



PROJECT MUSE®

3. Possibilities and Limits in the Great Society

Published by

Roof, Tracy.

American Labor, Congress, and the Welfare State, 1935–2010.

Johns Hopkins University Press, 2011.

Project MUSE. <https://dx.doi.org/10.1353/book.61264>.



➔ For additional information about this book

<https://muse.jhu.edu/book/61264>



This work is licensed under a Creative Commons Attribution 4.0 International License.

[136.0.111.243] Project MUSE (2025-01-18 20:34 GMT)

Possibilities and Limits in the Great Society

After the many disappointments from the 1940s through the early 1960s, the unprecedented legislative victories of the Great Society years finally rewarded organized labor's efforts to expand the welfare state. Labor leaders attended one Rose Garden signing ceremony after another in which they watched President Lyndon Johnson sign into law legislation labor had worked on for years.¹ Many of the programs of America's unique, targeted welfare state were passed during this brief period of time. The Great Society years illustrate the pattern of American welfare state development in which the United States tends to develop programs in waves, or "big bangs."² The first big bang was during the New Deal as government struggled to deal with the Great Depression. The second was during the Great Society, in which Johnson built on respect for a slain President Kennedy's legacy. Large Democratic congressional majorities produced by unusual circumstances facilitated both periods of frenetic legislative action. In the mid-sixties the liberal majorities were temporarily large enough to overcome the resistance of the conservative coalition on a range of issues.

Although many of the successes of the mid-sixties were made possible by the

extraordinary political environment, they also reflected the role of a more politically sophisticated labor movement. Labor is often perceived as a collection of inflexible bureaucracies incapable of adapting to political circumstances; however, organized labor did respond to the political failures of the 1940s and 1950s. Politics and political institutions, in fact, had a profound impact on the structure of the labor movement and its political agenda. In the 1940s the labor movement aspired to become an economic and political force comparable to its peers in other Western industrialized nations. But it became clear during the Truman administration that the labor movement's aspirations could not be realized unless something changed. While continuing to press for congressional reform and civil rights legislation, labor also adapted in several ways: the AFL and CIO reunited into one stronger federation that made great strides in developing its electoral, lobbying, and public policy research operations; unions pursued a range of benefits from employers that were provided by government programs in other countries; and the new AFL-CIO pushed more incremental policies compared with its agenda in the forties. The turn to collective bargaining and incrementalism in public policy was not a reflection of the exceptional, conservative nature of the American labor movement but rather a reasonable response to the difficulty of getting comprehensive welfare state policies through the legislative process.

In comparison with its ambitious agenda of a comprehensive welfare state in the 1940s, organized labor entered the 1960s with more modest immediate goals. In the area of full-employment policy, the AFL-CIO continued to call for "a rational national economic planning process" involving the "democratic participation" of key groups along with the government and the creation of a National Planning Agency.³ Affiliated unions like the UAW continued to stress this approach.⁴ But in lieu of planning, the AFL-CIO accepted a myriad of government jobs programs, public works spending, and stimulation of private-sector demand to keep the labor market tight, as well as job training for those at the bottom of the labor market.⁵ Learning from the failure of national health insurance in the Truman years, labor focused on more limited but politically obtainable legislation to provide health coverage to the elderly through Medicare. In the area of labor law reform, organized labor shifted from repeal of the entire Taft-Hartley Act to repeal of its most odious provision, Section 14(b). In the AFL-CIO's approach to worker income security programs, it continued to call for the incremental improvement of the minimum wage and federal standards for the unemployment compensation system.

Despite the surge of legislation in the Johnson years, there were still limits on labor's achievements. Given the size of the liberal majorities, the role of institutions in undermining labor's position was more definitive. Legislative institutions restricted liberals' power in the forties and fifties, but there were many instances in which labor lost because its position was not supported by congressional majorities, at least not in both chambers. During the 1960s, obstruction by a reformed Rules Committee declined considerably, but the influence of other powerful House committees, like Ways and Means, became more apparent, particularly in slowing down the passage of Medicare and opposing federal standards for unemployment compensation. While the filibuster was finally overcome on civil rights legislation (discussed in Chapter 4), it emerged as a powerful obstacle to labor law reform. Minimum wage is the only policy considered here that moved through the legislative process relatively unscathed. In short, a unified conservative coalition could still effectively challenge labor's goals through several institutions in the legislative process even during the heyday of the Great Society.

This chapter demonstrates both the possibilities and the enduring constraints on labor's influence in the policy-making process. It first explores the factors that led to the destabilization of the conservative coalition's influence over policy making. It then looks at the ways the labor movement responded to the political failures of the 1940s and 1950s and how it became a more effective political actor on the national stage. Finally, the chapter looks at labor's efforts to pass Medicare, repeal 14(b) of the Taft-Hartley Act, and improve the minimum wage and unemployment compensation systems.

Destabilization of the Conservative Coalition

After dominating domestic policy making over two decades, the conservative coalition began to lose influence in the 1960s as the labor-liberal wing of the Democratic Party grew in Congress. The non-Southern contingent of the Democratic Caucus in the House surged in the 1958 elections, contracted slightly during the Kennedy years, and surged again in the 1964 elections (table 3.1). The percentage of non-Southern Democrats would never again fall below 60%. The conservative coalition's success on roll call votes fell considerably during the Kennedy years and reached a low in the 89th Congress (1965–66) of 28% on the House floor and 46% on the Senate floor (see table 2.1).

