellite testing). The White House budget office sent Congress a 25-page paper opposing the bill.

Reagan can hardly get around a veto of the housing bill. Itponies up $ 38.3billion for subsidized housing, and that's just in the Senate version that passed 71-27 on March 31. "It's bound to get worse when the House gets hold of it," says a senior official. There's also a banking bill that White House aides think they can exploit by veto. It would rescue some savings and loans in Texas whose cause House Speaker Jim Wright has championed. In short, there's plenty to veto. But the White House wants to pick only the bills on which Republicans are united in opposition. "You want to put out vetoes your own party supports," says an official. The nagging question about the strategy is Reagan's will. He's still making threats about vetoing a tax increase. He hasn't said much in private about waging a veto war against spending bills.

Assuming that Reagan goes ahead with veto after vetoand is successful, thencomes the tricky part. Before Baker arrived as chief of staff on March 1, the notion of a grand compromise with Congress on taxes and spending was not on the president's agenda. The last time formal talks with Congress were held on the subject was 1983, and those negotiations fell through. Now the compromise is on the agenda, tentatively. Baker is keen on including budget reform, including a new method for enforcing Gramm-Rudman deficit targets, in a compromise package. That's the easy part, and even here the Defense Department and State Department are balking, fearful they'll suffer deeper spending reductions if Gramm-Rudman becomes enforceable. Getting Reagan to accept a tax hike and Congress to sign off on fresh cuts in domestic programs is the hard part. So the odds are long. But no longer is a grand compromise inconceivable.

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The Associated Press

July 23, 1987, Thursday, PM cycle

SECTION: Washington Dateline

LENGTH: 651 words

HEADLINE: WASHINGTON WIRE: President Relying Increasingly on Veto Threat

BYLINE: By MERRILL HARTSON, Associated Press Writer

DATELINE: WASHINGTON

BODY:

President Reagan has embraced his wife Nancy's "Just Say No" crusade in ways that irritate some in Congress and have students of the presidency talking about a "cry-wolf" syndrome.

During his meeting Tuesday morning with Republican congressional leaders in the Cabinet Room, Reagan privately delivered a "just-say-no" message on several major pieces of legislation.

In the briefing room not long thereafter, spokesman Marlin Fitzwater ticked off a triple-threat veto message from his boss: Reagan did not like and likelyw ould not sign legislation on trade, banking and health insurance coverage forca tastrophic illness.

Just for good measure, Fitzwater also volunteered that the White House has "some concerns" about a welfare reform bill sponsored by Sen. Daniel Patrick Moynihan, D-N.Y.

That caused one reporter to ask: "Is the president afraid that he's going to spend his last days ruling by veto?

Fitzwater replied, "No, the president looks forward to the skirmish and the details, that the Democrats are trying to force big spending plans on us, and he's ready to take them on."

Asked whether that meant confrontation had surpassed compromise as a White House strategy for dealing with Congress, he said, "I think the reality is that a Democratically controlled Senate is not too much in a compromise mood."

Reminded that he'd excluded the House of Representatives from that statement, Fitzwater quipped, "Well, the slap applies to both Houses."

Reagan last August cheerfully embraced his wife's "Just Say No" slogan as he launched a White House offensive against drug abuse, and he often cites those words and ones expressing similar sentiment in statements about his dealingswi th Congress.

"How to I spell relief?" he said to an audience recently. "V-E-T-O!"

But Reagan's increasing nay-say stance on legislation is causing predictable angst on Capitol Hill and less predictable worries among presidential scholars.

Senate Majority Leader Robert C. Byrd, D-W.Va., asked Wednesday about Reagan's chances of sustaining any veto of legislation to overhaul the savings and loan industry, said, "Apparently, the president is still engaged in his veto strategy and obstructionist policy, which is no policy at all."

"The president is so busy squaring off against Congress that there's no time for anyone to do anything," Byrd said. "He is leaving a negative legacy which history will not overlook."

In fact, Reagan has used the veto only 62 times in his 6 1/2 years in office. He has been overridden eight times, although he lost two crucial fights this year. He failed to sustain his veto of a $20 billion clean water bill, and his veto of a $88 billion highway bill also was overridden.

President Gerald R. Ford, in contrast, vetoed 66 bills in his less than 2 1/2 years in office, of which a dozen were overridden.

"There may be a law of diminishing returns (on veto threats)," said Arthur S. Miller, a law professor emeritus at George Washington University. "I don't recall ... a president who has threatened a veto as much as this president. ... That could be counterproductive."

"I think it's sort of ... a cry-wolf thing, of threatening too much, of bullying, and then backing down. I would counsel him to be more selective," Miller said.

James Sundquist, a senior fellow emeritus at the Brookings Institution, a liberal-oriented Washington think-tank, said: "I think my impression over the years has been, the more such threats, the more likely that some of them will be heeded."

The Congress, he said, would have to worry about being seen by voters as abusing its power if "it continually slapped the president down. It cuts both ways."

Sundquist said he believes that because Ford made unprecedented use of his veto power, he might have damaged his prospects for a full four-year term when he ran unsuccessfully against Democrat Jimmy Carter in 1976.

LANGUAGE: ENGLISH

The New York Times

August 3, 1987, Monday, Late City Final Edition

SECTION: Section B; Page 6, Column 1; National Desk

LENGTH: 1288 words

HEADLINE: WASHINTON TALK;
Lawmaking and Politicking: Reagan's Veto Strategy Is Not Getting Rave Reviews in Congress

BYLINE: By STEVEN V. ROBERTS

DATELINE: WASHINGTON, Aug. 2

BODY:

The relationship between the White House and Congress is starting to sound like a bad marriage. Both sides seem to have an increasing propensity for grating on each other's nerves and questioning the other's motives.

Every chance he gets, President Reagan lacerates members of Congress as greedy spendthrifts, interested only in raising taxes to finance their "high times and holidays," as he put it on a visit to Wisconsin last Monday. If the lawmakers pass tax increases and spending bills he does not like, the President added, he is ready to send them on "a one-way cruise to nowhere on the S.S. Veto."

Congressional irritation at these attacks spilled over on Thursday, when Senator Robert C. Byrd of West Virginia took the floor to warn that lawmakers would not become the "fall guy" for Mr. Reagan's policies. "The use of a broad-gauged strategy of veto after veto after veto is inherently confrontational," said the Democratic leader. "This is the politics of polarization."

From the White House viewpoint, however, a veto strategy is about the only way that Mr. Reagan can exert influence on the legislative process. For six years he was playing offense, shaping national policies and priorities as he saw fit. But with the loss of the Senate to the Democrats last year, Mr. Reagan is now forced to play defense for most of the game. His influence on legislation comes indirectly, by threatening to block the work of others rather than by promoting his own ideas.

"The plan is not just to veto everything in sight and fight for the sake of fighting," said a senior White House official. "Our plan is to be willing to veto, to threaten a veto, for the sake of improving our situation. Our ultimate goal is to get a bill that's signable. The veto gives us a lever, frankly, that we didn't need when we controlled the Senate. We had to change gears here."

The veto is not just a legislative tool, but a political one as well. Inside the White House, there is much talk of highlighting the differences between the parties, of hammering the Democrats as "tax and spend liberals" while avoiding any real attempt to reach a compromise on a plan to reduce the budget deficit.

"Certainly," a senior White House strategist admitted, "as we face the last 18 months of the Reagan Administration, we want to establish a political record."

Senator J. James Exon, a Nebraska Democrat, said the White House plan was aimed at avoiding responsibility for a deficit that is approaching $200 billion a year. "If the President vetoes everything that comes over to him during the last two years, he can go out of office riding high," the Senator said. "He'll just say the Democratic-controlled Congress caused all this mess. It's highly political."

Despite a lot of tough talk, the President has used the veto only 62 times in six and a half years. Congress has overridden him only eight times, an action that requires a two-thirds vote in each chamber.

But the President's ability to make his vetoes stick has clearly diminished. Late last year, Congress easily swept aside his rejection of a measure imposing economic sanctions on South Africa, and this year the legislators enacted two more bills over his veto: one to clean up the nation's waterways, another to finance more highway construction.

A Long List of Targets

The Administration's current list of veto targets is long, and includes bills that would tighten up foreign trade laws, expand health-care insurance to cover catastrophic illness, raise taxes and finance a whole host of government services.

The White House is now playing offense on only two major issues: a new request for aiding the Nicaraguan rebels, which is expected from the President shortly, and the nomination of Judge Robert H. Bork to the Supreme Court.

Having to deal with the water and highway bills at the beginning of this year was just "bad luck," because they are "the worst kind for us to deal with," a senior White House official said. "They were big bucks for a lot of people, a losing cause to begin with," the official conceded.

Howard H. Baker Jr., the White House chief of staff, won a reputation as a master compromiser in his years as Senate majority leader, and many lawmakers from both parties voice disappointment that he has not been able to mitigate the President's obvious zest for combat.

"I don't think Howard Baker is having his way," Senator Byrd said.

Even some Republicans are uneasy with the veto strategy, and say the White House is taking a line that is too rigid. "It sort of leaves us naked up here," said a Republican Congressional staff member. "it's either their way or forget it." But in the Administration's view, the current battle over banking legislation aimed at bailing out the crippled savings and loan industry shows an adroit use of a veto threat.

When a House-Senate conference on this bill initially concluded its work, the Administration denounced the product as a "very bad bill" and promised to reject it. Lawmakers went back to conference and changed some provisions the White House considered objectionable. And the White House embraced the new version, which will come up for final Congressional approval this week. "The knowledge of a veto was enough to help spur a compromise there," said an Administration strategist.

