

Preventing roadkill: Reagan, congress, and the fight over the 1987 federal highway bill

Introduction

The election of Ronald Reagan to the presidency represented the beginning of a new era in American history. After decades of chief executives who adhered to a liberal or moderate political philosophy, Reagan unabashedly advocated conservative principles. Wildavsky views Reagan as¹ “the first president since. Herbert Hoover...to favor limited government at home.” Bath and Collier contend that like Andrew Jackson, Reagan² “led attacks on the government from the outside.” Shogan finds that Reagan’s personal experiences prior to being elected president (1992: 226) “gave him an aura of credibility” which in turn “helped him combine his ideology, values, and character into a powerful force for presidential leadership.”

The latter traits certainly influenced the legislative orientation and performance of the Reagan administration, particularly the proclivity of the president to utilize the veto as a protective and policy-promoting device. The intent of this essay is to examine President Reagan’s approach to Congress, analyze the administration’s overall veto strategy, probe explanations for use of public bill vetoes as well as congressional responses to them, present a case study of a 1987 veto which was subsequently overridden, compare veto behavior by President Reagan with that of his successor, and assess the overall legislative success by the nation’s fortieth chief executive. Various sources, including veto messages, congressional debates, scholarly texts and journal articles, and newspaper accounts are tapped in order to furnish a comprehensive overview of this tool and its impact on executive-legislative relations in the 1980s.

Reagan’s legislative approach

A review of presidential relations with Congress furnishes insights into veto use by President Reagan. Watson and Thomas, in comparing recent chief executives’ legislative orientations, observe that³ “Johnson, Ford, Kennedy, and Reagan had relaxed and congenial relations with most members of Congress, whereas Eisenhower and Carter tended to be uncomfortable with many of them and Nixon was ill at ease in most of his contacts with congressional members.”

Mervin mentions that in Ronald Reagan’s first term⁴ “relaxed, good-humored and modest attitudes struck a sympathetic chord with public and legislators alike—who had had more than their share in intense and overbearing Presidents.” Rose finds that⁵ “Carter’s successor, Ronald Reagan, won good marks from Democrats” in the House and Senate. Jones postulates that⁶ “Whereas he was unlikely to be as close to the members as either Presidents Johnson or Ford, still he would not make the mistake of distancing himself from Congress in either thought or deed.”

President Reagan’s negotiating style of asking for much more than he expected, then yielding when he achieved most of his goals, usually left him⁷ “satisfied and delighted with the result and Congress seemed well pleased negotiations.”

Press Secretary Larry Speakes observes that⁸ “The President was a master of timing when it came to compromising with Congress.” A number of writers comment on the bright beginning attained by the

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Reagan White House. Di Clerico determines that⁹ “Reagan’s smooth start with Congress was a function not only of his astute political instinct but also of his personal style.” Nathan notes that¹⁰ “Reagan’s legislative skills produced important successes in the legislative area, particularly in the early days of his presidency.” Among the reasons for such effectiveness were the short policy agenda,¹¹ skillful liaison office, the president’s landslide election victory in 1980, and the recapturing of majority control of the Senate by the Republicans.¹² However, several scholars detect a pattern of decreasing influence and achievements over time. Dallek asserts that President Reagan’s initial symbolic victories¹³ “turned into substantive defeats for the whole country.” Nathan propagates that¹⁰ “President Reagan’s success in the legislative arena declined sharply after 1981, in part because of the tendency for the luster to wear off a new administration as time passes, and in part because of the steep 1982-83 recession, which reduced the administration’s leverage with Congress.” Jones states that¹⁴ “The steady decline in Reagan’s support scores fits the basic pattern of his association with Congress.”

Rockman contends that¹⁵ “During the first year of the Reagan presidency, many... elements came together in a positive way for the administration’s legislative program,” but the momentum “was soon arrested, in part a consequence of the budgetary stalemate produced by the successes of 1981.”