Despite the declining success of the conservative coalition on the floor in

Table 3.1. Rise of Non-Southern Democrats within the House Democratic Caucus

Year	Total Number of Democrats	Non-Southern Percentage
1945	242	52
1947	188	39
1949	263	55
1951	234	50
1953	213	48
1955	232	53
1957	234	53
1959	283	61
1961	263	58
1963	250	59
1965	294	66
1967	247	63
1969	246	64
1971	255	65
1973	243	65
1975	290	69
1977	292	69
1979	276	69

Source: Based on calculations from data in Shelley, *Permanent Majority*, table 8-1.

the early sixties, the Kennedy years remained a period of intense frustration for organized labor.⁶ Kennedy's election raised labor's expectations, but as a report by the Textile Workers Union noted, "The election did not change the archaic rules under which Congress operates or fails to operate—rules which make it comparatively easy for the conservative coalition to block progress."⁷ While many Southerners cooperated with the administration on controversial legislation dealing with taxes, farm subsidies, trade, and the national debt, they continued to buck the party line on labor and minimum wage bills.⁸ Although the coalition was less successful on roll calls, it continued to obstruct and shape legislation and the legislative agenda in the committee process. Even in the committee process, change was starting to take place. Under pressure from liberal House members and groups like organized labor, the House Rules Committee was expanded in 1961 to allow the appointment of additional liberals. Loyal Democrats were also placed in vacant seats on Ways and Means and Appropriations, two of the most important committees.⁹ But key bills of interest to labor in Kennedy's legislative program still stalled.

After working so hard to mobilize union members in the 1960 election, labor

leaders feared that lower-level activists would become disillusioned with the political process. The AFL-CIO distributed a pamphlet to local union leaders to encourage them to explain to union members the numerous obstacles to progressive legislation with the goal of invigorating grassroots political participation. The pamphlet opened with the question: "Why can't a popular President with a Congressional majority carry through his legislative program? This question is being asked by many union members. If the answers they get do not create an understanding of the political problems involved in the legislative process, the result may be apathy and disillusionment. If, on the other hand, we understand WHY legislation we support is bogged down, we can work effectively to eliminate the roadblocks."¹⁰ The pamphlet explained the legislative process and detailed seven "Roadblocks to Liberal Legislation." These roadblocks are virtually the same as those identified in this book: the conservative coalition in Congress, overrepresentation of rural areas, seniority control of committees, the power of committee chairs, the power of the House Rules Committee, the Senate filibuster, and, finally, lack of public concern. The AFL-CIO's 1963 evaluation of Congress noted, "Too often Congress fails to meet urgent public needs because these antiquated, outdated rules and procedures give unwarranted, unjustifiable veto power to a conservative minority."¹¹ These roadblocks would be temporarily overcome in several policy areas during the early Johnson years.

Although the labor movement was initially skeptical of Lyndon Johnson when he assumed the presidency following Kennedy's assassination in 1963, he emerged as one of the strongest presidential allies of organized labor in American history, perhaps the strongest. The Democratic surge in the 1964 elections put both labor and Johnson in an advantageous position. After the election, George Meany observed that "to a greater degree than ever before in the history of this country, the stated goals of the administration and of Congress, on one hand, and of the labor movement, on the other, are identical."¹²

Although Johnson's legislative skills no doubt played a role in the administration's victories, his greater legislative success compared with Kennedy's was primarily a result of the larger Democratic majority—and the larger percentage of non-Southerners in this majority—in the 89th Congress. The party unity of non-Southern Democrats remained roughly the same over the Kennedy-Johnson years, while the party unity of Southern Democrats actually declined.¹³ Not only did the number of loyal Democrats make floor majorities possible, but the size of the Democratic majority changed the committee ratios, enabling the

appointment of new members, which broke the lock of the conservative coalition on a number of important committees. The sustained efforts of the labor movement over the previous two decades helped make this changed political environment possible, and organized labor was prepared for the opportunities that opened up in the Johnson years.

Labor's Response to Political Failures

The Merger

The legislative setbacks of the 1940s and 1950s convinced many labor leaders that the movement's influence in the political process had to be strengthened. The AFL and the CIO worked together on issues like full-employment legislation, national health insurance, and the repeal of Taft-Hartley. They also increasingly cooperated in elections. By the 1950 elections, the CIO-PAC and the AFL's Labor's League for Political Education (LLPE) were coordinating political activities in more than a dozen states.¹⁴ Although jurisdictional struggles and organizing rivalries continued between the affiliates of the two federations, there was growing talk of a merger to build labor's political clout.

The two federations came together as the AFL-CIO in 1955 out of perceived political necessity. In addition to the stalemate on social welfare legislation and Taft-Hartley repeal, Eisenhower's appointees to the NLRB weighted the board toward employers' interests. There was also a growing backlash at the state level, largely in the form of right-to-work laws. Even though George Meany, president of the AFL and newly merged AFL-CIO, came from the more traditional and conservative building trades wing of the labor movement, he was an experienced political operator and fully committed to political action. Meany argued the merger was the "key" to greater electoral influence and "the passage of liberal legislation."¹⁵ Walter Reuther, the president of the CIO and the UAW, hoped the merger would end wasteful jurisdictional battles and spur new organizing drives in the South and other antiunion strongholds. He optimistically speculated that two to four million new workers would be organized within two years.¹⁶ Although the two leaders would become bitter rivals with different visions for the labor movement over the next decade, at the time of the merger both Meany and Reuther shared the goal of expanding labor's political influence and social commitments.