But an aide to Republican leaders said the threat would not have worked if the thrift industry had not been so shaky. "I think the President would have been overridden anyway, but everybody was concerned about a run on the thrifts," the aide said. "No one wanted to be faulted for that."

Awaiting the Trade Bill

The White House aims to use the same tactics on the trade bill, which has passed both chambers and will be taken up by a conference committee. The President says he would veto either the House or the Senate version, and one Administration aide said: "We hope the conferees will make changes that will allow us to sign the bill. Whether this will work or not remains to be seen."

As their compromise on the thrift bill shows, Congressional Democrats are still uncertain about how to respond to the veto strategy. Asked about his party's thinking, Senator Exon said, "That's the $64 question, that's the chaos of the moment."

"The problem is we don't have 60 votes," he added, referring to the number needed to override the President. "If he holds all the Republicans, we can't touch him, which means a veto will be difficult to override in the atmosphere we're operating in."

Leaders on both sides feel they have points to prove and little time to prove them. Representative Jim Wright, the Speaker of the House, and Senator Byrd, the Democratic leader in the Senate, are both new to their jobs, eager to show strong leadership and exact retribution for the frustrations of the last six years.

"A certain amount of reputation building is taking place," said a White House aide. But Mr. Reagan is equally stubborn, determined to fight for the principles that won him two terms in the Oval Office and unwilling to admit that the political ground has shifted beneath him. At times, a Republican strategist said, the people in the White House seem to be operating "as if they still controlled the Senate."

"You have a Congress right now that wants to take back much of the advances that were made in the first six years," said a senior White House adviser. "You have a President who is saying, 'No retreat. I am not going to give in to the forces on the Hill.' "

If that polarization continues, the S.S. Veto could be taking many trips down the Potomac. But the S.S. Override could be just as busy making the return trip.

LANGUAGE: ENGLISH

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Divider Title: **Carter**

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Divider Title: **15**

Newsweek

October 16, 1978, UNITED STATES EDITION

SECTION: NATIONAL AFFAIRS; Pg. 32

LENGTH: 1173 words

HEADLINE: 'Hail to the Chief'

BYLINE: PETER GOLDMAN with ELEANOR CLIFT and HENRY W. HUBBARD in Washington

Vetoing a public-works bill is one of Washington's ultimate heresies - a gamble, folklore said, that no President since Dwight Eisenhower has tried and none since Franklin Pierce has won. But last week, the New Jimmy Carter said no to a $10.2 billion pork barrel full of election year Federal Largesse - and, against the long odds of history and the bitter oppostion of his own best friends in Congress, he made his wishes stick. His improbable victory won fresh converts to the great Carter revival begun last month at Camp David. "They respect him now," glowed an aide after the House voted to sustain the veto - and, sure enough, one persuaded congressman walked away from the showdown softly whistling "Hail to the Chief."

Respect was very much at issue for both sides, and in the end, it was Carter who prevailed, with a surprising 53 votes to spare. What galled him in the bill was a costly list of 53 water projects - twice as many as he had asked for - and six old ones he thought he had buried in his abortive don't-give-a-dam crusade of a year ago. But his plan additional purpose was to win credibility both of his own political renaissance and for his thus-far losing struggle against inflation. Carter accordingly pulled back from a possible negotiated peace an dinstead confronted Congress with what one White House man called a choice betwwn big spending or cutting back - a choice with only one possible outcome in the cheap chic political climate of 1978.

There were risks as well as rewards for Carter in thus sustaining his winning streak against the solid-front opposition of the Hill's Democratic leaders. His people tended to discount the dire prophecies of House Speaker Thomas P. (Tip) O'Neill, among others, that the veto might even cost the President his must energy bill when it comes to a House vote this week. "The leadership doesn't believe that, either," White House Lobbysit Frank Moore privately reassured his own troops. But the costs of victory did include the hurt feelings of the vanquished - O'Neill at low ebb accused Carter out loud of acting like an "ostrich" - and a trauma ward's worth of bruises left behind by the Administration's muscular lobbying. The result, one Hill veteran guessed, will be the future leakage of "a few votes here, a few there . . . It will hurt him in little ways for a long time."

Carter, as it happened, had calculated the risks and counted them worth running. For one thing, he had allowed himself to be talked out of vetoing a similar assortment of waterworks in similar assortment of waterworks in 1977 - and, reported an aide, was "good and P.O.'d" that six of them reappeared on the list this time around. For another, his handlers have long since identified inflation, spending and waste in government as the decisive domestic issues of the day. The new water projects, by their disputed arithmetic, would ultimately cost $1.8 billion too much, and so made a sitting-duck target. "Even if we'd lost the vote," one Presidential aide guessed, "the gesture would have been worth making - Carter waging a fight to save money and being beaten by these craven guys. From the public's point of view, he's doing the right thing."

'It's an Outrage': The decision, accordingly, was go, and, before the Spirit of Camp David was anything more than a gleam in Carter's eye, a White House working group began meeting daily to plan strategy and pump up support for a veto. Press kits spilled forth advertising the worst-case water projects - one in Oklahoma that would disproportionately benefit a single catfish farm, another in Colorado that would flood out over 200 families to provide water to 200 others. Briefings for businessmen on inflation singled out the public-works bill as the place to draw the line. An odd-lot army of lobbyists and propagandists took form, including corporate heavies, environmentalists, bankers, defense contractors, Western governors and - to devastating effect at the very end - Howard Jarvis, the guru of California's Proposition 13 tax revolt. IT'S AN OUTRAGE, trumpeted a Jarvis ad in The Washington Post attacking the bill - whereupon, by one White House count, five waverers swung to Carter.

Carter himself plunged eagerly in, handing around phone lists of persuadable congresmen to Cabinet members with a terse command - "Convinçe them" - and ringing up 53 of them himself. Publicly, he stole a march on the opposition by announcing his intent two days in advance, and on his own Horatio-at-the-bridge terms: "I, along with the people of our country, am tired of seeing the taxpayers' money wasted."

Privately, his operatives pushed their lately acquired skills at wheeling and dealing to the limit, trading in goodies ranging from photos with Carter to seats on obscure commissions, awarding or withholding campaign appearances by the First Family, recruiting government contractors to buzz recalcitrants from their home states. One Republican under siege protested to Moore that the First Mother, Miss Lillian, was due in his district in two weeks to stump against him. Moore promised to see what he could do. The Republican switched to Carter.

The battle, nevertheless, was nip and tuck to the very moment Carter dispatched his magisterial veto message to the Hill, together with a handwritten note reporting an ominous new rise in the wholesale-price index and asking the members - with the key words underlined - to help him "control inflation". The House leadership, which had carried Carter in leaner days, committed its own prestige against him now and its own substantial bag of rewards and punishments as well - among them the threat to cut defectors out of what pork might survive in a rewritten bill. Moore trekked off to the showdown with a nervous count of 141 votes - just short of the one-third plus one needed to sustain a veto had the full House shown up - and told the President that they would probably lose.

"Good Job": They didn't. The final count, swollen by last-minute switchers once the drift was clear, was 190 to uphold Carter and 223 to override him - far short of the two-thirds required.

"They used all their chips and we used all ours," said one Carter lobbyist, "and our stack was higher." But Carter himself had neither the time to celebrate nor the disposition to gloat."That's great, good job," he said when Moore's shop phoned him the news. "Let's go to work and win gas."

He meant the natural-gas deregulation bill, central to his energy program, and its passage depended in part on the men he had just humiliated. Carter issued a soothing billet-doux to the losers - "I can take little personal pleasure from a fight among friends" - and told aides to "get the family back together." They obediently did their celebrating among themselves, pinning on new-minted FCBCD buttons - For Carter Before Camp David - and toasting the further evidence that a New Jimmy Carter is at last learning to deliver what the Old Jimmy Carter promised.

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Divider Title: **16**

Presidential Vetoes, 1977-1980

From a purely defensive standpoint, the most powerful weapon in the president's legislative arsenal is his authority to veto bills. Under terms of the Constitution, Congress must submit to the president every bill or joint resolution it passes, which he must then approve or send back to Congress. In the event he disapproves, Congress can override the veto only by a two-thirds vote of both houses. (Under a Supreme Court decision, a quorum must be present for the override to be effective.)

Because a president usually finds it relatively easy to marshal the support of at least one-third plus one member of the House or the Senate, the veto has been used with deadly effect.

From 1789 through 1980, 2,386 bills had been vetoed. The direct veto had been used 1,378 times and the pocket veto 1,008 times.

During his four-year tenure in office, President Carter vetoed 29 public bills. Carter's veto mark was higher than his immediate Democratic predecessors, Lyndon B. Johnson, who vetoed 13 measures during his five years and two months in office, and John F. Kennedy, who vetoed nine in the two years and 10 months he served. Carter's immediate Republican predecessors, both of whom had Democratic Congresses, vetoed comparatively more measures. President Richard M. Nixon vetoed 40 bills during five and one-half years in office, while Gerald R. Ford vetoed 61 bills during his two and one-half years in office. *(Congress and the Nation Vol. IV, p. 1117)*

Carter was the first president since Harry S Truman to have a veto overridden by a Congress controlled by his own party. Carter vetoed a public debt limit bill that contained a section killing the import fee he imposed on foreign oil. The bill was overridden by a substantial margin on June 6, 1980. A second override occurred Aug. 26, 1980, when Congress overwhelmingly voted to approve a Veterans Administration physicians' salary increase bill over the president's veto.

Truman vetoed five public bills that were overridden by a Democratic Congress. The all-time record for veto overrides was held by Andrew Johnson. The Republican- and Unionist-dominated Congresses overrode 15 of Johnson's vetoes.

