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LEGISLATIVE VETO: A REVIEW OF CURRENT PROPOSALS

INTRODUCTION

It is generally believed that the laws of this country are passed by elected representatives in Congress. This is, after all, how the civics textbooks say the system works. However, while not called by the same name, rules and regulations promulgated by the various regulatory agencies have all the force and effect of law. Failure to comply with these regulations may result in fines, imprisonment, or both. In an average year, the regulatory bureaucracy adopts approximately 9,000 new rules and regulations.[1] Murray Weidenbaum, Chairman of President Reagan's Council of Economic Advisors, estimates that the tab for compliance with the dictates of federal regulatory agencies is at least $100 billion each year.[2]

The large number and cost of these far-reaching, often confusing, and sometimes overlapping regulations is enough to cause considerable concern. To some Congressmen, moreover, they are only a symptom of another, more serious problem: the fact that these regulatory agencies are either independent or part of the executive branch and thus able to pursue their goals with little effective input from Congress. Even agencies under the supposed control of the executive branch, it is argued, often seem unresponsive to public opinion. Thousands of career bureaucrats continue working through various Democratic and Republican administrations, with changes taking place only at the top levels.

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1 Elliott Levitas, Congressional Record, February 6, 1981, p. 2.

2 Richard L. Strout, "Reagan and Federal Regulations: Just a Clarification or a Showdown?" The Christian Science Monitor, September 2, 1981, p. 3.

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

These problems recently led Congressman Elliott Levitas (D-GA) to remark:

> ...[These] thousands and thousands of far-reaching rules that can put citizens in jeopardy of losing liberty or property [are promulgated] <u>without having anyone elected by the people or answerable to them involved in the process</u>.[3] (emphasis added)

This concern has prompted calls for a means to enable Congress to review proposed regulations and block them if they are too burdensome. One method proposed in both the House and Senate is legislative veto.

Legislative veto is not accepted by everyone, however, as the proper solution to the regulatory problem. Questions exist concerning its constitutionality, its potential effectiveness, and the need for such a tool. Both the arguments of those opposing legislative veto and the responses of its supporters will be examined later.

HISTORY

Legislative veto is not a new idea. Since 1932, over 180 different acts of Congress with well over 250 separate provisions have included some means for congressional approval or disapproval of executive implementation of law.[4] In addition, thirty-five states provide for legislative review of their state regulatory agencies.[5] To date, however, except at the state level, legislative veto has been applied only to specific agencies or programs.

The first attempt to establish across-the-board legislative veto enjoyed strong support in the 94th Congress. This was particularly true in the House, where the bill was debated on the floor under suspension of the rules near the end of the session. Legislative veto failed by only two votes to receive the necessary two-thirds majority for passage. More recently, legislative veto was the focus of a major dispute over the re-authorization bill for the Federal Trade Commission (FTC). The House twice refused to accept the reconciliation bill during the 95th Congress. It was not until the Senate conferees finally agreed to include a legislative veto provision that the bill was passed.[6]

The legislative veto proposals now being considered are a second attempt to establish a comprehensive congressional veto.

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3 Levitas, <u>Congressional Record</u>, p. 2.

4 Testimony of Elliot Levitas Before the Subcommittee on Agency Administration, Senate Judiciary Committee, April 23, 1981, pp. 6-7.

5 Levitas, <u>Congressional Record</u>, p. 2.

6 <u>Ibid.</u>, p. 1.

If passed, this legislation would apply to all executive and independent agencies.

THE HOUSE VERSION

Several forms of comprehensive legislative veto have been discussed, and more than one has been introduced during the current session of Congress. In the House, Congressman Levitas's proposal, H.R. 1776, is receiving a good deal of attention and is supported by 231 co-sponsors. In addition, the omnibus regulatory reform bill, H.R. 746, contains a provision for legislative veto.

H.R. 1776 requires that all rules and regulations proposed by the regulatory agencies be presented to Congress, where they will be forwarded to the committee exercising oversight of the promulgating agency. Upon receipt of the proposal, Congress has 60 days during which either House may adopt a resolution of disapproval. If the oversight committee does not act within 45 days, 20 percent of the members of either House can move to consider the rule on the floor. If neither House disapproves the regulation within 60 days of continuous session, it becomes effective.