The merger did not produce substantial organizing gains, but it did result in a much more powerful political operation by the 1960s. As Robert Zieger notes,

COPE, the AFL-CIO's electoral arm, "soon combined the efficiency and idealism of CIO-PAC and the broad grass-roots coverage of its AFL counterpart, Labor's League for Political Education."¹⁷ While roughly one in three workers belonged to a union in the mid-fifties, COPE staff estimated that only 30% of union members were even registered to vote.¹⁸ So COPE focused on registering union members and their families and getting them to the polls. One of the most useful innovations was the card file method, which allowed union activists to track the political participation of individual members and set up lists for phone banks and precinct walks. The overall registration rate of union members rose to 52% by 1961, even though many areas still did not use the system.¹⁹ To encourage state- and local-level leaders to become politically active, which was often the key to electoral success, the AFL-CIO set up a program in which national COPE would match two dollars for every dollar raised by state and local central bodies or local unions for political activities such as voter registration or voter turnout drives.

COPE became increasingly well organized and better funded with each election cycle, and organized labor became a more respected, if not omnipotent, electoral force. Coming off a number of congressional victories in 1958, the AFL-CIO played an unprecedented role in the 1960 and especially the 1964 elections.²⁰ Scholars such as Michael Harrington and J. David Greenstone argue that the AFL-CIO assumed a role within the Democratic Party very similar to that of many European labor movements in their allied labor and social democratic parties. In the industrialized states where labor was strongest, the AFL-CIO's political organization resembled a party.²¹ Union leaders could not convince all their members to vote for labor-endorsed candidates, but sizable majorities typically did, and so the key was to get as many union members to the polls as possible. In addition, the AFL-CIO tried to maximize the turnout of other Democratic constituencies such as minorities and increasingly senior citizens.²²

The AFL-CIO's lobbying operation also developed a reputation for skill and influence in the late fifties and sixties. The Washington office of the AFL-CIO worked in cooperation with the politically active internationals and the state and local AFL-CIO central bodies to build organized labor's power in the legislative process. Andrew Biemiller, a former congressman who was a strong advocate of civil rights, national health care, and other liberal causes, served as the chief lobbyist for the federation, becoming one of the most knowledgeable and effective legislative representatives in Washington over his twenty years of service. The federation also set up a sophisticated public policy research infrastruc-

ture that was responsible for developing a number of prominent policy proposals including Medicare. Harrington suggests that labor was “the strongest single force for progressive social legislation in Washington” in the sixties, becoming an “invisible mass movement” for “social democracy.”²³

Pursuit of Private-Sector Benefits

Labor’s strength in the economy, which peaked in the 1950s and 1960s, expanded the fruits of collective bargaining, permanently altering the context for public policy innovation. The policy failures of the 1940s and 1950s encouraged unions to turn to collective bargaining to obtain the benefits labor could not achieve through legislation. As Walter Reuther observed in 1946, “There is no evidence to encourage the belief that we may look to Congress for relief. In the immediate future, security will be won for our people only to the extent that the union succeeds in obtaining such security through collective bargaining.”²⁴ Some labor leaders also believed growing private-sector benefits would encourage employers to support the expansion of public programs to assume the costs.²⁵ While the labor movement was unsuccessful in significantly expanding the welfare state in the early postwar years, organized labor was quite successful in collective bargaining, developing what Marie Gottschalk has termed a “shadow welfare state” of private benefits provided by employers.²⁶

Government policies during the war and reconversion promoted employee benefits. A windfall profits tax was imposed on corporations, and employers’ expenditures on benefits were made tax-exempt. This tax treatment, in combination with a government-imposed wage freeze and tight labor markets, encouraged employers to attract and retain employees through fringe benefits. But when corporations tried to pull back on these benefits after the war, pensions, health insurance, and employer contributions to health and welfare funds became major sources of conflict in collective bargaining.

Truman hoped to avoid this conflict through his welfare state agenda. Workers would gain a large measure of their economic security from government programs rather than collective bargaining, which would foster industrial peace. He noted in his veto message of the Case bill in 1946:

It must always be remembered that industrial strife is a symptom of basic underlying maladjustments. A solution to labor-management difficulties is to be found not only in well considered legislation dealing directly with industrial relations, but, also, in the comprehensive legislative program which I have submitted to the

Congress designed to deal with the immediate dangers of inflation and prevent ultimate economic collapse. For example, legislation which would really make possible price controls and protect labor's standard of living, legislation which would bolster market demand when it sags, and basic legislation which would extend social security benefits, provide health and medical insurance, and adequate minimum wages would contribute more to the solution of labor-management strife than punitive legislation of this type.²⁷

However, the conservative coalition in Congress did not share Truman's vision. Without adequate government insurance programs, benefit-related strikes proliferated. One of the bitterest strikes of the coal miners was over Lewis's demand in 1946 that the mine operators contribute to a health and welfare fund that would have been unnecessary if Truman's national health insurance proposal had been adopted.²⁸ The mine operators wanted to restrict the scope of collective bargaining and argued that the health and welfare fund "would establish by contract a new social and economic philosophy which is properly the field of social legislation."²⁹ However, the miners ultimately got their fund, and other unions sought to include similar benefits in their contracts. The NLRB ruled that pensions and insurance were valid subjects of collective bargaining in two cases in 1948, and the next year Truman's steel mediation board recommended steel operators' acceptance of the Steelworkers' demands for pension and social insurance.³⁰ The floodgates opened. Fifty-five percent of strikes in 1949 and 70% in the first half of 1950 were over health and welfare issues.³¹

Most employers eventually gave ground, and benefits such as pensions and group health insurance became standard features of union contracts. By 1954 three-quarters of union members were covered by a health or pension plan.³² Although contested in the reconversion period by many employers, collective bargaining became routine behavior accepted by much of American industry in the 1950s. The strong postwar economy underwrote unprecedented gains for organized labor at the bargaining table in wages, vacation time, and benefits. Collective bargaining helped produce the burgeoning middle class and American standard of living associated with the fifties in American popular culture. In order to fend off unionization and remain competitive in recruiting workers, many nonunionized firms offered union wage rates and the benefit packages that unions obtained through collective bargaining.