Sixteen of Carter's vetoes were pocket vetoes, accomplished by his refusal to sign certain bills after Congress adjourned *sine die*. When Congress is in session, a bill becomes law without the president's signature if he does not act upon it within 10 days, excluding Sundays, from the time he receives it. But if Congress adjourns within that 10-day period, the bill is killed without the president's formal veto.

In other override attempts, the House Sept. 7, 1978, sustained Carter's veto of a weapons procurement bill (HR 10929) that authorized funding for a nuclear-powered aircraft carrier that he opposed. The House Oct. 5, 1978, sustained Carter's veto of a public works appropriation bill that included funding for water projects that Carter wanted to kill.

95th Congress, First Session

S 1811 (Energy Administration Authorization) — To authorize fiscal 1978 appropriations for Department of Energy research and development programs.

Congress Oct. 20 cleared the energy research bill, which contained an $80 million authorization to continue work on the Clinch River Breeder Reactor Plant, a project Carter wanted to abandon. Then in the planning stages, the demonstration plant was to be built on the Clinch River near Oak Ridge, Tenn., to show that plutonium-fueled and plutonium-producing "breeder" reactors were a feasible source of electricity and nuclear fuel.

Emphasizing his determination to keep the United States out of the plutonium business, President Carter vetoed S 1811 Nov. 5. In his veto message Carter characterized the project as "a large and unnecessarily expensive project, which, when completed, would be technically obsolete and economically unsound." Continuation of the project, he said, was incompatible with his efforts to prevent the proliferation of nuclear weapons.

No effort was made to override the veto. On the key House and Senate votes on the Clinch River issue earlier in the year, more than one-third of the members of each chamber had supported Carter's position. Those votes cast substantial doubts on the ability of the project's supporters to muster the two-thirds majority necessary to override the veto.

HR 2521 (Rabbit Meat Inspection) — To require federal inspection of domestic rabbit meat and spot checks of imported rabbit meat.

In his Nov. 9 veto message, Carter said there was no justification for requiring U.S. taxpayers to pay for inspection of a specialty food consumed by relatively few people. Furthermore, he added, rabbit meat was already subject to inspection by the Food and Drug Administration (FDA) under pure food laws and neither FDA nor Agriculture Department inspections had revealed any significant health problems with rabbit meat. Processors wanting their meat inspected voluntarily by the Agriculture Department could do so at their own expense.

Carter also opposed the spot checks of imported rabbit meat, claiming such checks would "strain relations" with the People's Republic of China, the principal rabbit meat exporter to the United States.

Congress made no attempt to override the veto. It was the second veto for Carter and for a rabbit meat bill. President Ford had vetoed a similar measure in 1976, largely for the same reasons.

95th Congress, Second Session

HR 3161 (Firefighters' Workweek) — To reduce the basic workweek for federal firefighters to 56 hours, from 72.

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Divider Title: 17

Executive Branch

Carter's 19 Vetoes: Inflation Main Target

Five more pocket vetoes by President Carter — including one sure to displease cattlemen — closed out Carter's action on legislation presented to him by the 95th Congress.

The disapprovals brought the total number of Carter vetoes to 19, all within the past 12 months. His first veto of the 95th Congress, of a bill (S 1811) authorizing Energy Department appropriations, came on Nov. 5, 1977. His final 1978 veto, of HR 9937, dealing with textile import duties, occurred on Nov. 12. *(1977 vetoes, 1977 Almanac p. 63-E; textile bill veto, below)*

Although substantial for a Democratic president with a Congress of his own party, Carter's veto mark was a significant drop from the record of his two immediate predecessors — both Republicans working with a Democratic Congress. Presidents Gerald R. Ford and Richard M. Nixon vetoed 66 and 43 bills, respectively. Unlike Ford or Nixon, Carter did not have any of his vetoes overridden.

In two years in office, Carter already has vetoed more public bills than John F. Kennedy did in three years (nine) and Lyndon B. Johnson did in five years (13). Like Carter, Democrats Kennedy and Johnson had no vetoes overridden by the Democratic Congress. *(Statistics on vetoes, p. 3326)*

Thirteen of Carter's 19 vetoes were pocket vetoes, accomplished by his refusal to sign certain bills after Congress adjourned. Two vetoes occurred in the first session of the 95th Congress, and 17 in the second session.

Carter still trailed the all-time veto leaders by a large margin. Franklin D. Roosevelt vetoed 635 bills during his 12 years in office, and Grover Cleveland vetoed 584 during his two separate four-year terms. *(Guide to Congress, 2nd edition, p. 628)*

Anti-Inflation Weapon

The fight against inflation was a major theme of Carter's recent vetoes. For example, in rejecting HR 11545 he said that presidential flexibility in setting meat import levels "must be preserved as a weapon against inflation."

And Carter strongly pushed the anti-inflation theme in his Oct. 5 veto of HR 12928, the public works-water projects bill. He said that funding of the projects would be inflationary, and that Congress had resuscitated several water projects that could not be economically justified.

Carter's anti-inflation theme — along with a last minute advertising blitz against the bill by Proposition 13 leader Howard Jarvis — convinced the House to sustain his veto. In one of only two override attempts during his first two years in office, the House upheld Carter's stand on Oct. 5 by a 223-190 vote. *(Vote 774, Weekly Report p. 2786)*

The other override attempt, also in the House, concerned HR 10929, the Defense Department fiscal 1979 weapons procurement bill. His main objection to the measure centered around funds for a fourth nuclear-powered aircraft carrier. The House upheld the veto Sept. 7, rejecting a motion to override it 191-206. *(Vote 642, Weekly Report p. 2442)*

New Vetoes

Recent Carter vetoes included two on Nov. 8:

- S 1503, sponsored by five southern textile-state senators, would have compensated clothing manufacturers who used the chemical fire-retardant Tris. The government banned the product after discovering it contained cancer-causing chemicals. Carter objected to having the federal government indemnify the manufacturers for their losses. *(Veto message, below; story, p. 3317)*
- HR 13719, a bill to give special payments to Guam and the Virgin Islands. Carter said the bill, which would have compensated the two territories for revenue losses resulting from changes in the U.S. tax code, was "a piecemeal approach to the growing revenue problems of the territories." *(Veto message, below)*

On Nov. 11, Carter vetoed three more bills:

- S 2416, to extend federal support for nurse training programs. *(Story, p. 3323)*
- HR 11545, the Meat Import Act of 1978. Carter objected to the level of the floor for meat imports and to restrictions on his authority to lift meat import quotas. *(Story, p. 3312)*
- HR 9937, which would have banned negotiated reductions in textile tariffs. Carter said the bill, pushed by Sen. Ernest F. Hollings, D-S.C., would "prompt our trading partners to retaliate" by withdrawing some of their tariffs from discussion during current trade talks. "The loss of these export areas is too high a price," he said, for "any transient benefits" in the bill. *(Veto message, below)*

Earlier Carter Vetoes

Following is a list of all of President Carter's vetoes up to Nov. 8, and the reasons he gave for the vetoes. None was overridden. An asterisk denotes those that were not pocket vetoes.

Date	Bill	Reason for Veto
1977		
Nov. 5	S 1811*	Objected to breeder reactor funds.
Nov. 9	HR 2521*	Unnecessary rabbit meat inspections.
1978		
June 19	HR 3161*	Firefighters' workweek cut did not equal pay cut, exceeded federal pay raise cap.
July 10	HR 10882*	Sikes Act amendments contained objectionable budget provisions and doubled the authorization unnecessarily. Congress later cleared a substitute bill (HR 13745).

—*By Mark Gruenberg*

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Divider Title: **Origin & Development**

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Divider Title: **18**

3. Sidney Hyman, *The American President* (New York: Harper and Brothers, 1954), p. 13.
4. Thomas E. Cronin, *The State of the Presidency* (Boston: Little, Brown and Company, 1975), pp. 24-51.
5. Members of this group are identified by Thomas A. Bailey in his book, *Presidential Greatness* (New York: Appleton, Century, 1966).
6. Herbert Hoover rates near the top of Bailey's list in terms of "great administrators." John Adams is near the bottom, due perhaps in part to the fact that Adams was absent over one-fourth of his administration, preferring to stay in his home in Quincy, Massachusetts, rather than in Washington.
7. Francis H. Heller, *The Presidency: A Modern Perspective* (New York: Random House, 1960), p. 8.
8. James D. Barber, *The Presidential Character* (Englewood Cliffs, New Jersey: Prentice-Hall, 1972).
9. Chester Barnard, *The Functions of the Executive* (Cambridge, Mass.: Harvard University Press, 1966), p. 73.
10. *Ibid.*, p. 4.
11. *Ibid.*, p. 216.
12. *Ibid.*, p. 217.
13. See Barnard, *op. cit.*, for a description of the communications process, and p. 82 for the role of communications in a formal organization.
14. *Ibid.*, p. 219.
15. Carter has attempted to add positions in some areas (Cabinet-level) and to subtract in others (White House Staff.) The thought of reducing the size of the organization bureaucracy is very appealling politically, but often difficult in practice. As a result, some staff positions may be "reduced," but the personnel are actually shifted to other jobs, rather than being eliminated.
16. Similar attempts at the manuevering of positions in the communications process have been less formalized, and it is difficult to monitor executive behavior in this area. The change might be so informal as to avoid detection by others involved, since the president might simply ignore the communications provided by one position, without formally removing it from the scheme of organization.
17. Freely adapted from the descriptive text of Barnard, pp. 220-222.
18. *Ibid.*, p. 222.
19. *Ibid.*, p. 225.
20. *Ibid.*, p. 226.
21. The economy of incentives is clearly explained by Barnard in Chapter XI, pp. 139-160. He explains the types of incentives available to an executive and the methods of persuasion used for each.
22. *Ibid.*, p. 231.
23. *Ibid.*, p. 230.
24. *Ibid.*, p. 231.
25. *Ibid.*, p. 232-233.
26. *Ibid.*, p. 222-223.
27. *Ibid.*, p. 261.
28. The moral codes are not meant to be judgemental; rather they are a statement of predictable behavior. Barnard calls this dependability. By knowing a man's codes, his character, we can reasonably forsee what he is likely to do or not to do. (pp. 273-276) Cf. Barber, *op. cit.*, p. 7-11.
29. Barnard, *op. cit.*, p. 279.
30. *Ibid.*, p. 277.
31. *Ibid.*, p. 279.
32. M.A. Copeland, *Harvard Business Review*, 18 (Winter, 1939), 148-160; see also Barnard's rejoinder in the next issue, (Spring, 1940), p. 295.
33. Simon's treatment of Barnard appears in *Administrative Behavior* (New York: MacMillan Company, 1948).
34. Charles Perrow, *Complex Organizations* (Glenview, Illinois: Scott, Foresman and Company, 1-72), p. 74-95.
35. *Ibid.*, p. 92.
36. However, Barnard admits in the introduction to his work that he has not attempted to deal extensively with areas outside his own field of expertise, namely, the telephone industry.
37. Joseph E. Kallenbach, *The American Chief Executive* (New York: Harper and Row, 1966), p. 253.
38. *Ibid.*, p. 257.