He identifies the retaking of the Senate by Democrats in the 1986 election together with the fallout from the Iran-contra scandal as explanations for President Reagan’s reduced political advantages in his second term. Brady and Fiorina adduce the derivation of the president’s rapid slide into legislative impotence¹⁶ “The defection of these ‘gypsy moth’ Republicans and some moderate and conservative Democrats who had earlier supported Reagan marked the end of Reagan mastery of Congress.” Bond and Fleisher find that¹⁷ “While Reagan’s persuasive and structuring skills may have permitted him to capitalize on the advantages he had in 1981, when the parameters changes after the midterm elections, the same skills and strategy could not prevent defeats” in Congress. Fisher observes that after his highly effective initial year in office,¹⁸ “Reagan’s control over Congress began to slip away.” Bowles believes that by fusing policy prescriptions with politics, Reagan constructed in Congress¹⁹ “a coalition upon secure ideological foundations to achieve quick policy change, the consequences of which shaped government and politics in the United

States throughout his presidency and beyond.” However, he holds that after 1981, the power balance between the two branches shifted from presidential supremacy to congressional domination.

According to Pfiffner, legislatively²⁰ “the last seven years of the Reagan presidency did not live up to the promise of the first year.”

Veto strategy

President Reagan’s second term legislative relations were highlighted by increasing friction with Congress. Such animosity coincided with a plethora of public warnings by the chief executive regarding his intention to employ the veto. At a March 1985 White House meeting with members of the American Business Conference, Reagan stated the following concerning his position on taxes²¹ (Public Papers of the Presidents: Ronald Reagan 1985, 1988: 278-279): No matter how well intentioned they might be, no matter what their illustrations might be, I have my veto pen drawn and ready for any tax increase that Congress might even think of sending up. And I have only one thing to say to the tax increasers: Go ahead, make my day.

In a 1986 radio address, Reagan offered the upcoming Congress a carrot and a stick (Public Papers of the Presidents: Ronald Reagan 1986, 1989: 1559-1560):⁵ So, I’m looking forward to working with the 100th Congress. Together, there is much we can accomplish. At the same time, let me make it clear that America cannot retreat from its basic commitments, and where I see backsliding, I will not hesitate to use my constitutional veto power to keep America strong and secure and moving forward. The president again invoked the veto in voicing his opposition to tax increases at a July 1987 Rotary Club luncheon in West Bend, Wisconsin (Public Papers of the Presidents: Ronald Reagan 1987, 1989: 878):⁵ “And any tax increase that reaches my desk will be headed on a different kind of vacation: a one-way cruise to nowhere on the SS Veto.”

By 1987, a coordinated veto policy was discernible in the Reagan White House. New York Times reporter Steven Roberts offers the thinking of a senior administration official below:^{22,23}

The plan is not just to veto everything in sight and fight for the sake of fighting. 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, and that we didn’t need when we controlled the Senate. We had to change gears here.

Roberts shares the latter view, arguing that after the loss of the Senate to the Democrats, Reagan’s (p. 12) “influence on legislation comes indirectly, by threatening to block the work of others rather than by promoting his own ideas.” A study of veto threats made by President Reagan from 1981 through 1986 which were reported in the New York Times found that a total of twenty-nine bills were targeted, of which only three became law in their original form.²⁴

Regular vetoes and congressional response

President Reagan vetoed eighteen bills by regular means during his first term, all but one of which were public in type. Seventeen first term regular vetoes dealt with primarily domestic matters, while one concerned international trade provisions. Of the vetoes, eleven went unchallenged by the legislature, including seven in succession in 1982-83; two were sustained by the House of Representatives and

one by the Senate at the first chamber stage; and four public bill vetoes were overridden by Congress. In his second term, President Reagan vetoed twenty-one bills by regular means, twenty of which pertained to public matters. Of the twenty-one vetoes, fourteen concerned domestic proposals whereas seven dealt with foreign policy. In response, twelve of the vetoes went unchallenged by Congress; two more were sustained by the House and one by the Senate at the first chamber juncture; one was overturned by the House but sustained by the Senate; and five public bill vetoes were overridden by both houses.