The rise of private-sector benefits had a number of consequences for the workforce, organized labor, and public policy. Dependence on employer-sponsored

benefits made American workers more vulnerable to economic downturns, job loss, and competitive downward pressures on compensation than workers in other countries with more extensive welfare states. A two-tiered labor force also emerged, with white-collar and unionized workers enjoying good wages and benefits and low-skilled workers in largely nonunionized industries often going without.³³ This made unionized workforces more expensive, which contributed to the contentiousness of collective bargaining and increased the resistance of some employers to unionization. Yet the prevalence of private insurance also gave the majority of workers a stake in the existing system and has further complicated health care reform efforts.³⁴ Noting the impact of employer-provided health insurance on the history of health care reform, Hacker argues, “Each intermediate step in favor of privatized social welfare approaches increases the probability that future steps will occur in the same direction.”³⁵ Policies encouraging the proliferation of private health benefits created “policy feedbacks” that made a national health care system less likely in the future.

Some observers suggest that unions’ success in collective bargaining for benefits led organized labor to pull back from its support for expansion of the welfare state, but the evidence is clear that the AFL-CIO and many of the internationals continued to push for programs like universal health care.³⁶ However, the proliferation of employer-sponsored benefits took the urgency out of the pursuit of government programs, and it certainly affected the level of concern of the secondary labor leadership and the rank and file.³⁷ Generous employer-provided benefits also made compromise on health care reform more difficult because organized labor—and most insured Americans in general—have wanted government programs to be just as comprehensive or more so, which drives up their cost. The insured fear reform will make them worse off. These concerns about destabilizing existing employer-provided benefits made Medicare an attractive, incremental expansion of the welfare state because targeting government programs to the retired would complement the existing system of employer benefits rather than replace it.

Medicare: The Fight for Incremental National Health Insurance

The failure of Truman’s national health insurance proposal to make any progress by 1950 convinced many health care reform advocates that plans would have to be scaled back to attract more support in Congress. As Theodore Mar-

mor notes, the inability of Truman to “extract” social legislation from “powerful, independent committees” served as a lesson for reformers. “The strategy of the incrementalists after 1952 was consensus-mongering: the identification of less disputed problems and the advocacy of modest solutions which ideological conservatives would have difficulty in attacking.”³⁸ In pursuing an incremental approach to national health insurance, reformers saw advantages in terms of public policy and politics in targeting the elderly first. Of all demographic categories, this group faced the highest average health costs, had the lowest average incomes, was unlikely to have employer-provided benefits in retirement, and found it difficult and often prohibitively expensive to obtain private insurance. The elderly were also a sympathetic population, and health benefits could be sold politically as a logical extension of the Social Security program. The administrator in charge of the Social Security program, Oscar Ewing, eventually endorsed a proposal to provide coverage for hospital costs for the elderly, which was at this time the most expensive and potentially economically devastating medical expense for senior citizens.³⁹

The push for medical assistance for the aged gained momentum in the late fifties in part because the newly merged AFL-CIO made it a top legislative priority. It was clear to labor leaders that an incremental approach had a better chance of prevailing in Congress, and they hoped that coverage for the aged would be the first step toward a universal system of national health insurance. The newly merged AFL-CIO created its own in-house public policy research division, which worked with old public policy hands from the Roosevelt and Truman administrations to prepare a plan to cover hospital, surgical, and nursing home benefits for the elderly as an extension of Social Security. The plan was introduced in Congress by Representative Aime Forand (D-NJ) in 1957. In 1961 the AFL-CIO joined the Democratic National Committee to fund the National Council of Senior Citizens (NCSC), dedicated to developing grassroots support for Medicare and mobilizing the elderly in politics.⁴⁰ The AFL-CIO also launched a major effort to educate union members about the need for health care assistance for the elderly and ran persistent letter-writing campaigns to build support in Congress in the late fifties and early sixties.

Even such a radically scaled-back government health care program faced considerable obstacles to passage. The threat of Eisenhower’s veto and the absence of presidential leadership discouraged action in the fifties. The opposition of Wilbur Mills (D-AR), who became the chair of the powerful House Ways and Means Committee in 1957, also hurt Medicare’s prospects. Mills argued that the

program would be fiscally unsound given the growing costs of medical care and that the level of taxation necessary to support the program might undermine support for Social Security.⁴¹ His opposition was hard to overcome because the majority on the committee remained hostile to Medicare until the 1964 election. Much like the Rules Committee, Ways and Means was a prestigious committee dominated by senior members with low levels of turnover. Appointments to Ways and Means were by custom controlled by regional party caucuses, giving the leadership and the Democratic Caucus as a whole less say in the committee's composition. The geographic distribution of seats was also frozen in a pattern that favored Southerners over the rising population of urban, pro-labor Democratic House members.⁴² For years, liberal congressional gains in elections were not reflected in commensurate liberal gains on Ways and Means. In 1960, in the first vote taken on the Forand bill, the House Ways and Means Committee voted 17–8 to table the proposal. The ten Republicans on the committee were joined by Mills and six other Southern Democrats in voting to kill the bill.