THE FIRST PRESIDENTIAL VETOES

by

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The First Presidential Vetoes

By the end of March, 1792, George Washington had completed a little more than one thousand days as President of the United States. During that period he had done many things for the first time. He had appointed the heads of three executive departments—State, Treasury, and War—and had named Edmund Randolph to serve as the first Attorney General of the United States. He had appointed John Jay to be the first Chief Justice of the United States. He had signed numerous bills into law, including the important Judiciary Act of 1789. But one thing he had *not* done. He had not yet vetoed a bill passed by Congress.

Washington was well aware of the nature and importance of the presidential veto, or "negative" as it was usually called. He had served as presiding officer of the Constitutional Convention and had heard the discussions before the veto clause (Art. I, Sec. 7) was adopted. Possibly, during the ratification controversy, he had read the 73rd *Federalist* paper in which Hamilton had described the presidential veto as "a salutary check upon the legislative body." He was perhaps aware that his Vice President, John Adams, thought the President should have an absolute veto rather than one that could be overridden by a two-thirds vote of the Congress. But Washington was not the type of President to welcome a public clash with the legislators. It is hard to imagine his saying to one of his aides, as Franklin D. Roosevelt was later to say to one of his, "Find me something I can veto!" Washington planned to use the veto power when the proper time came but only after due deliberation.

Toward the end of July, 1789, while the new government was still in New York City, Washington considered letting a bill become law without his signature, thus indicating his displeasure at the provisions of the bill without going so far as to veto it. The Tonnage Bill that had just passed Congress contained provisions he did not like. But when he was assured by some Senators that they were preparing another bill that would remove the objectionable features in the bill before him, Washington signed.

A few days later Washington for the first time considered actually vetoing a bill. The members of Congress were then discussing the subject of their own salaries. The bill provided that each Senator and Representative should be paid six dollars for each day he was in attendance. Washington thought the Senators should receive higher pay than their colleagues in the House. Not having an attorney general as yet, Washington sought advice on the matter from James Madison, who was then representing Virginia in the House of Representatives. In a letter marked "Confidential" he raised several questions for Madison, one being whether it would be "politic or prudent" for him to return the bill when it came to him, stating his reasons for disapproving it. We do not know what advice Madison gave, but on September 22 Washington signed the bill after it was presented to him. The issue was apparently not important enough nor sufficiently clear-cut to cause Washington to use his veto. It may be that Madison advised him that the subject was a matter touching the internal affairs of the Congress and was therefore not an appropriate one for presidential interference.

At this time a significant precedent concerning the non-use of the veto was set when Congress approved twelve proposed amendments to the Constitution, ten of which became the Bill of Rights. The proposals were forwarded to the states for ratification without being submitted to the President for his approval or disapproval. This action apparently aroused no objection at the time even though the Constitution clearly stated in Article I, Section 7, that, "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and limitations prescribed in the Case of a Bill."

Proposed amendments to the Constitution are clearly resolutions that require the concurrence of both houses of Congress. Why not submit them to the President? One argument is that the required two thirds vote for amendments would be enough to override a veto. But this argument does not take into account the possibility that a strongly worded veto message might change enough votes to prevent Congress from overriding the veto. The other argument is that when Congress proposes amendments it is acting as a constituent assembly rather than a legislature. This reasoning was followed by the Supreme Court in 1798 when it upheld the validity of the Eleventh Amendment against a challenge that it h_d not been submitted to the President.[1]

On August 12, 1790, Congress adjourned its session in New York and voted to meet four months later in Philadelphia. Jefferson and Hamilton had reached an agreement, sometimes called the Compromise of 1790, whereby the South would gain the permanent national capital along the banks of the Potomac River and the North would gain approval of Hamilton's plan to assume the state debts. The transfer of the government from Philadelphia to the District of Columbia was to take place after ten years.

The main item of business presented to Congress after it met in Philadelophia was Hamilton's plan for the establishment of a national bank. After some weeks of discussion the bank bill cleared both houses and came to the President for his signature on February 14, 1791. Now for the first time Washington seriously considered using his veto to block a major piece of proposed legislation.

The story is familiar to all students of American history. Because opponents of the bank plan had raised the argument that the federal government lacked constitutional authority to create a bank, Washington turned to three of his department heads individually for advice, the practice of meeting as a "cabinet" not yet having been adopted. Randolph advised that the Constitution did not empower Congress to establish a national bank. Jefferson argued to same effect.

As he had done earlier with the salary bill, Washington also turned to Congressman James Madison for advice. "He held several free conversations with me on the subject," Madison wrote later, "in which he listened favorably, as I thought, to my view of it, but certainly without committing himself in any manner." Washington actually asked Madison to draft a memorandum on the subject that could be used as the basis for a veto if the President decided against the bill, and Madison presented such a memorandum to Washington on February 21.

Meanwhile Washington also turned to his Secretary of the Treasury, the man most directly concerned with drafting and defending the proposal. Hamilton worked diligently for several days on his opinion while public speculation rose as to the probability of a veto. Finally, on February 23–nine days after the bill had been presented to the President–Hamilton submitted the arguments for the bank in one of his most famous state papers. Hamilton set forth the doctrine of implied powers in terms that Chief Justice Marshall was later to adopt almost word for word in *McCulloch v. Maryland* (1819). Washington was convinced and signed the bill on February 25, the last day of the ten-day period allowed him.

A full year passed before Washington was again faced with the question of using his veto. Then in March, 1792, Congress presented him with a bill reapportioning the House of Representatives according to the results of the first census. Because the bill posed delicate questions of sectional advantage, Washington turned to his department heads for advice. Hamilton and Knox, both from the northeast, thought the bill probably constitutional. Jefferson and Randolph, both from Virginia, thought it clearly unconstitutional.

The bill dealt with a complicated problem arising from the apparently simple principle set forth in the Constitution that the states be represented in the House according to their population and that "the number of representatives shall not exceed one for every 30,000." (Art. I, Sec. 2). To get the government started without delay, a provision had been inserted in the Constitution assigning representatives to the states on the basis of their estimated population, giving the smallest states (Rhode Island and Delaware) one representative each and the largest state (Virginia) ten representatives. The total House membership was to be 65 if all thirteen states ratified.

In the spring of 1792, with the results of the first census available, it was proposed that the total national population entitled to representation (3,614,000) be divided by 30,000. This division yielded a House membership of 120. The next step was to distribute these 120 places among the 15 states (the original 13 plus Vermont and Kentucky). It seemed reasonable to do this by dividing the population of *each state* by 30,000. But when this was done the total number of representatives was only 112. When the population of each state was divided by 30,000 there was always a remainder of several thousand left over. A state with a population of 100,000, for example, would be entitled to three representatives for 90,000 people but would have 10,000 theoretically unrepresented. As chance would have it, most of the states with large remainders were in the North and East, which gave the matter a sectional aspect. To provide a House of 120 members, the bill as finally passed by Congress gave an additional representative to each of eight states with the largest unrepresented fractions.

Jefferson's objection to this plan was clear and simple. Every one of these states was being given one more representative than it was entitled to on the basis of the 30,000 ratio. The plain letter of the Constitution was being violated. Some states, such as Massachusetts and Connecticut, were being given one representative for every 29,000 people. So the Secretary of State urged the President to use his veto, adding that Washington's "non-use of his negative begins already to excite a belief that no President will ever venture to use it."[2] Here was a good opportunity to use the veto, for the public would applaud its use to protect the Constitution. Furthermore, the reapportionment bill had passed in the Senate by a majority of only one vote and in the House by a majority of only two votes, so there was little prospect that the veto would be overridden.

Hamilton's report to Washington was less detailed and less dogmatic than Jefferson's. Should the ratio of 30,000 have been divided into the national total or into the population of each state separately? Either way would appear to be constitutionally acceptable. Hamilton had no axe to grind, for his home state of New York was not affected one way or the other.

The Secretary of War considered the bill fair and reasonable in that it allocated the extra places to the states with the largest fractions, including his own state of Massachusetts. "The constitutionality of the bill being only doubted, not proved," he reasoned, "it would appear a delicate measure for the President to decide against the sense of the legislature."