The veto record of President Reagan may be compared to that of other chief executives over the last century. Although it appears that he followed a contemporary trend of citing various reasons for vetoing legislation, Ronald Reagan vetoed a higher-than-average number of bills overall. From 1889 to 1989, the mean number of annual public bill vetoes is 4.46.²⁵ Table 1 ranks presidents according to the average number of vetoes issued per year over their tenure. President Reagan ranks fifth on this measure. Table 2 shows the frequency of first-year public bills vetoed by regular means over the same century. The mean number of initial-year vetoes over this duration is 2.3.²⁵ Reagan’s total of six public bill vetoes released in 1985 places him in a three-way tie for fourth on this indicator, again above normal in veto activity.

Table 1 Average Number of Annual Public Bill Vetoes by Presidents, 1889-1989

1	Ford	15.3
2	F. Roosevelt	8.75
3	Truman	6.88
4	Taft	5.5
5	Reagan	4.63
6	Eisenhower	4.38
7	Nixon	4
8	Cleveland	3.75
9	B. Harrison	3.5
10	Hoover	3.25
11	Carter	3.25
12	Wilson	3.13
13	T. Roosevelt	2.25
14	Coolidge	2.2
15	Harding	1.67
16	L. Johnson	1.4
17	Kennedy	1.33
18	McKinley	0.25

*annual average of public bills vetoed by regular means.

We may also analyze Reagan’s record by focusing on legislative responses to his public bill vetoes. He had ten of his thirty-nine vetoes overridden by the initial chamber, which corresponds to 25.6 percent. Together the eighteen presidents holding office since 1889 have had 21 percent of their public bill vetoes overridden at the first reconsideration stage. When successful, the average proportion voting override is 82 percent at the initial juncture. However, the mean percentage for actual overrides at the first chamber stage

during the Reagan administration is 81.4percent. Similarly, although the likelihood of final override is higher for President Reagan (nine of ten or 90 percent of second chamber decisions resulting in override) than for all other presidents over the last century (70.8percent), the average margin of actual override is lower for votes against Reagan's public bill vetoes (81percent) than for all presidents who suffered second chambers overturns from 1889 to 1989 (82.9percent).²⁷

Table 2 First Year Regular Public Bill Vetoes by Presidents, 1889-1989

Ford (1974)	14
F. Roosevelt (1937)	9
Nixon (1973)	9
Truman (1949)	8
F. Roosevelt (1941)	6
Truman (1945)	6
Reagan (1985)	6
Harding (1921)	4
Kennedy (1961)	3
L. Johnson (1965)	3
Carter (1977)	2
Eisenhower (1953)	1
Reagan (1981)	1

Case study: 1987 federal highway bill veto and override

The issue of federal highway funding didn't always cause friction between presidential administrations and Congress. The funding of the interstate highway system by the Dwight D. Eisenhower White House was strongly supported by Republicans and Democrats alike.²⁷ But by the 1980's, the nation's economic position and politics had changed significantly. Deficit spending became routine, while political parties struggled to find any issue which would facilitate consensus. A documentary history of the 1987 Federal Highway Bill is available from the Eno Center for Transportation, a non-partisan think tank which studies and advocates for critical issues in the transportation industry. This compendium, released in 2017, contains valuable insights into how and why the controversy ensued. The information below is mostly drawn from this source. After his successful 1984 reelection, President Reagan began his second term with the Federal deficit in mind. As a way to reduce the growing imbalance, the White House hastened implementation of Reagan's New Federalism program, which would shift resources and funding responsibility to states. Various transportation projects, comprising a large segment of the Federal budget, were included in the plan to reduce spending. Federal highway funding, once a lollipop for both parties, now became a political football. With Congress under split party control in 1985 and 1986, the Reagan administration was able to fight off bills for highway funding in the Senate.