If one House does pass a resolution of disapproval, the second House has 30 days in which to consider a resolution overriding this disapproval. After 15 days, 20 percent of the membership of the second House may move to discharge the oversight committee and force the question to the floor. A vote by the second House overriding the disapproval of the first House allows the proposed regulation to become effective. If the second House fails to act within the 30-day period, the proposed rule is automatically disapproved and sent back to the promulgating agency, where it may be rewritten or dropped.

H.R. 1776 contains procedures empowering Congress to direct an agency to reconsider a previously adopted rule. Rules reconsidered and re-promulgated are subject to the same procedure as newly proposed regulations. If the agency does not re-promulgate a rule within 180 days of the passage of the resolution of reconsideration, the regulation automatically lapses.

Rules designated by the promulgating agency as "emergency regulations" become effective immediately. However, these rules may be subject to later congressional review.

A second version of legislative veto being proposed in the House is a part of the Regulatory Procedures Act, H.R. 746. This version applies to "major" rules only, i.e., those having an annual impact on the economy of $100 million dollars or more. Proposed regulations will be presented to the relevant congressional committees, which then have a 30-day period to consider the suggested rule. If any committee reports out a joint resolution of disapproval within 30-days, another 60-day delay in the rule's

effective date goes into effect. During that period, both Houses of Congress must pass a resolution of disapproval in order to stop the regulation from becoming effective. Furthermore, the President has the opportunity to veto the resolution of disapproval, allowing the proposed regulation to become effective.

THE SENATE VERSION

The Senate version of legislative veto is the result of a compromise among authors of various earlier veto proposals. These include Senator Harrison Schmitt's (R-NM) one-and-one-half house veto proposal and the bill introduced by Senators Carl Levin (D-MI) and David Boren (D-OK) providing for a two-house veto with provisions for a presidential override of the disapproval.

The compromise reached by Senators Grassley (R-Iowa), Schmitt, Levin, and Boren requires that all rules proposed by the regulatory agencies be presented to both Houses of Congress before being put into effect. These rules are then forwarded to their respective oversight committees for review.

For "major" rules, expected to have an annual impact of $100 million or more in direct enforcement and compliance costs, there is a 60-day period during which either House may pass a resolution of disapproval. If neither House passes such a resolution within 60 days, the proposed regulation becomes effective.

Should one House pass a resolution of disapproval, the other House has 30 days in which to consider passage of a similar resolution. The Senate version of legislative veto requires that both Houses act to stop a given regulation. If the second House fails to act, the proposed regulation takes effect.

For rules with an expected annual impact of less than $100 million, the committees reviewing the proposals have 30 days in which to report out a resolution of disapproval. If no committee acts during this period, the regulation becomes effective. If a committee in either House produces a resolution of disapproval within the 30-day period, an additional 60-day delay goes into effect during which both Houses must pass a resolution of disapproval if the rule is to be effectively disapproved.

As with H.R. 1776, 20 percent of the members of either House may bring a motion to discharge the oversight committee from consideration of the rule, thus bringing the debate to the floor. Unlike the House version of legislative veto, however, the Senate compromise provides no means for reviewing existing regulations.

In comparing the various House and Senate versions of comprehensive legislative veto, there are three major differences. The first, and most important, is that the proposed Senate version and one of the House versions require both Houses must pass a

resolution of disapproval in order to prevent a regulation from taking effect; Levitas's proposal requires only one House to pass the resolution of disapproval as long as the other House does not override the disapproval. The second difference is that H.R. 1776 allows Congress to review existing regulations at any time and recommend reconsideration and possible re-promulgation. Proponents of this provision believe it gives needed flexibility to the rulemaking process. As conditions change, rules and regulations once felt to be necessary may be reconsidered. Opponents claim Congress will just be allowing itself the privilege of rewriting existing laws. Finally, the version of legislative veto contained in H.R. 746 contains provisions for presidential participation in the process while H.R. 1776 and the Senate version do not.

Advocates of legislative veto feel that this comprehensive veto power provides Congress with a necessary tool to control the promulgation of rules by regulatory agencies without imposing unnecessary delays on the rulemaking process. As mentioned earlier, there are those, however, who question not only the need for legislative veto, but also its expected potency as a tool of regulatory reform and even its constitutionality.

