

July 8, 1985

REAGAN'S TRUMP CARD: THE VETO

Holding down government spending is like protecting your virtue.
You have to learn to say no.¹

Ronald Reagan

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

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

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.²

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.³ 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.⁴

Those Presidents who have proven most skillful in dealing with Congress have tended to use the veto aggressively. 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

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

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

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

history, broke with this tradition by blocking the passage of bills simply because "they didn't commend themselves as being wise."⁵ 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 1865.⁶

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.⁷ 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."⁸

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

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

6. Ibid., p. 298.

7. Black, op. cit., p. 88.

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

reestablish his declining power base." According to Harlow, Ike regarded the veto as a sign of legislative activism.⁹

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.

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.

REAGAN'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).

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."¹⁰

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."¹¹

9. Conversation with Bryce Harlow, April 1985.

10. Quoted in David R. Burton, "If Congress Is Spendthrift, Where Are Reagan's Vetoes?," The Wall Street Journal, September 11, 1984.

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

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.

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

| <u>President</u> | <u>Years in Office</u> | <u>Vetoes</u> | <u>Vetoes Per Year</u> | <u>% Vetoes Overriden</u> |
|------------------|------------------------|---------------|------------------------|---------------------------|
| 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.

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 1981.¹² 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.¹³ 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.

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 programs 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's 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.¹⁴

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.

12. For a detailed discussion of Reagan'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.

13. Bandow, op. cit., p. 40.

14. "Bill Shifts Vocational Education Emphasis," Congressional Quarterly Almanac, 1984, p. 455.

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 1984.¹⁵ Surely it is time for the White House to end this slump by changing tactics.

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."¹⁶ 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.

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

15. "1984 Partnership More Rhetoric Than Voting," Congressional Quarterly, October 27, 1984, p. 2802.

16. Conversation with Gary Copeland, April 1985.

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."¹⁷ 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.

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

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

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 measure early in this budget cycle, it would send 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 if 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.¹⁸¹⁹ 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.²⁰ 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 flexibility 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.

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

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

19. Ibid., p. 649.

20. Ibid., p. 649.

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 aggressively. It is time for Ronald Reagan to say "no."

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