The approach of the 1960 elections kept the issue of medical care for the elderly alive. In an effort to forestall more significant reform, Eisenhower proposed his own plan early in the year to offer matching grants to interested states to provide medical benefits for the low-income elderly. A Senate version was endorsed by Republican presidential candidate Richard Nixon, and Chairman Mills supported a version in the House. A scaled-down proposal for grants to the states, known as the Kerr-Mills or the "charity" approach, passed Congress as part of the 1960 Social Security amendments. But because of the lack of interest in the states, the program never covered very many elderly.⁴³

Democratic presidential nominee John F. Kennedy was a sponsor of a Senate version of the Forand bill, and he and the AFL-CIO made medical care for the elderly a major campaign issue. Kennedy's election sent liberal hopes for passage of a Forand-type bill soaring. Soon the more liberal, social insurance approach gained the title "Medicare." Eager to exploit the political opening, the AFL-CIO stepped up its lobbying campaign. Retired from Congress, Representative Forand assumed the top position at the NCSC to push for Medicare. A Medicare bill, introduced in the 87th Congress by Representative Cecil King (D-CA) and Senator Clinton Anderson (D-NM), embodied Kennedy's proposal and replaced Forand's bill as the focus of reformers.

Despite growing public support for greater health care assistance to the elderly, Ways and Means remained an obstacle.⁴⁴ In the first year of Kennedy's

administration, the AFL-CIO created a new labor task force to secure support for the King-Anderson bill. The task force recruited staff and volunteers from the affiliates to work with AFL-CIO staffers to mobilize grassroots support in the districts of resistant Ways and Means members including Mills's.⁴⁵ Mills reportedly promised a United Steelworkers leader that he would allow discussion of the proposal if the unions would stop "stirring up grass roots complaints in his district."⁴⁶ The committee held hearings in 1961 but did not take a vote.

The administration and liberal groups including the AFL-CIO mounted a sustained campaign to try to ensure that only Medicare supporters were appointed to vacancies on Ways and Means. As Nelson Polsby notes of this period, "The advocacy of a liberal agenda in the House required prudent management as of a slow-growing garden, the preparation of soil, the nurturing of tender shoots, patient cultivation, and waiting for an eventual, occasional harvest. This is what committee packing was all about: the clearing of channels through which—later on—proposals could move without excessive hindrance."⁴⁷ Anti-Medicare Southern Democrats were gradually replaced with Southern supporters of the King-Anderson bill. When two Democratic seats came open on Ways and Means in the wake of the 1962 election, John W. Edelman of the Textile Workers argued that the Speaker and the White House could influence the selection of replacements and that "from this very moment till the decision is made those of us who want to be sure to get this aid-for-the-aging bill this time had better get busy doing at least a dozen different things and keep at it day after day" to ensure the seats were filled with Medicare supporters.⁴⁸ A "liberal revolt" in the Democratic Caucus under pressure from labor defeated an attempt to put Representative Landrum (D-GA), the conservative sponsor of the hated Landrum-Griffin bill, into one of these seats.⁴⁹ As a result of these efforts, the margin of opposition on Ways and Means shrunk from 17–8 in 1960 to 15–10 in 1962 and 13–12 in 1964.⁵⁰

Supporters were also getting closer to victory in the Senate. In 1962 Senator Anderson's effort to add his proposal to a House-passed welfare bill narrowly lost by a vote of 52–48 in favor of tabling the amendment.⁵¹ There was likely more support for the Medicare proposal, but some senators opposed circumventing the committee process while others feared the House would never accede to the Medicare proposal in conference and the passage of the underlying bill might be delayed or jeopardized. But the vote on the tabling motion once again reflected the opposition of the conservative coalition of Southern Democrats and Republicans to expansion of the welfare state and the near

unanimity of support among non-Southern Democrats. Ninety-five percent of non-Southern Democrats opposed the tabling motion, compared with 17% of Southern Democrats and 14% of Republicans.

After Kennedy's assassination and Lyndon Johnson's assumption of power, a flood of legislation began to move in Congress. The most dramatic victory occurred in the passage of the far-reaching Civil Rights Act of 1964, which passed the House and finally the Senate after cloture was invoked, ending a fifty-seven-day filibuster. The logjam in the Senate on Medicare was also finally broken. A modified form of King-Anderson was introduced at the beginning of the 88th Congress that expanded health coverage to all elderly, not just Social Security recipients. The proposal failed to make it out of committee in the Senate. But late in the congressional session just before the 1964 elections, Senator Albert Gore (D-TN) proposed an amendment to a House-passed Social Security bill that encompassed the King-Anderson proposal. The amendment passed 49–44 in the Senate with the support of 98% of non-Southern Democrats but only 21% of Southern Democrats and 15% of Republicans. Chairman Mills appeared to search in earnest for a compromise proposal he thought would fare well on the House floor.⁵² But Ways and Means once again failed to report a bill when a pair of Southerners made it clear they would oppose a pending compromise and several other committee members expressed reservation about taking the vote before the election.⁵³ The administration's count in the House showed sixty Democrats against Medicare, all from the South or the border states of Kentucky and Oklahoma, and all but fifteen Republicans opposed.⁵⁴ The administration considered trying to put members on the record in the House by forcing a floor vote to instruct the conference committee to accept the Senate version of the bill over Mill's objection but decided against it.⁵⁵ Mills appointed a narrow majority of House conferees opposed to the Medicare proposal, whereas the balance of Senate conferees supported it. The conference ended in deadlock, and the underlying Social Security increase died along with the Medicare proposal. The *New York Times* labeled Mills the "One-Man Veto on Medicare."⁵⁶ However, the conference outcome masked a breakthrough for Medicare supporters. Mills promised the liberals on his committee that Medicare would be the top legislative priority in the next session.