THE CONSTITUTIONALITY QUESTION

There are two basic constitutional questions raised by the legislative veto proposals. The first applies only to H.R. 1776 and involves bicamerality. The Constitution establishes two Houses and seems to intend that both take part in law making. H.R. 1776 would allow one House to pass a resolution of disapproval in order to stop a proposed rule from becoming effective. Supporters of this form of legislative veto reject the criticism that they are side-skipping the bicamerality requirement by pointing out that both Houses may participate in the process. The advantage of requiring that only one House disapprove a proposed regulation seems twofold. In the first place, worthwhile rules will not be unduly delayed; in the second place, a few members of one House would not be able to stop the disapproval of undesirable regulations through inaction.[7]

Far overshadowing the constitutional concerns about bicamerality are those about the presentation requirement of the Constitution. This issue applies to both Levitas's House version of legislative veto, H.R. 1776, and the Senate compromise form. Article I, Section 7 of the Constitution states in part:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States....

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[7] Antonin Scalia, "The Legislative Veto: A False Remedy for Systems Overload," Regulation, Vol. 3, No. 6 (November/December 1979), p. 22.

> Every Order, Resolution, or Vote which the Concurrence of the Senate and House of Representatives may be necessary...shall be presented to the President of the United States.

Neither the Senate version nor Levitas's proposed form of legislative veto allows the President any official voice in the congressional determination of the legitimacy of the rules being recommended by the agencies. This is seen by several opponents of legislative veto as an effort to eliminate the President's right to veto any action taken by Congress[8] -- a right clearly established by the Founding Fathers.

Those who support legislative veto counter with three main points. In the first place, they argue, the President does play a role when he signs the legislation giving Congress legislative veto or when that legislation is passed over his presidential veto. Justice White agreed with this assessment when he wrote in the Buckley v. Valeo case concerning the Federal Election Commission:

> ...[I]n light of history and modern reality, the provision for Congressional disapproval of agency regulations does not appear to transgress the Constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto.[9]

Second, proponents of legislative veto feel they are not invading executive branch privileges by invoking a congressional review of legislative action. After all, Levitas argues, it was an Act of Congress that delegated the regulatory authority to the agencies and:

> ...if Congress has the power to delegate rulemaking authority, it is axiomatic that it can delegate all that power, or it can condition or limit that delegated power by making it subject to a Congressional veto.[10]

In addition, Congressmen supporting legislative veto feel the legislative branch has the power to review any action which has the effect of law. "If anything," Congressman Levitas contends, "the thousands of rules/laws passed by the bureaucrats in the executive branch invade the legislative powers of Congress."[11]

Finally, advocates of legislative veto point out that the resolution of disapproval does not change or amend existing

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[8] Ibid., pp. 20-22.
[9] Levitas, Testimony, p. 16.
[10] Ibid., p. 14.
[11] Ibid.

statutory law. Rather, it preserves the status quo, and thus does not fall within the areas traditionally considered law-making.[12]

Opponents discount these arguments. For example, Antonin Scalia contends, "The fact is that rulemaking is no more 'inherently' a legislative function than is the fixing of rates (which used to be done by Congress before the Interstate Commerce Commission was established) or the granting of claims against the government (which used to be done by Congress before the Court of Claims was established)." Scalia goes on to say that most of the decisions made by the executive branch could be made by Congress and have become "executive" functions only because Congress has chosen to hand over responsibility to the executive branch.[13] The argument that legislative veto maintains existing conditions and, therefore, is not lawmaking is considered a transparent attempt to get around the constitutional intent that all laws be subject to presidential veto. Theodore Olson, testifying for the Department of Justice, remarked that in his interpretation of the Constitution, "All exercises of legislative power having the substantive effects of legislation, even if not its traditional form, must follow the specified procedure," i.e., passage by both Houses with veto power by the President.[14]

Previously, the Supreme Court had avoided ruling on the constitutionality of existing legislative veto clauses. Recently, however, the Court has agreed to hear the only case in which congressional veto has been held to be unconstitutional, Chadha v. Immigration and Naturalization Service. In making its decision, the Ninth Circuit Court of Appeals made a point of confining its consideration to the facts presented in that particular case. The Ninth Circuit Court viewed the Chadha case as involving a legislative veto over a quasi-judicial determination properly administered by the executive branch and reviewable by the judicial branch. The Court expressly avoided the question of congressional veto of quasi-legislative powers.[15] If the Supreme Court follows a similar line of reasoning, the issue of the constitutionality of legislative veto may still be largely open to question.

