

444-1

THE WHITE HOUSE
WASHINGTON
April 10, 1978

The Vice President
Hamilton Jordan
Stu Eizenstat
Jody Powell

The attached was returned in the
President's outbox and is forwarded
to you for your information.

Rick Hutcheson

EXERCISE OF VETO POWER

cc: Jim McIntyre

Bert } Please
David } review
+ comment. Have
we been too lenient?
SP

THE PRESIDENT HAS SEEN.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APR 5 1978

MEMORANDUM FOR THE PRESIDENT

FROM: Jim McIntyre *Jim*
SUBJECT: Exercise of the Veto Power

OMB recently recommended that you veto the Redwood Parks bill because we believed that the employment impact provisions added over the Administration's expressed concern were highly objectionable precedents for future action. We made this recommendation despite the fact that we understood the Administration's commitment to Redwood Park legislation. I'd like to recount for you a bit of our discussion in making that recommendation.

Fundamentally, my staff and I believe that the Administration's presumptions and implicit rules regarding vetoes are too constraining for our own good. Last year, we vetoed two pieces of legislation: the ERDA authorization, containing the Clinch River project; and the rabbit meat inspection bill, an extremely narrow piece of special interest legislation. In contrast, FDR vetoed 635 bills, more than 50 a year on the average. Truman had 250 vetoes, or about 30 a year; and Eisenhower vetoed 181 bills or about 23 a year.

I believe that over the last year we have developed two implicit "theories" about vetoes, both of which should be modified. First, we seem now to consider vetoes as major exercises of Presidential power: Presidential actions which signify extraordinarily significant differences between the Congress and the Administration and which, therefore, are almost inappropriate actions by a Democratic President with a Democratic Congress. Second, we have, as almost an ironclad rule, that we will not veto unless we have specifically warned of veto at every step of congressional action. I feel this general approach affects adversely our negotiating position on the Hill and your ability to manage the agencies. The Hill perceives our extreme reluctance to use the veto, and predictably, is less willing to negotiate over a wide range of issues. The agencies perceive that as a result of that reluctance to veto, it is possible in effect to commit you not to veto.

To Fitz
cc Ham
Jody
Sta
J

I averaged
10/yr as
governor

both
true

I think that we should modify our approach to the veto. It should not be considered a fundamental breakdown in relationships; and while notice is clearly appropriate, we should not excessively constrain our own freedom of action. I believe that if we were more ready to indicate disagreement by veto -- in cases when such action is sensible -- we would create a greater respect and concern for our positions on the Hill, and provide a stimulus for greater agency support of your positions.

I thought you'd be interested in a quote my staff brought to my attention:

"The veto power's potency...depends, of course, upon its use, and Roosevelt was a constant user. 'If the decision is close,' he once remarked to his department heads, 'I want to veto.'" In 1939, he chose to veto sixteen bills despite approval by the Budget Bureau, remarking to an aide, 'The Budget is getting too soft; tell them to stiffen up.' Indeed, he was prone to call occasionally for 'something I can veto,' and a 'reminder' to department heads and congressmen alike. This was not frivolity; to FDR the veto power was among the President's greatest attributes, an independent and responsible act of participation in the legislation process, and a means of enforcing congressional and agency respect for presidential preferences or programs."*

* Richard E. Neustadt, "Presidency and Legislation: The Growth of Central Clearance," The American Political Science Review, September, 1954, p. 656.



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