Whereas House Democratic leaders sought a major increase in expenditures for highway projects, Senate Republican leaders pushed an increase in the speed limit. While supporting the Senate's position on the latter issue, the White House was fixated on reducing overall funding and ending tax loopholes associated with transportation projects. Still, a 1986 highway bill made it to conference committee

before stalling amid House and Senate differences. A number of factors produced a completely changed political environment as 1987 began. First, the Democrats seized control of the Senate as a result of the 1986 midterm election. Second, President Reagan's popularity continued to sag as a consequence of the Iran-Contra scandal, which broke in Fall 1986. Third, previous House Speaker Tip O'Neill retired and new Speaker, Jim Wright of Texas, included highway funding among an aggressive array of initiatives announced on the first day of the 100th Congress. The 1987 Surface Transportation and Uniform Relocation Assistance Act, eventually identified as Public Law 100-17, authorized federal aid for highway funding for five years, supported demonstration and special interest projects, increased the national maximum speed limit on rural roads, and approved research and implementation of new technologies to improve highway safety. The 1987 Federal Highway Bill began in the House of Representatives as H.R. 2. Within three days of its introduction, the Reagan White House issued a Statement of

Administration Policy which opposed the measure. Among the reasons why the White House opposed the measure is that it exceeded President Reagan's upcoming budget request. This intervention failed to curve the momentum for the bill in the House, which passed it by 401-20 vote on January 21. The Reagan administration then turned its attention to the Senate. James Miller, Director of the Office of Management and Budget, wrote a letter to U.S. Senator Robert Byrd (D-WV) on January 28 in which he objected to a proposed amendment to the highway bill which would prohibit purchases of foreign materials for federally-funded highway projects. The Senate's passage of the measure on February 4 was even more one-sided than the House; the 96-2 vote demonstrated overwhelming bipartisan backing. The bill then went to a conference committee to iron out House-Senate differences.

Starting on February 9, 1987, Eno's documentary history reveals a concerted White House attempt to kill the highway bill in conference. Through a series of letters, phone calls, and events, the White House sought to find enough senators to sustain an expected veto of the highway bill. After the House agreed to the conference committee compromise on March 18 by a 407-17 vote, President Reagan sent a targeted letter to House Speaker Jim Wright in which he threatened to veto the highway bill unless certain changes were made. This move seemed to backfire, as it was followed by a flurry of letters to the White House from House members of both parties urging President Reagan not to veto the bill. The Senate agreed to the conference committee report on March 19.

On March 25, 1987, the Office of Management and Budget sent President Reagan its final review of agency recommendations on the veto of the federal highway bill. The memorandum reveals that no department supported the bill while five—including OMB itself—advised “disapproval” of the bill. Reagan's official veto message on March 27 mirrors the objections to the highway bill identified by OMB in the aforementioned communication. Now facing a Congress controlled by Democrats, scarred by scandal, and already having suffered one veto override already in 1987 on a water bill, President Reagan and his team nonetheless held out hope that the veto could be sustained. That aspiration was quickly quashed in the House, which voted to override Reagan's veto on April 1. The 350-73 vote included 102 Republicans supporting override (Greenhouse, 1987). During the lead up to the Senate vote on overriding the veto of the highway bill, the White House had concentrated on three Republican senators

who it hoped to keep in the fold: Thad Cochran of Mississippi, Mitch McConnell of Kentucky, and Steve Symms of Idaho. In the initial and subsequent Senate votes on override, none of the senators above supported the White House's stance. But the first Senate vote to override failed, 65-35, in large part because of one Democrat: Terry Sanford of North Carolina. Sanford had pledged to state officials to oppose the highway bill due to perceived shortchanging of North Carolina's share, and had indeed opposed the measure in previous passage and conference votes. Sanford initially voted "present" in the Senate override vote on April 1, but quickly shifted his vote to "nay." Almost immediately, an intense pressure campaign began to get Senator Sanford to change his vote so as to produce an override of the highway bill veto. West Virginia Senator Robert Byrd, a Democrat who voted for override, changed his vote in a parliamentary tactic to facilitate reconsideration of the measure. Then, after several hours of lobbying, Sen. Sanford announced his intention to change his vote to approve override. Another Senate vote was scheduled for the next day, April 2.²²