In Atkins v. the U.S., the Court of Claims confirmed the legislative veto of quasi-legislative powers in the Federal Salary Act. The Supreme Court allowed the Court of Claims decision to stand. Strictly speaking, of course, the decision applied

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12 "Background Information on Regulatory Reform and Congressional Review of Agency Rules with a Summary of H.R. 1," Subcommittee on Rules of the House, Committee on Rules, U.S. House of Representatives, June 1981, p. 12.

13 Scalia, op. cit., pp. 21-22.

14 Testimony of Theodore B. Olsen Before the Subcommittee on Agency Administration, Senate Judiciary Committee, April 23, 1981, pp. 8-9.

15 Senator Harrison Schmitt, Congressional Record, April 7, 1981, pp. S 3532-3533.

only to legislative veto in the Federal Salaries Act and not to an across-the-board veto.[16]

The only case previously reviewed by the Supreme Court in which legislative veto might have been an issue was the Buckley v. Valeo case referred to earlier. While Justice White chose to comment on congressional veto, the case was decided on other issues.[17]

Based on these few court cases and the opinion of one Justice, it is impossible to predict how the Supreme Court would rule on the constitutionality of legislative veto. It appears, therefore, that the issue will not be settled until the Court does make a decision.

THE POTENTIAL EFFECTIVENESS OF LEGISLATIVE VETO

Many opponents of legislative veto feel that whatever form it takes, even if it is found to be constitutional, it may not be very effective. This critique rests on two broad arguments.

Congressional Resources for Review

Opponents of legislative veto cite the vast number of regulations issued each year as an argument against congressional veto. Even with its current large staff, it seems unlikely that Congress would be able to give each rule the same impartial review. Therefore, it is argued, unless Congress increases the size of committee staffs, the efforts of lobbying groups will become extremely important in determining which regulations will be subjected to congressional scrutiny. This hardly seems to guarantee a more responsive, efficient method of rulemaking.

Congressman Levitas responds that, "To say that Congress has neither the time nor the resources to review administrative rules and regulations is begging the question."[18] The far-reaching effects of these rules make it a congressional responsibility to see that they are promulgated with due care and consideration. Furthermore, the committees with oversight powers already have staffs reviewing the agencies and their regulations. The problem is that there is currently very little that can be done about the "bad" ones.

Preservation of the Status Quo

Both sides agree that much of the current problem has been caused by the vague nature of enabling legislation. Most also

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16 Ibid.

17 Levitas, Testimony, p. 16.

18 Levitas, Congressional Record, p. 3.

agree that the vague language in legislation establishing the regulatory agencies is the product of political hedging. For example, it is easy for lawmakers to support the "prevention of unreasonable health risks or injuries on the job" or the "elimination of racial and sexual discrimination." It is much more difficult to gain a consensus on the tough decisions that go along with the implementation of these ideals. Scalia, among others, has suggested that the potential unpopularity of the choices required to implement the broad goals has been in large part responsible not only for the broad language with which regulatory agencies have been established, but also for the very delegation of so much power by Congress to the agencies.[19]

While the belief that Congress has caused many of the existing over-regulation problems is widespread, there is disagreement about the impact comprehensive legislative veto will have on the way future enabling legislation is written. For example, Scalia, in opposing legislative veto claims,

> ...[T]he delusion that it will be able to control the agencies through the legislative veto will render Congress all the more ready to continue and expand the transfer of basic policy decisions to the agencies.[20]

Congressman Levitas disagrees. He believes the existence of the veto will force Congress to draft legislation more carefully, spelling out congressional intent even more clearly. Levitas maintains, "If we realize that we have the ultimate responsibility for the adminstrative rules that flow from these enabling acts, we will be more careful."[21]

Another problem predicted by many who oppose legislative veto is the reinforcement of the "iron triangle" made up of legislative subcommittee staffs, the regulatory agencies, and the regulated community. Professors Harold Bruff and Ernest Gellhorn, in a study for the Adminstrative Law Conference of the United States, conclude that "much settlement of policy occurred in behind-the-scenes negotiations between the staffs of the [relevant congressional] committees and the agencies."[22] Bruff and Gellhorn expect this problem to worsen with a comprehensive legislative veto. Elected representatives, they feel, clearly lack the time to review the torrent of regulations promulgated each month, "so that task will be entrusted to a shadow rulemaking bureaucracy on Capitol Hill" i.e., the subcommittee staffs.[23] Anyone trying to change or affect regulations in existence or under consideration

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19 See, for example, Scalia, p. 23; Levitas, Congressional Record, p. 1; and Senator Harry Byrd, Congressional Record, March 12, 1981, p. S 2070.