Congress had sent the bill to the President on Monday, March 26, and he had held it for a week before seeking advice. It was on Tuesday, April 3, that he asked Randolph for his opinion and instructed him to gather the opinions of Hamilton, Jefferson, and Knox immediately. When it turned out that his four closest advisers were evenly divided on the matter, Washington was disturbed, partly because he feared a veto would make it appear that he was favoring the South and partly because his time for considering the bill was running out. He had only until Friday to deliver his veto to the House.

Early on Thursday morning the President called on Jefferson to discuss the matter. He then returned home and sent for Randolph, instructing him to consult with Madison and Jefferson and to report back with a draft of a veto message if the three of them agreed on such a course. They agreed, and the first veto in United States history under the Constitution was in Washington's hands. It was addressed to the House of Representatives, for it was in that chamber that the bill had originated, and it was presented to that body by the President's secretary, Tobias Lear.

The message was brief—only 150 words in all—and it presented no elaborate argument. It did not charge that the bill was unwise but only that it was unconstitutional. "The Constitution has . . . provided that the number of Representatives shall not exceed 1 for every 30,000, which restriction is by the context and by fair and obvious construction to be applied to the separate and respective numbers of the States; and the bill has allotted to eight of the States more than 1 for every 30,000."

Jefferson was delighted. "A few of the hottest friends of the bill expressed passion," he wrote, "but the majority were satisfied, and both in and out of doors it gave pleasure to have at length an instance of the negative being exercised."[3]

On the next day, Friday, April 6, the House proceeded to reconsider the bill in the light of the veto. On a motion to override, the vote was far short of the required two thirds majority. Because of this action by the House there was no need to take the matter up in the Senate where Vice President John Adams was presiding. Washington's conception of the Vice President's role is suggested by the fact that he did not consult with Adams on the bill, though the Vice President was an experienced lawyer and a profound student of constitutional law.

Nor did Washington consult the justices of the Supreme Court while he was considering the bill. It might have seen reasonable to him to turn to the legal experts for advice before deciding on his own that a bill was unconstitutional. But had he done so the justices would probably have given him the same answer they were to give Thomas Jefferson a year later—no advisory opinions.

After the motion to override failed in the House, a substitute bill was introduced, based on one member for each 33,000 of population. It passed both houses after brief debate and was presented to Washington. Convinced that it did not conflict with the Constitution, he promptly signed it into law.

Nearly five years passed before Washington withheld his signature from another bill. He did not always agree with the wisdom of the bills presented to him but he was reluctant to assume that his individual judgment, even when supported by the heads of departments, was superior to that of a majority of the legislators. In 1793 he wrote to Edmund Pendleton that, " . . . from motives of respect to the Legislature (and I might add from my interpretation of the Constitution) I give my signature to many Bills with which my judgement is at variance. . . . " He then went on to observe that he did not possess the item veto. "From the nature of the Constitution, I must approve all parts of a Bill, or reject it in toto. To do the latter can only be Justified upon the clear and obvious grounds of propriety; and I have never had such confidence in my own faculty of judging as to be over tenacious of the opinions I may have imbibed in doubtful cases."[4]

The veto was thus a blunt instrument that could be used only as a kind of bludgeon to knock a bill on the head. It was not a sharp surgical knife that could be used to cut out an offensive part. At the time he wrote this letter Washington had vetoed only one bill. In 1797 he vetoed his second bill, and this time his veto had the same effect as an item veto.

The second veto came on the last day of February, just four days before Washington left the presidency. It applied to a bill for the reduction of the Army that called for the immediate discharge of two companies of light dragoons. On this occasion it appears that Washington did not consult the heads of departments as he had done in 1792, though he may have consulted James McHenry, who had replaced Knox as Secretary of War. Washington was on familiar ground this time, for his veto was based on military policy, not constitutional law.

In the veto message, Washington charged that the bill would work a hardship on the discharged men, for they could not legally be paid for the time served between enactment of the bill and the date the news of their discharge reached them, perhaps as long as six weeks. He also contended that the dragoons were performing a necessary service and should not be discharged.

The President's message was taken up in the House the following day and the motion to override was defeated by a vote of 55 to 36. The House lost no time in drawing up a new bill, omitting the item that Washington had objected to. It was passed the same day and signed by the President two days later, March 3, on his last full day in office. His veto thus had the actual effect of an item veto. The President had pointed out the specific provision that he objected to and Congress had promptly removed it.

The next day was Saturday, March 4. Just before noon, Washington walked alone from his residence to Congress Hall where he witnessed the inauguration of John Adams as his successor, with Thomas Jefferson as Vice President. "In the chamber of the House of Representatives was a multitude as great as the space could contain," Adams wrote to his wife, "and I believe scarcely a dry eye but Washington's."

With Washington's retirement to private life at Mount Vernon an era ended in the history of the executive veto. The first President had exerted his negative twice and had been upheld by Congress and the public on both occasions. The veto was not used at all by his next two successors, Adams and

Jefferson. Fourteen years passed before Madison vetoed a bill in 1811. The Washington vetoes were not matters of great moment in American history and did not stir up very lively controversy. But, as one historian of the subject has observed, "The real importance of these vetoes was not what they were about or what they said, but simply that they occurred."[5]

NOTES

1. *Hollingsworth v. Virginia*, 3 Dallas 378 (1798).
2. *The Writings of Thomas Jefferson* (Memorial Edition), Vol. 3, p. 211.
3. *Ibid.*, Vol. 1, p. 308.
4. *The Writings of Washington* (Fitzpatrick, ed.), Vol. 33, p. 96.
5. Carlton Jackson, *Presidential Vetoes, 1792-1945*, p. 4.

ECONOMISTS AND PRESIDENTIAL DECISION MAKING: THE JOHNSON YEARS

by

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The years of Democratic control of the U.S. executive branch during the 1960s are often referred to as the Kennedy-Johnson years. But Lyndon Johnson's integration of his political lieutenants and advisers into the Kennedy apparatus following his own election, coupled with the normal turnover in line and staff federal jobs, eventually produced a *Johnson* administration–complete with rivalries, political practices, tacit and formal operating policies, linkages to various constituencies and a legislative program. The cast of characters changed as he became less the accidental President and more confident in his job, particularly after the November 1964 landslide over Senator Barry Goldwater. Therefore, there *was* a Johnson administration which historians will separate from that of John F. Kennedy, just as Truman's has been separated from FDR's. The papers of the Johnson Presidency are now (generally) open to scholars.[1] They represent a rich lode of source materials. Here, two general observations will be made about potential avenues of use for these materials.

First, the usual title of this type of essay –"The Economist in Presidential Decision Making"–illustrates a general misconception of the U.S. Presidency. The phrase "*Presidential* Decision Making" must only be used generically or else we exclude a great deal of executive-branch decision making. LBJ was by no means a shy and retiring fellow, dominated by those around him. Yet even he made relatively few decisions. Often, if a yes-no issue did in fact reach the Oval Office or The Ranch in Texas it was presented in such a way, occasionally with some subtlety, that the President had a "choice" to make in the sense of neoclassical, Hicksian choice theory. That is, there was no real choice at all but rather just the need to give ultimate approval or ratification to what had already been determined as an "optimal" or "rational" course of action.

Decision making in the sense of Carl Menger or James Buchanan occurred at humbler levels of the executive branch. (Decisions were not made by LBJ's Cabinet. Meetings of the latter appear to have been largely ceremonial, e.g., so that photographs could be taken for the annual editions of civics textbooks.) Decisions were often hammered

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Origins and Early Development of the Veto Power

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Abstract

This article traces the origins of the President's veto power back to former governments, beginning with that of Ancient Rome, and shows the various forms the veto has taken in each of those political systems. It also 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.

The most potent weapon available to the President in his perennial battles with Congress is the veto power by which he can prevent at least temporarily, and usually permanently, the enactment of measures passed by the Congress. In his classic treatise on *Congressional Government* (1885), Woodrow Wilson characterized the power "beyond all comparison" as the President's "most formidable prerogative."[1] He explained that in exercising the veto, "the President acts not as the executive but as a third branch of the legislature."[2] Given the fact that these words were written when Congress, rather than the President, dominated the national government, his observations were remarkably perceptive. A century later they continue to be so.

Today, among all the leaders of the world's democratic nations only the American President possesses and actually uses the executive veto power in the process of policy-making.[3] (American governors also enjoy a similar prerogative.) The origins of the President's veto power, however, can be traced back to the governmental institutions of Ancient Rome and England. Americans though were first exposed to vetoes as colonists in the British Empire, and later as residents of the states South Carolina, Massachusetts and New York. These experiences, prior to establishing the President's veto power during the deliberations of the Constitutional Convention, helped shape the nature of the power.