As day broke on April 2, the White House took a bold gamble to try to stave off defeat: President Reagan traveled to Capitol Hill to make a personal plea for Republican support on the override vote. The tactic failed, and the Senate's second override vote resulted in a 67-33 tally, just enough to ensure override. President Reagan's diary entries for this period note his frustration with Senator Sanford's switch to support override. The record likewise shows that the president sent personal thank-you notes to the Republican senators who supported him. As for Terry Sanford himself, he lost his bid for reelection to the Senate in 1992, ostensibly due to health reasons. Still, the infamous 1987 episode in which he helped to orchestrate the eighth veto override of a Reagan public bill veto was never forgotten by allies, antagonists, or by posterity, even receiving a mention in Sanford's obituary.²⁸

Comparing veto use by reagan and bush

The presidencies of Ronald Reagan and George Bush are unique in two ways. They are the first consecutively elected presidents of the same party since John Kennedy and Lyndon Johnson. Additionally, Reagan and Bush confronted a split or opposition-party controlled Congress throughout their tenure, a condition never before encountered by successively elected American presidents. These characteristics furnish rationale to compare their veto policy and utilization with one another. Several writers have witnessed a clear distinction in the veto behavior of the last two presidents. Former Republican Congressman Lawrence DeNardis states²⁹ "Clearly, Reagan and Bush take very different approaches to the veto... Reagan used the veto as an expression of his ideology. He'd take a stand on a variety of issues, whether he could sustain a veto or not." Walsh delineates a difference between the Reagan and Bush veto styles below:³⁰

As his administration wore on, he made the mistake of threatening more and more vetoes, then backing off without extracting important concessions from Democrats. That damaged his credibility because his threats were not taken seriously and his GOP allies were never sure whether he would change his mind...By contrast, Bush tries to avoid antagonizing large constituencies or inflaming congressional passions...

Hook holds that many lawmakers believe that President Reagan was strong on threatening vetoes but often failed to follow through, whereas President Bush³¹ "has made few empty veto threats and has

picked his fight with care."

A few authors have directly accused President Reagan of under-using his veto. Gatusso and Moore contend that³² "This apparent aversion to vetoing may seriously impair Reagan's ability to prod Congress to act responsibly..." For Reagan White House Chief of Staff Donald Regan, the president's veto total, particularly in contrast to that of Gerald Ford (1988: 245), "is an index of the Administration's reluctance to stand the ground it had won in its greatest electoral victories." The present writer has suggested that as minority party chief executives, both Presidents Reagan and Bush have been attacked for actions which appear to subvert legislative authority, including expanded utilization of the pocket veto and interpretive signing statements.^{33,34}

Conclusion

Notwithstanding those commentators who have criticized Ronald Reagan's legislative performance, there are a plethora of positive evaluations. Clearly, Reagan's extensive use of the pocket veto (Table 3) and fervent support of the item veto²⁴ "have fired longstanding arguments about both." Reagan's veto threats were effective in attaining the desired end for the policies under review. Even when his vetoes were challenged, the president's technique of bargaining on the specifics of a bill resulted in some hidden victories, according to Deering.³⁵ President Reagan's 61.8percent average success score on bills voted on in Congress where he took a clear-cut position is as much a measure of his veto record as it is of the fate of legislation which he championed. As "the most important of powers connecting the national executive with the legislature",³⁶ the veto is vital for protecting presidential priorities, limiting congressional extravagance, and promoting inclusive initiatives.³⁷⁻⁴⁴

Table 3 Pocket Veto Leaders, 1789-1989

1	F.Roosevelt	263
2	Cleveland (1st)	128
3	Cleveland (2nd)	110
4	Eisenhower	108
5	Truman	70
6	Grant	48
7	Reagan	39
8	McKinley	36
9	Coolidge	30
10	B. Harrison	25

The veto assisted President Ronald Reagan in achieving these aims, even if he lost some noteworthy battles to prevent enactment of laws.

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