20 Scalia, op. cit., p. 25.

21 Levitas, Congressional Record, p. 2.

22 Scalia, op. cit., p. 25.

23 Ibid.

will find themselves dealing with two bureaucracies, Bruff and Gellhorn maintain -- the one at the regulatory agencies and the one formed by the congressional staffers who review the regulations.

Needless to say, advocates of legislative veto disagree. In the first place, Bruff and Gellhorn are objecting to the use of the lawmaking procedure, i.e., backroom politicking, for the establishment of regulations. Levitas maintains, however, that the compromise and selectivity that go along with the legislative process are a necessary part of representative democracy and belong in the promulgation of regulations no less than in the adoption of law.[24] Furthermore, congressional staff members must answer to the legislators who eventually answer to the public. The congressional staffer is obviously closer to the public than the bureaucrat who may be writing the regulations.

Finally, advocates expect that the primary benefit of the congressional veto will be the mere fact of its existence. They anticipate that the availability of the legislative veto tool will "sensitize the bureaucracy and make it more responsive."[25] As a result, they claim, the number of rules promulgated and the burden imposed will be reduced. This generally has been the experience in the states with legislative veto.[26]

THE NEED FOR LEGISLATIVE VETO

Besides arguments of constitutionality and effectiveness, some critics base their opposition on the belief that legislative veto is unnecessary. These arguments fall into two main categories.

Existing Means of Congressional Oversight

There already are means of oversight available to Congress. For example, Congress can override unwise, unnecessary, burdensome, or inappropriate agency rules with new legislation. If Congress finds this method too time-consuming or too severe, a resolution expressing disapproval may be adopted or the matter may be discussed at oversight hearings. After all, in the final analysis, Congress controls the purse strings. In addition, individuals and businessmen who feel they have been unduly harmed by specific regulations can take the agency to court. Furthermore, the Senate could, and probably should, take greater care in examining the qualifications of political appointees to positions of responsibility within regulatory agencies.[27]

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24 Levitas, Testimony, p. 20.
25 *Ibid.*, p. 12.
26 *Ibid.*, p. 22.
27 Olson, *op. cit.*, p. 21.

Therefore, it is argued that those who seek more control over the regulatory agencies should use existing tools more effectively before creating new ones. Furthermore, past Congresses obviously had some cogent reasons for not making it too easy for Congress to override regulatory agencies.

Proponents of legislative veto agree that these other means do exist. Senator Schmitt argues, however, that most are ex post facto, and relief can only be obtained through a cumbersome, time-consuming process. Millions of dollars of damage may be done before the wrong can be righted through the legislative or budgetary process. As far as judicial review is concerned, advocates of legislative veto assert that the process may be prohibitively costly to the average citizen; the decision may be delayed for years; and in the past, the courts have given the benefit of doubt to the agency and placed the burden of proof on the citizen or firm bringing the suit.[28] Existing tools, therefore, have not been very successful in preventing the harm caused by unnecessarily burdensome regulations. Prevention of these costs is exactly the role legislative veto is designed to fill.

White House Reaction

Before he became President, Ronald Reagan gave several indications that he would support a comprehensive legislative veto bill. For example, in August 1979, in an article discussing the fight over the FTC authorization bill, Reagan wrote:

> ...[T]he regulators will have to be more sensitive to the mood of the people, just as members of Congress are. Since bureaucrats aren't elected, holding them more accountable than they have been sounds like a pretty good idea in this constitutional republic of ours.[29]

Furthermore, the 1980 Republican Platform stated, in part:

> The unremitting delegation of authority to the rulemakers by successive Democratic Congresses and the abuse of that authority have led to our current crisis of over-regulation. For that reason, we support use of the Congressional veto...as a means of eliminating unnecessary spending and regulation.[30]

The White House, however, has yet to express unreserved support for the legislation. In the first place, there now seems to be some concern in the Administration about the constitutional-

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28 Levitas, Congressional Record, p. 2.