The Veto in Ancient Rome

The word "veto" comes from the Latin term, "vetare," meaning to forbid or prohibit. Thus, veto means "I forbid" (or prohibit). The power first appeared in the constitution of the early Roman Republic established in 509 B.C. when the upper class families, called "patricians", overthrew the monarchy.[4] The Republican Constitution substituted two patrician executive officials, known as "consuls" or "magistrates" (elected by the Assembly for a one-year term), in place of the deposed monarchy and granted each of them the right of veto or *intercessio* over the acts of the other. This arrangement was designed to curb the exercise of arbitrary authority that occurred under the monarchy, but it also created a great potential for stalemate, since either official could prevent an action instituted by the other. To avoid a paralysis in the conduct of governmental affairs, therefore, each consul was allowed authority over the City on alternate months, and when both were away from Rome in battle, they took command on alternate days.[5] The consuls, however, could and did act together, for example to convene the Senate or Assembly as evidenced by the number of laws that bore their joint names.[6]

Thus the early phases of the Roman Republic were dominated by the patricians. Not only were the consuls from that social class, but so were members of the Senate (who enjoyed life tenure). Moreover, after consuls served their one-year term they regularly entered the Senate. As a consequence, they tended to accept the advice of the body in which they would later serve as junior members.[7]

In time, the common people, known as "plebians," extracted representation for themselves in the political institutions of the Roman Republic, primarily by withdrawing from the City and refusing to return until their demands were met, but also by threatening not to serve in the army.[8] They were represented by plebian officers, called "tribunes," who were granted a veto power over actions of the consuls. Originally the veto was restricted and could only be used to protect plebians from injustice and violence, but it was later extended to protect all plebian interests,[9] including those that involved bringing a bill before the assembly.[10] In addition, the veto extended to motions passed by the Senate, (which were merely advisory to a magistrate whose actions, in turn, were subject to a veto by a tribune). If this latter action occurred, the Senate's motion was an expression of opinion only and was not legally binding on anyone.[11] The veto power exercised by the tribunes presented the same potential problem as that associated with the patrician consuls: the danger of bringing the machinery of state to a standstill and thus introducing a constant element of anarchy into the Roman state.[12]

Thus the veto was initiated in the Roman Republic as a means of checking the arbitrary exercise of political power. Both types of vetoes (that of the patrician consuls against each other, as well as that of the plebian tribunes against the patrician consuls) involved executive officials. It remained for the English to develop the form of the veto enjoyed by the American President—the power of the Chief Executive to prevent the enactment of measures passed by a legislative body.

The Veto in England

The executive veto developed in England as a result of the historic conflict between the monarchy and the national legislature. The conflict can be traced to when the Teutonic tribes conquered England and brought with them the institution of a National Council, called the *Witenagemot*, which all Freemen of the kingdom attended.[13] As the English extended their territory, however, the great majority of Freemen could not attend the meetings of the Council and many of those who did were essentially the "King's men."[14] The Norman Conquest of 1066 strengthened the legislative power of the Kings who remained supreme over the Parliament well into the reign of Edward III (1327–1377). Even after legislation began to originate in Parliament toward the end of that monarch's reign, the King continued to influence the law by exercising three prerogatives: creating it through royal proclamations; suspending legislation; and creating dispensations affecting the operation of statutory law.[15]

In time, however, Parliament assumed the dominant role in the making of the laws. Initially it petitioned the King to make a law on a particular subject, but he retained the right to make one quite different from the one contained in the parliamentary petition.[16] Eventually, however, the House of Commons insisted on drawing up a petition in the precise form of an act of Parliament and by the beginning of the Sixteenth Century, that custom became a firm practice. The King's role in legislation became restricted to accepting the law passed by Parliament or withholding his approval with the expression, "Le roi s'avisera"—"the King will think it over."[17] Thus the veto became the only means by which the King could affect the law, particularly after he also lost the above-noted powers of issuing royal proclamations, suspending legislation, and creating dispensations affecting the operation of the statutory law.[18]

Over the years, English monarchs differed in the use of the veto. In 1597 Queen Elizabeth rejected more bills than she accepted, but shortly thereafter in 1606, James I approved all the measures passed by Parliament that year, explaining that he did so "as a special token of grace and favour, being a matter unusual to pass all Acts without any exception."[19] The refusal of Charles I to approve several important measures passed by Parliament is considered to be one of the major causes of the Revolution of 1643;[20] after the Revolution of 1688, Parliament began to seriously question the use of the royal veto. In 1707 Queen Anne withheld her assent from a Scottish militia bill; that constituted the last time a British monarch ever vetoed a legislative act. It has been suggested that the absolute nature of the royal veto (it is not subject to being overridden by the Parliament) was the major reason why it fell into disuse.[21] Bagehot, a leading scholar of the British constitution, also claimed that British custom was such that a Queen "must sign her own death warrant if the two Houses unanimously send it up to her."[22]

Thus, as in Rome, the veto in England developed as a means of preventing an arbitrary exercise of political power through having one part of the government check and balance another part. The English legal scholar, Blackstone, likened it to the situation that Cicero described regarding the Roman tribunes: the King did not have "any power of *doing* wrong, but merely of *preventing* wrong from being done."[23] Unlike the Roman tribunes, however, the King in exercising the vetoes was not supposed to be acting to protect the interests of the common people. What was to be balanced in the English constitution was not one *social class* against another but rather, one *branch* of government (the executive) against another (the legislature). Moreover, the royal veto in England represented the monarch's last vestige of a once great influence over the legislative process and ultimately even this last power fell into disuse.

Vetoes Affecting the American Colonies

While the veto power fell into disuse as far as domestic legislation was concerned, it was prominent in governing the American colonies. In fact, two separate vetoes were applied to the acts of colonial legislatures. Colonial governors representing the Crown in the new land possessed the first. The British monarch possessed the second.

Under British theory, the representatives of the colonists had no "inherent right" to make laws; the legislative powers of the colonial assemblies were granted to them by the King through the governor's commission.[24] In time, these assemblies were granted legislative powers, but most of the governors of the colonies possessed an absolute veto power over the assemblies (the exceptions were Maryland, whose burgesses refused to recognize any gubernatorial veto power, and Rhode Island and Connecticut, in which governors were popularly elected for only a one-year term). Governors were expected to use the veto power to protect the interests of the Mother Country; in some instances, they wielded it to protect themselves. In Pennsylvania, for example, governors used it to ensure the payment of their salaries: as Benjamin Franklin explained, ". . . it became the regular practice to have orders in his (the governor's) favor on the treasury presented along with the bills to be signed, so that he might actually receive the former before he should sign the latter."[25]

In some instances, however, colonial governors gave in to the pressures of colonial assemblies and assented to laws that were contrary to the interests of the Mother Country. In such cases, however, the Crown had a second line of defense—a separate veto of its own. For the most part, decisions to allow or disallow laws passed by colonial assemblies were made by the Board of Trade rather than the monarch, but his was the official action.[26] Many colonial laws—nearly 400 over a period from 1696–1765—[27] were struck down, including those enacted to restrain the slave trade.[28] The colonial reaction to such royal vetoes is reflected in the statement of complaints against the King that appeared in the Declaration of Independence: "He has refused his Assent to Laws, the most wholesome and necessary for the common good."

Thus the vetoes that affected the American colonies were somewhat different than those that existed in either the Roman Empire or the government of England itself. There was no attempt to use the veto as a means of balancing the interests of opposing social classes as was done in Rome. Moreover, although both the gubernatorial and royal vetoes applied against actions taken by colonial legislature, unlike the situation in England itself, the check was not so much that of one *branch* of government against another, as that of one *level* of government (the Mother Country) against another (the colonies). In any event, the colonists' experiences with the vetoes wielded by both the governor and the British monarch helped shape the role that vetoes would play in some of the new state governments of the former thirteen colonies.

The Veto in Early State Constitutions

Given the experience of the colonists with the vetoes cast by both the colonial governors and the English monarch, it is not surprising that most of the early state constitutions made no provision for an executive veto over the actions of the legislature, which was generally the favored branch of government.[29] There were, however, three exceptions to that general tendency. South Carolina, Massachusetts and New York all established constitutions during the Revolutionary War that granted the veto power to the Chief Executive of the state.

In South Carolina, the veto power turned out to be short-lived. Its temporary constitution of 1776 gave the chief executive officer—known as the President and Commander-in-Chief—an absolute veto power over legislation. When Governor John Rutledge used that power to negate a new organic law designed to create a permanent state constitution, however, the reaction was so strong that he had to resign his executive post. His successor signed the law, creating the constitution of 1778, despite the fact that it made no provision at all for an executive veto.[30]

In Massachusetts, the process worked in reverse. The Massachusetts legislative body, the General Court, drafted a constitution in 1778 that made the governor the President of the Senate but provided him with no separate veto power over legislation.[31] However, the proposed constitution was rejected by vote of the towns. Among the objections registered by such towns was the fact that the proposed constitution failed to provide adequate checks and balances, including that of the executive upon the legislature.[32] Ultimately in 1780 a constitution was adopted which granted the governor a *qualified* veto, which he was to exercise by returning the legislative measure, together with his objections to it, to the house in which it originated. His veto was subject to be overridden by a two-thirds vote in both legislative chambers. The constitution granted him five days to consider the measure, and if it was not returned within that period, it automatically became law.[33]

The third state, New York, provided for an unusual type of veto in its constitution of 1777. Measures passed by the legislature were considered by a "Council of Revision," consisting of the governor, the Chancellor and the judges of the state Supreme Court. This body had the power to review such measures and ultimately to veto them if a majority of its members felt that they were improper. If that occurred, the measure was to be returned, along with the Council's objections to it, to the chamber in which it originated. Both chambers by a two-thirds vote could override the veto. The Council had ten days to consider a measure; if it were not returned within that time, it became law unless in the meantime the legislature had adjourned, in which case the measure would return on the first day of the meeting of the legislature after the expiration of the ten days.[34] The measure was then subject to being overridden.

Thus the veto was present in the constitutions of only two states, Massachusetts and New York, when the delegates to the national Constitutional Convention convened in Philadelphia in May of 1787. These two states, in many respects, provided key models for the Founders to formulate a veto for the President of the United States.