The outcome of the 1964 elections made passage of some form of Medicare inevitable. The AFL-CIO, President Johnson, and numerous congressional candidates made Medicare a central campaign issue. The AFL-CIO made a special effort to mobilize senior citizens. Johnson won a landslide, and the Democrats

gained fifty-eight seats in the House, giving them a majority of two to one over Republicans. The Democrats had the most sizable majority and the largest percentage of non-Southern Democrats (see table 3.1) since the 1930s. The conservative coalition could finally be reined in because it lost its institutional lock on power. Because of the size of the Democratic victory, the party ratios on committees changed and liberals in the House, their labor allies, and the Johnson administration pressed for the additional seats to go to loyal Democrats.⁵⁷ Ways and Means picked up two Democrats committed to Medicare and lost two Republicans, producing a pro-Medicare majority. But the drama over Medicare was not over yet.

Confronting the likelihood of defeat, Medicare opponents introduced alternative proposals in early 1965. One of the criticisms of the King-Anderson approach was that it covered only hospital and nursing home care and it would not open access of poor elderly to services such as doctor visits and medical tests. The AMA tried to exploit this weakness by offering an “eldercare” proposal to provide a comprehensive package of medical benefits to the indigent elderly. Another proposal dubbed “bettercare” offered Social Security recipients federally subsidized private insurance for a complete package of benefits with a graduated premium based on income. The introduction of these proposals produced unexpected consequences for the anti-Medicare forces.⁵⁸

Members of Congress including Chairman Mills had grown worried that the public perceived the Medicare proposal to be far more comprehensive than it actually was and that there might be a backlash when the bill went into effect. Leading Democrats worried that seniors would become fully aware of the limits on the coverage in the two years preceding the 1968 election and Republicans would be able to argue that they had defended a more comprehensive plan, even if it covered very few people.⁵⁹ Facing political realities and finally convinced that the program could be made financially solvent, Mills maneuvered successfully to add a package of more comprehensive benefits to the Medicare proposal reported out of Ways and Means.⁶⁰ Liberals and the AFL-CIO were pleased with the move and eventually built on the momentum to lobby for even more generous benefits in the Senate.

The final Medicare bill significantly expanded the government safety net. It included two parts addressed to senior citizens. The first part embodied the King-Anderson proposal for compulsory hospital and nursing home insurance for all elderly to be funded through a payroll tax. The second part provided a voluntary comprehensive program of benefits including doctor visits, nurs-

ing care, and lab tests (though not prescription drugs) in which the elderly could enroll upon turning sixty-five with the payment of a subsidized monthly premium. The bill also strengthened the Kerr-Mills program in what became known as Medicaid, a joint federal-state program to cover medical care for the indigent of all ages and the disabled. A role for the states was preserved in the welfare program, but the Medicare program, like Social Security, would be open to all elderly citizens and administered by the federal government.

Mills's new and improved version of the Medicare bill moved fairly quickly through the legislative process. The conservative coalition's opposition was destabilized. With its pro-Medicare contingency strengthened by the election, years of lobbying to put only pro-Medicare members into open Democratic committee slots, and the change of heart of its chair, House Ways and Means finally reported the bill on a strict party-line vote in March 1965. The Rules Committee, which also reflected a new ideological balance because of the election, quickly reported the bill with a favorable rule, with all but one Republican voting against the rule and all but one Democrat (Representative Colmer of Mississippi) voting in favor. The AMA's opposition was diffused by the payment system adopted, and it could not break the congressional momentum. The Medicare bill passed the House by a vote of 313–115 with the support of all but two non-Southern Democrats, more than a majority of Southern Democrats, and just slightly less than a majority of Republicans. A version passed the Senate in early July by a vote of 68–21 with all non-Southern Democrats and roughly two-thirds of Southern Democrats supporting the bill and Republicans almost evenly split. The conference committee was uneventful.

The legislative struggle that began twenty years earlier with Truman's national health insurance proposal culminated in a dramatic presidential bill-signing ceremony at the Truman Library in Missouri with Truman in attendance. The final passage of Medicare was made possible by a number of factors, which reveal both the potential and the constraints for broad-based social welfare legislation in the United States. Central to the bill's success was the incremental approach of targeting the elderly rather than the working-age population, which after the passage of two prosperous decades showed much higher rates of coverage by private insurance. The growing political savvy and legislative influence of organized labor also played a role. Mobilization of grassroots support, particularly among the elderly, in addition to the persistent and strategic push of the lobbyists and leaders of the AFL-CIO and many of the international unions year after year, built momentum—and a numerical majority in

the case of the Ways and Means Committee—behind the bill. Most important was the large Democratic congressional majority, with many Democrats elected from outside the South. The 1964 elections might be interpreted as a mandate for social reform given Johnson's record and the Democratic Party platform. However, the size of the Democratic majority was made possible by anomalies in the political environment in 1964, including public reverence for the slain Kennedy and the Republican nomination of a presidential candidate considered by mainstream America to be too far to the right. Almost a historical accident, the 1964 election results produced a liberal majority that was strong enough to overcome temporarily the institutional obstacles that had impeded Medicare's passage before. But it is also important to recognize the role of labor in laying the groundwork.