29 Ronald Reagan, "Nailing the Regulator," The Jewish Press, August 10. 1979, p. M25.

30 Levitas, Testimony, pp. 3-4.

ity of legislative veto. Second, the argument that there is no real need for such legislation has been voiced. The Reagan Administration has issued Executive Order 12291, requiring a more careful review of costs and benefits of proposed regulations. One of the major goals of E.O. 12291 is the reduction of the regulatory burden imposed on the economy. James C. Miller, III, now FTC Chairman, summed up the Administration's position on legislative veto earlier this year. Addressing a group of trade association representatives, he said that the Administration firmly opposes the use of legislative veto where executive branch agencies report directly to the President. It is expected that Reagan would veto any attempt to establish further congressional review over these agencies. Miller added, however, that the Administration "would not oppose legislative veto" over the agencies that do not report directly to the President.[31]

Some House proponents of congressional veto fear that White House objections to the legislative veto over executive branch agencies which contain no provisions for presidential participation may endanger the whole of H.R. 746. If legislative veto -- particularly the one-and-one-half house form suggested by Levitas -- should be part of the broader regulatory reform legislation, these individuals fear the President will veto the bill and thus end up killing other important aspects of regulatory relief. Thus, these supporters of the veto proposals feel legislative veto should be considered on its own merits in legislation separate from other features of regulatory reform.

Proponents of legislative veto commend Administration efforts to bring the regulatory agencies under control, but point out that Reagan's executive order has real power only with respect to executive, and not independent, agencies. Furthermore, Executive Order 12291 can only slow the implementation of costly regulations, it cannot stop a regulation from being promulgated if officials at the agency are determined to push ahead. Most important, since an executive order can be revoked at any time, advocates of legislative veto believe a more permanent means of controlling the regulatory agencies is needed. They hope that this legislation will ensure that gains being made by this Administration will not be too quickly lost.[32]

CONCLUSION

The critical question about legislative veto (aside from the constitutional issue) seems to be whether elected representatives should have a direct voice in the rules and regulations promulgated by agencies. Congressman Levitas poses this as the central

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31 Caroline E. Mayer, "White House Unopposed to Rule Veto," The Washington Star, April 2, 1981, p. C7.

32 Levitas, Testimony, p. 18; and Schmitt, op. cit., p. S 3531.

question when he asks: "Who [should] make the laws in this country? Is it the elected Congress or the unelected bureaucrats who rule by administrative fiat?"[33]

Opponents of legislative veto worry about its constitutionality, its potential effectiveness, and the necessity for such legislation. They fear that giving Congress a direct role in the determination of what regulations are promulgated will enhance the power of special interest groups with strong lobbies in the resolution of questions concerning how and what to regulate. It is argued that further "politicizing" of the regulatory process will cause more harm than good. The fact that Congress has consistently delegated regulatory power in the past -- avoiding the politically tough questions that go along with the implementation of broad goals -- must create some doubt about their willingness to shoulder similar responsibilities in the future.

Advocates of legislative veto for the most part admit that the sins of past Congresses have led to many of the over-regulation problems now plaguing the economy. They feel, however, that now is the time for Congress to recognize its responsibility to oversee more directly the rulemaking process. Increasingly sensitive to the costly burdens imposed by the burgeoning regulatory bureaucracy, Senator Schmitt hails legislative veto as an important "opportunity to examine costly new rules and to determine whether the expenses they impose on the public are warranted."[34] Perhaps most important, legislative veto is touted as a means by which Congress may have a permanent voice in the issuance of regulations.

Yet, legislative veto leaves a major problem largely unsolved. Critics of the present regulatory system often complain about the large number of overlapping and sometimes conflicting regulations issued by the various agencies. If Congress is to relieve this problem, its members must take care to avoid the same narrow view taken by the individual agencies. As oversight committees consider rules that have been proposed, they must consider them in the broad context created by all regulations -- not just that of a particular agency or agencies reviewed by a specific committee.

Finally, legislative veto is a two-edged sword. Just as some may seek to use congressional veto as a tool to prevent the promulgation of further regulations, others may attempt to use the veto to keep regulations in place. Therefore, even those who advocate a means of reducing the number of regulations promulgated each year are wary of legislative veto, fearing it will be a means through which deregulation efforts might be hampered. At least in the past, however, regulators have tended to expand their authority, and interpret their legislative mandates as

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33 Levitas, Congressional Record, p. 2.
34 Schmitt, op. cit., p. 15.

broadly as possible. Therefore, the likelihood that a regulatory agency endeavoring to reduce its reach would co-exist with a Congress seeking to prevent such a contraction of power seems remote.

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