The Establishment of the President's Veto Power

The delegates who gathered in Philadelphia not only agreed that there should be some sort of national executive (the Articles of Confederation provided for none), but also that the executive should possess the power to veto measures passed by the legislative body. A number of arguments were made in support of such a prerogative, the principal one being that the executive needed such a power in order to protect itself against encroachment at the hands of the Congress. James Madison also felt that the executive veto would help to prevent "popular or factious injustice"[35] (by which he meant rule by the capricious majority or by selfish minorities); it would be "an additional check against a pursuit of those unwise and unjust measures which constituted so great a portion of our calamities."[36] James Wilson expressed the sentiment that the President would benefit from special advantages in policy-making, stating that as the "man of the people," the President would have the fullest information about the nation's situation, including access to the foreign and domestic records and communications, as well as advice from executive officers in the different departments of the general government.[37]

But 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 members of the judiciary (as was provided for in the New York Constitution) or alone (as was done under the Massachusetts Constitution). Those favoring the joint exercise said the judiciary alone would not be able to defend itself against legislative encroachments;[38] moreover, permitting the judiciary to share the veto power with the President would make the veto less objectionable than if the President exercised it alone.[39] Madison also argued that the President would be more firm in his resolve to use the veto if he exercised it jointly with the judges. Finally, he contended that having such judges share in the veto power would help to avoid the passage of laws that were "unwise in their principle or incorrect in their form."[40]

An equally wide range of arguments was arranged against joining the executive and judiciary. Elbridge Gerry of Massachusetts contended 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."[41] He also feared 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."[42] Nathanial Gorham of Massachusetts argued that "judges ought to carry into the exposition of the law no prepossessions with regard to them,"[43] and that would not be the case if they were to participate in the exercise of the veto power. Luther Martin of Maryland argued that judges cannot be presumed to have a higher degree of "a knowledge of mankind" than legislators do, and so should have no role in negating laws unless they are unconstitutional, an issue that would ultimately come before the judges anyway.[44] He also pointed out that judges "should have the confidence of the people," and feared that "this will soon be lost, if they are employed in the task of remonstrating against popular measures of the Legislature."[45]

The issue was joined at the Convention when Charles Pinckney of South Carolina proposed that the veto be exercised by the President alone, and Edmund Randolph of Virginia countered with the suggestion that the Chief Executive share the veto power with "a convenient number of the national judiciary," the combined body to be known as the "Council of Revision."[46] (This was the same designation that was used in the New York Constitution.) Initially the Randolph resolution became the basis on which the delegates proceeded with the matter, but eventually they adopted the Pinckney proposal in which the President exercised the veto alone. Thus the Massachusetts form of this aspect of the veto prevailed over the New York one.

Another major issue with respect to 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. Alexander Hamilton and James Wilson, advocates of a strong executive, favored an absolute veto. Aware that a veto in that form was suggestive of the royal veto under the British system, Wilson argued that an absolute veto would seldom be used, and that its "silent operation would therefore preserve harmony and prevent mischief."[47] However, both the Pinckney and Randolph resolutions referred to above provided for the qualified veto and that was the form adopted by the Convention.

A subsidiary issue also arose at the Convention regarding the qualified vote: what size vote should be required to override the President's veto? The Pinckney resolution set the figure at two-thirds of the members of each house, but Hamilton proposed that the requirement be raised to three-fourths on the grounds that a two-thirds requirement in New York state had been ineffectual in curbing laws passed by factions of its legislature.[48] Pinckney, on the other hand, argued that the three-fourths figure would be "putting a dangerous power in the hands of a few Senators headed by the President,"[49] and his position prevailed.

The final discussion regarding the President's veto power had to do with the number of days the President had to consider a law passed by Congress. At one point, a proposal was made that the period be one of seven days (which appeared to be a compromise between the Massachusetts' practice of five days and New York's of ten days),[50] but ultimately the delegates adopted the ten-day figure. Ultimately, the Convention departed from both of the state constitutions by providing that if the President did not act within the ten-day period and Congress had adjourned in the meantime, he was considered to have exercised a "pocket veto." Unlike a regular veto, the pocket veto was absolute, since the Congress could take no further action on the matter.

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.

The Early Development of the President's Veto Power

Over three years passed in Washington's first administration before he made use of the veto power. On April 5, 1792, in a terse, three-paragraph veto message, Washington negated a congressional apportionment bill. Almost four years passed before he cast his second and final veto, on February 28, 1797, of a bill relating to the military establishment of the United States.

The two succeeding Chief Executives, John Adams and Thomas Jefferson, cast no vetoes at all, nor did Adams' son, John Quincy Adams, and James Monroe vetoed only one piece of legislation. The only early President to exercise the veto power with any frequency was James Madison, who vetoed seven bills in all. Thus the first six presidential administrations covering a period of forty years (1789–1829) witnessed a total of only ten vetoes and, as indicated, seven of these were attributable to Madison alone.

When early Presidents did veto legislation, they tended to emphasize constitutional objections. Washington's first veto of the congressional apportionment bill was based on his contention that it violated constitutional requirements that Representatives should be apportioned among the several states according to their respective numbers and that the number of Representatives should not exceed one for every 30,000 inhabitants.[51] Madison's first two vetoes of bills relating to Protestant churches cited the First Amendment language that "Congress shall make no law respecting an establishment of religion."[52] His seventh and final veto of a bill providing funds for internal improvements was based on his contention that such an activity exceeded Congress' enumerated and implied powers.[53]

Early chief executives were generally reluctant to substitute their judgment on public policy matters for those of the Congress. Washington explained his position in a letter to Edmund Pendleton: "You do me no more than justice when you suppose, that, from motives of respect to the legislature (and I might add from my interpretation of the constitution), I gave my signature to many bills, with which my judgment is at variance." To reject a bill "can only be justified upon the clear and obvious ground of propriety; and I never had such confidence in my own faculty of judging, as to be ever tenacious of the opinions I may have imbibed in doubtful cases."[54] Jefferson agreed that the Chief Executive should sign a bill ". . . unless the President's mind on a view of everything which is urged for and against this bill (establishing a national bank), is tolerably clear that it is unauthorized by the Constitution; if the pro and con hang so even as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion."[55]

While constitutional objections to legislation were the major concern of early presidents, on occasion they did veto measures on other grounds. George Washington's second veto of a congressional bill (relating to the military establishment) was cast because he considered it unwise.[56] In vetoing a bill regarding a national bank, Madison waived the question of its constitutionality (saying it had repeatedly been recognized as valid) and based his objections on the fact that it would not accomplish the financial purposes for which it was to be established.[57]

It was when Andrew Jackson assumed the presidency that the use of the executive veto power changed radically. He vetoed twelve bills in his eight years in office, more than all his predecessors combined. Jackson did not hesitate to substitute his judgment on policy matters for that of the Congress. At the same time, he also believed that he had the right to interpret the Constitution, a right which he would exercise not only against the contrary opinions of the Congress but against those of the Supreme Court as well. In his famous Bank veto message (July 10, 1832), he cited constitutional grounds for his disapproval but also emphasized concerns of social and economic justice for the "humble members of society" to support his action.[58] One close student of the subject, Joseph E. Kallenbach, suggests that the veto message "was a powerful appeal to the citizenry of the country for their support, a masterful campaign document for the forthcoming presidential election."[59]

Subsequent presidents continued to differ on the proper reasons for casting a veto. Several who held office prior to the Civil War continued the early tradition. Van Buren pocket vetoed one bill while Harrison, Taylor, and Fillmore vetoed no legislation at all. Even Lincoln, a strong Chief Executive, cast only two regular vetoes. His philosophy on the matter paralleled that of Washington: "As a rule I think the Congress should originate as well as perfect its measures without external bias."[60]

For the most part, however, what Kallenbach terms Jackson's "tribunative" view of the veto authority, ultimately prevailed.[61] John Tyler used the veto on ten occasions, 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."[62] (The resolution failed.) Tyler's successor, James Polk, while vetoing only three bills, nonetheless subscribed to the Jacksonian view of the proper reasons for the President's use of the veto; in his Fourth Annual Message to the Congress, Polk stated: ". . . but if at any time Congress shall, after apparently full deliberation, resolve on measures which he deems subversive of the Constitution or of the vital interests of the country, it is his solemn duty to stand in the breach and resist them."[63]

For the most part, early Presidents who cast vetoes prevailed in their conflicts with Congress. This was even true of Andrew Jackson who frequently did battle with national legislators: none of his twelve vetoes was overturned by Congress. It was not until 1845, more than a half-century after Washington cast the first presidential veto in 1792, that Congress successfully overrode an executive veto. In that instance, Congress overturned President Tyler's veto of a bill that prohibited the building of revenue vessels or steam cutters by order of the executive unless appropriations for such construction had previously been passed by Congress. Tyler's arguments that the public interest would be damaged by the bill, and that it would violate contracts previously entered into for the construction of such vessels, were unpersuasive as both houses overwhelmingly voted to override the veto, on March 3, 1845, the day President Tyler left office.[64] Only one other pre-Civil War President, Franklin Pierce, suffered a similar fate: five of his nine vetoes were overridden by Congress.

Concluding Comments

The general concept of a veto has been present since ancient times, but the form of that veto has varied greatly. The Roman Republic had two separate types of vetoes, both involving actions of executive officials against each other; however, one of the two vetoes (that of plebian tribunes against patrician consuls) also included the idea of using the veto as a means of protecting the interests of one *social class* against actions taken by officials representing another social class. The British political system incorporated three other types of vetoes: that of the King against the Parliament; that of colonial governors against colonial legislatures; and that of the Crown against measures passed by colonial legislatures (which colonial governors could not or did not veto). The latter two vetoes reflected still a different concept—using the veto to protect the actions of one *level* of government; the Mother Country, against another level, the Colonies.