The size of the victories on the final Medicare bill in the House and Senate votes meant little as a direct measure of representatives' support because once legislation gains the air of inevitability, the dynamic changes, and many legislators pile on. The most important goal for reformers seeking popular legislation in the American public policy process at this point was to break the institutional obstacles early in the process—typically at the stage of committee action—that prevented full consideration of bills many legislators were just as happy not to have to cast a vote on and risk angering powerful interest groups like the AMA. This is a major reason that the discharge petition process is rarely successful.⁶¹ When legislation was stymied by committee action, rank-and-file members could defend themselves to advocates of the legislation like the AFL-CIO by claiming they never had the opportunity to vote on the bill. The remaking of the membership of the Ways and Means Committee over time and the size of the Democrats' majority in 1965 broke this dynamic. Liberals gained ground in the Democratic Caucus, and they wanted—and in fact felt they needed—a vote on the bill to keep their constituents happy.

The AFL-CIO hoped that the success of Medicare would build support for extending government health insurance to the larger population. In 1967, a year after Medicare benefits went into effect, the AFL-CIO again publicized its support for a program of national health insurance. The next year organized labor supported the creation of a new organization, the Committee for National Health Insurance. However, the legislative window opened by the unusual confluence of events in 1965 quickly closed, and the more typical pattern of gridlock in American politics returned in the area of health care. In the area of labor law reform, the gridlock never ended.

The Effort to Repeal 14(b)

The passage of Medicare, Social Security improvements, the Voting Rights Act, aid to education, a major public works program, an improved housing program, and various War on Poverty measures in 1965 led the AFL-CIO to sum up the year as “the most productive congressional session ever held.”⁶² However, organized labor’s legislative record in 1965 was marked by one bitter defeat—failure to obtain favorable changes in the Taft-Hartley Act. Despite legislative success on labor’s social welfare priorities, efforts to repeal 14(b) demonstrated that political institutions designed to protect the minority were a major obstacle to labor legislation.

Just as organized labor narrowed its focus from national health insurance to medical assistance to the elderly, it shifted from total repeal of Taft-Hartley to repeal of the most burdensome provisions. The most hated provision was Section 14(b), which allowed states to pass right-to-work laws prohibiting union security agreements such as the union shop (where employees must join a union or pay union dues) from being negotiated in collective bargaining agreements. Most of the Southern states and many nonindustrial states in the West passed right-to-work laws shortly after the passage of Taft-Hartley.

Section 14(b) posed several problems for labor. Union leaders argued it was difficult to organize in states with right-to-work laws because it was harder to establish fledgling unions without security arrangements. Moreover, the National Right to Work Committee, formed in 1955 to exploit 14(b), pushed right-to-work referenda or legislation not only to fight unionization but also to divert labor’s attention and resources. To some degree the strategy backfired.⁶³ The state right-to-work battles brought the state and local AFL and CIO affiliates into closer cooperation in their political activities. When right-to-work referenda were put on state ballots, they resulted in massive voter registration and education campaigns of union members and allies. These fights generally produced a coattails effect in the election of more liberals to state governments and Congress. Yet labor leaders recognized that these fights were diverting resources from the national labor organizations and that, once a state right-to-work law passed, it was extremely hard to repeal. The provision held symbolic importance for the labor movement as a continuing reminder of labor’s geographic vulnerability. In pursuing right-to-work laws, labor’s foes could shift the political battle away from areas where labor was stronger, at the national level and in

industrial states, to areas where it was weaker. Thus, repeal of 14(b) became the top legislative priority by the late fifties. Eisenhower ultimately came out against 14(b) repeal, and there was not enough support in Congress during either his or Kennedy's presidency to pass repeal. However, the 1964 election results gave labor new hope, and AFL-CIO leaders immediately began to explore the chances for repeal.⁶⁴

Johnson promised organized labor that repealing 14(b) would be a priority for his administration. But he convinced AFL-CIO president Meany of the need to hold off until after passage of major Great Society programs—such as Medicare, federal aid to education, and public works—that were also on labor's legislative agenda. The House finally took up 14(b) in the summer of 1965 after the Medicare bill went to the Senate. Labor lobbyists had already spent six months laying the groundwork.

An internal AFL-CIO memo summing up the day-by-day chronology of action in the fifteen-month battle over repeal of 14(b) in the 89th Congress reads like a textbook case study of the obstacle path that is the American legislative process. Labor leaders first consulted with President Johnson and various congressional leaders on how to proceed. Representative Frank Thompson Jr. (D-NJ), the chairman of the Special Subcommittee on Labor of the House Committee on Education and Labor, agreed to sponsor the bill and urged AFL-CIO lobbyist Andy Biemiller to make sure the bill was referred to his subcommittee because a competing subcommittee would not be as favorable. Meany and Biemiller then met with the chairman of the House Education and Labor Committee, Representative Adam Clayton Powell (D-NY), and got his commitment to refer the bill to Thompson's subcommittee. Meany and Biemiller also met with Speaker John McCormack (D-MA) in late December to discuss the AFL-CIO's legislative program in general and 14(b) in particular. The Speaker agreed that 14(b) repeal was feasible and assured them of his support.

The Speaker emphasized that the fate of 14(b) would probably be linked to reinstatement of a procedural rule in the House known as the "twenty-one-day rule" that was adopted in 1949 but repealed again in 1951. It allowed a chair to call a bill favorably reported out of his or her committee to the floor if Rules did not report it within twenty-one days. As discussed in the next chapter, the twenty-one-day rule was pushed by the liberal majority within the Democratic Party to break the power of the conservatives on Rules. Within a week of the meeting, the twenty-one-day rule passed 224–201 after the labor movement

secured the votes of numerous Republicans endorsed by COPE in the 1964 elections. Without the procedural change, 14(b) would have likely died in the Rules Committee.