The American forms of the veto, as reflected in those of the state governments of Massachusetts and New York, as well as that present in our national government, reflect other considerations. All three vetoes were *qualified* rather than *absolute* in nature, since the legislative bodies were empowered to override the actions of the executive officials (with the exception of presidential "pocket vetoes" at the end of a legislative session). The New York variant in which judicial officials participated with the executive official, the governor, in making veto decisions also involved joining *two branches* of government against the third, the legislature. It was not, however, adopted by the delegates to the Constitutional Convention, who preferred the Massachusetts type of veto exercised by the executive official alone. Thus the way was paved for our nation eventually to adopt still another form of veto, that of *judicial review* by which federal judges can negate the actions of both the legislative and executive branches of the national government.

Early Presidents were generally restrained in the use of the veto, casting it primarily on the grounds that the legislation involved violated some provision of the Constitution. In time though Chief executives began to veto measures simply because they considered them to be bad public policy. Some, like Andrew Jackson, vetoed bills for both reasons, reserving for themselves the right to judge both the constitutionality and wisdom of legislation passed by Congress. Moreover, when Presidents and Congress differed on such matters, Chief Executives generally prevailed as few vetoes were overturned by the necessary two-thirds vote of both houses of Congress.

Finally, the President's veto power should not be judged simply on the basis of how often it is actually exercised. By simply *threatening* to veto a proposed measure, the President can often deter Congress from passing it. This can also influence legislators to put the measure in a form that is acceptable to him. Finally, aside from specific legislation, the veto is available to a President as a general weapon in his conflicts with Congress: Franklin Roosevelt sometimes asked his aides for "something I can veto" as a lesson and reminder to congressmen that they had to deal with a President.

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Notes

1. Woodrow Wilson, *Congressional Government: A Study in American Politics* (Boston: Houghton Mifflin, 1885), p. 52.
2. *Ibid.*
3. As indicated subsequently, 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.
4. Carl Roebuck, *The World of Ancient Times* (New York: Charles Scribner's Sons, 1966), p. 437 ff.
5. *Ibid.*, p. 439.
6. H. F. Jolowicz and Barry Nicholas, *Historical Introduction to the Study of Roman Law* (Cambridge: Cambridge University Press, 3rd ed., 1972), p. 47.

7. Roebuck, *op. cit.*, p. 439.
8. *Ibid.*, p. 440.
9. W. A. Hunter, *A Systematic and Historical Exposition of Roman Law* (London: William Maxwell and Son, 1885), p. 14.
10. Jolowicz and Nicholas, *op. cit.*, p. 12.
11. *Ibid.*, p. 44 f.
12. *Ibid.*, p. 14. Also Roebuck, *op. cit.*, p. 442.
13. Edward Campbell Mason, *The Veto Power* (Boston: Ginn and Company, 1891), p. 12.
14. *Ibid.*
15. *Ibid.*, p. 13.
16. William Edward Hearn, *The Government of England: Its Structure and Development* (London: Longmans, Green and Co., 1886), p. 57.
17. M. M. Knappen, *Constitutional and Legal History of England* (Hamden, Connecticut: Archon Books, 1964), p. 257.
18. Mason, *op. cit.*, p. 14 f.
19. Hearn, *op. cit.*, p. 60.
20. Mason, *op. cit.*, p. 16.
21. George Curtis, *History of the Origin, Formation and Adoption of the Constitution of the United States* (New York: Harper and Brothers, 1858), Vol. II, p. 266.
22. Walter Bagehot, *The English Constitution and Other Political Essays* (New York: D. Appleton and Company, 1877), p. 125.
23. William Blackstone, *Commentaries on the Laws of England* (Boston: I. Thomas and E. T. Andrews, 1799), Vol. I, p. 156.
24. Leonard Labaree, *Royal Government in America: A Study of the British Colonial System Before 1783* (New Haven: Yale University Press, 1930), p. 218.
25. Jonathan Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* (Philadelphia, J. B. Lippincott Company, 1901), Vol. IV, p. 621.
26. Oliver Dickerson, *American Colonial Government, 1696–1765* (Cleveland: The Arthur H. Clark Company, 1912), p. 227.
27. *Ibid.*
28. George Bancroft, *History of the United States From the Discovery of the Continent* (New York: D. Appleton and Company, 1883), Vol. II, p. 77.
29. The same situation prevailed at the national level under the Articles of Confederation, which provided for no executive branch at all.
30. Joseph Kallenbach, *The American Chief Executive: The Presidency and the Governorship* (New York: Harper and Row, 1966), p. 24.
31. Robert Taylor (ed.), *Massachusetts, Colony to Commonwealth: Documents on the Formation of Its Constitution, 1775–1780* (Chapel Hill: North Carolina Press, 1961), p. 56.
32. For example, the delegates to the Essex County Convention expressed that objection. *Ibid.*, pp. 79 and 87.
33. *Ibid.*, p. 131 f.
34. Ben Berley Poore, *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States* (Washington: Government Printing Office, 1877), Part II, p. 1332 f.
35. Max Farrand, (ed.), *The Records of the Federal Convention of 1787* (New Haven: Yale University Press, 1966), Vol. II, p. 587.
36. *Ibid.*, p. 74.
37. Elliot, *op. cit.*, Vol. II, p. 448.
38. Farrand, *op. cit.*, Vol. I, p. 138.
39. *Ibid.*, p. 99.
40. *Ibid.*, p. 139.
41. *Ibid.*
42. *Ibid.*, Vol. II, p. 78.

43. *Ibid.*, p. 79.
44. *Ibid.*, p. 76.
45. *Ibid.*, p. 77.
46. *Ibid.*, Vol. IV, p. 622.
47. *Ibid.*, Vol. I, p. 100.
48. *Ibid.*, Vol. II, p. 585.
49. *Ibid.*, p. 586.
50. Kallenbach, *op. cit.*, p. 61, fn. 44.
51. James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (Washington, D.C., Authority of Congress, 1900), Vol. 1, p. 124.
52. *Ibid.*, p. 489 f.
53. *Ibid.*, p. 584 f.
54. Jared Sparks, *Writings of George Washington* (Boston: Russel, Shattuck and Williams and Hilliard, Gray, and Co., 1836), Vol. X, p. 371 f.
55. Paul Leicester Ford (Ed.), *The Writings of Thomas Jefferson* (New York: G. P. Putnam's Sons, 1895), Vol. V, p. 289.
56. Richardson, *op. cit.*, Vol. I, p. 211 f. (February 28, 1797).
57. *Ibid.*, p. 555. (January 30, 1815).
58. *Ibid.*, Vol. II, p. 590.
59. Kallenbach, *op. cit.*, p. 354.
60. *Ibid.*, fn. 13, p. 354 f., citing John C. Nicolay and John Hay, *Complete Works of Abraham Lincoln* (New York: F. D. Tandy Company, 1905), Vol. I, p. 697.
61. *Ibid.*, p. 354.
62. *Cong. Globe*, 27th Cong., 3d Sess., (1843), Vol. XII, p. 144.
63. Richardson, *op. cit.*, Vol. IV, p. 662. (December 5, 1848).
64. For a discussion of this historic override, see Carlton Jackson, *Presidential Vetoes, 1792–1945* (Athens: University of Georgia Press, 1967), p. 83 f.

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TABLE 1
Presidential Use of the Veto

President	Regular Vetoes	Pocket Vetoes	Total Vetoes	Vetoes Overridden
Washington	2	-	2	-
Adams	-	-	-	-
Jefferson	-	-	-	-
Madison	5	2	7	-
Monroe	1	-	1	-
J.C. Adams	-	-	-	-
Jackson	5	7	12	-
Van Buren	-	1	1	-
W.H. Harrison	-	-	-	-
Tyler	6	4	10	1
Polk	2	1	3	-
Taylor	-	-	-	-
Fillmore	-	-	-	-
Pierce	9	-	9	5
Buchanan	4	3	7	-
Lincoln	2	5	7	-
A. Johnson	21	8	29	15
Grant	45	48	93	4
Hayes	12	1	13	1
Garfield	-	-	-	-
Arthur	4	8	12	1
Cleveland (1st term)	304	110	414	2
B. Harrison	19	25	44	1
Cleveland (2d term)	42	128	170	5
McKinley	6	36	42	-
T. Roosevelt	42	40	82	1
Taft	30	9	39	1
Wilson	33	11	44	6
Harding	5	1	6	-
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	-
L.B. Johnson	16	14	30	-
Nixon	26	17	43	7
Ford	48	18	66	12
Carter	13	18	31	2
Reagan	40	37	77	9
Totals	1,420	1,048	2,468	103

TABLE 2
Presidential Vetoes

	Total Vetoes	Bills: Public Reg	Public Pocket	Private Reg	Private Pocket
Truman (1945-53)	250	62	36	118	34
Eisenhower (1953-61)	181	36	46	37	62
Kennedy (1961-63)	21	4	5	8	4
Johnson (1963-69)	30	8	8	8	6
Nixon (1969-74)	43	26	14	0	3
Ford (1974-76)	66	46	16	2	2
Carter (1977-81)	31	13	18	0	2
Reagan (1981-89)	77	38	32	2	5

TABLE 3
Override Attempts

	Unsuccessful: Public	Unsuccessful: Private	Unsuccessful: Total	Successful: Public	Successful: Private	Successful: Total
Truman (1945-53)	23	1	24	11	1	12
Eisenhower (1953-61)	11	0	11	2	0	2
Kennedy (1961-63)	0	0	0	0	0	0
Johnson (1963-69)	0	0	0	0	0	0
Nixon (1969-74)	21	0	21	7	0	7
Ford (1974-76)	17	0	17	12	0	12
Carter (1977-81)	2	0	2	2	0	2
Reagan (1981-89)	6	0	6	9	0	9

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