Labor and administration lobbyists estimated that roughly 222 representatives supported repeal in the House, which meant labor needed to work to maintain the slim majority of support. The AFL-CIO spearheaded a major lobbying effort up and down the ranks of the labor movement in which every angle was pursued. Biemiller met with the secretary of agriculture to get help securing the farm-state vote.⁶⁵ He also firmed up the support of the small contingency of Republicans considered to be labor allies. Labor lobbyists got pledges of assistance from civil rights and various liberal religious organizations. Labor lobbyists felt confident things were moving smoothly in the House. The Thompson subcommittee reported the bill on June 9.

The first kink in the legislative process came when Chairman Powell threatened to hold up the bill until the House passed amendments to Title 7 of the Civil Rights Act dealing with the Fair Employment Practices Commission (FEPC). Hearings on the amendments were held on June 15. The next day Meany and Biemiller met with Speaker McCormack, who agreed to do “everything to stop Powell’s move, including help in taking Committee from Powell, if necessary.”⁶⁶ Biemiller then made sure there were enough votes to “take the Committee from Powell.” Under pressure, Powell agreed to file the necessary resolution to take up the bill under the twenty-one-day rule. After another round of lobbying, including a final push for support from Republicans and feasible Southern Democrats, the bill passed 221–203 on July 28. The vote was a defeat for the conservative coalition, with 96% of non-Southern Democrats voting for the bill compared with 19% of Southern Democrats and 15% of Republicans.

President Johnson called Meany on the House floor to urge immediate action on 14(b) in the Senate, which was to prove impossible. For months Senate minority leader Everett Dirksen (R-IL) suggested he might launch a filibuster against 14(b) repeal. In an early August meeting with Meany and Biemiller, Dirksen suggested he would try to attach an amendment to 14(b) repeal to pass a constitutional amendment invalidating the Supreme Court’s 1964 “one man, one vote” ruling requiring both houses of bicameral state legislatures to be apportioned based on population. Dirksen had become the champion of rural and conservative interests who stood to lose if the state—and later national congressional districts—were reapportioned to reflect equal populations as or-

dered by the Court. The labor movement greeted the reapportionment decisions with great relief because political power would finally be redistributed to the metropolitan majority. The AFL-CIO identified the overrepresentation of rural interests at the expense of urban interests as a major impediment to progressive legislation.⁶⁷ Dirksen offered to drop the filibuster threat if the AFL-CIO would drop its opposition to the constitutional amendment. Meany rejected the offer. Dirksen warned he would “use every weapon at his command in the fight ahead,” but Democratic leaders downplayed the threat.⁶⁸ Amid these negotiations, the Labor Subcommittee approved 14(b) repeal on August 12.

More trouble emerged as the full Senate Labor and Public Welfare Committee took up the bill. A “baby” filibuster developed in committee, which is an effort by opponents to stall a bill through endless committee debate and amendments.⁶⁹ At the same time Democratic leaders were losing confidence that a filibuster could be avoided. The bill was finally reported on September 9, and Senator Dirksen announced his intention to filibuster, stating that if 14(b) was brought up, the Congress would be in session until “the snow falls.” Senate majority leader Mike Mansfield (MT) was very skeptical that cloture could be invoked, although out of the Democratic Party’s obligation to labor, he eventually called up the bill.⁷⁰ However, he put off scheduling it until other priority legislation had been taken up, and he repeatedly rejected labor leaders’ requests for round-the-clock sessions to make the filibuster more burdensome on its supporters.

At no point did cloture seem within reach. Labor lobbyists counted 54 votes in support of repeal and 40 against with 6 undecided.⁷¹ Unless some of the declared opponents could be convinced to allow a vote on the bill, there was no way to get the two-thirds majority necessary to end the filibuster. Labor leaders throughout the movement worked the Hill but made little progress. Mansfield called a cloture vote on October 11 that failed 47–45 with a 50–50 tie possible if all senators’ commitments were taken into consideration. The next day Mansfield told Biemiller he would shut off debate in a couple of days and adjourn the Senate.

The labor movement had to decide what step to take next. Biemiller reported to an October meeting of the AFL-CIO Executive Council that his most optimistic count showed sixty senators might support cloture—still well short of the sixty-seven needed. The discussion in the meeting turned to the ire and determination of Dirksen, who Meany noted “was bitter because his constitutional amendment on reapportionment had been defeated.”⁷² He pointed out “that

vested selfish financial interests had great influence, and in many instances, dominated rural representatives in state legislatures” and it was his opinion that Dirksen was “desperately trying to keep this practice in effect by keeping at least one House of each state legislature dominated by rural legislatures [*sic*].” Dirksen was clearly unwilling to drop the filibuster unless his demands were met. There was also discussion of making reform of Rule 22, the Senate rule that governs cloture, the top legislative priority, but the AFL-CIO also did not have the votes to change the rule. The rules change itself would have inevitably been successfully filibustered.⁷³ After all the work on the Great Society programs, labor leaders wanted to see a purely “labor” bill pass. Given the intense focus on 14(b), they could hardly drop the bill without making another effort in the next congressional session, but it would be all but impossible to come up with 67 votes for cloture.

The Johnson administration and Senator Mansfield kept their commitment to labor and took up the bill in the next session, but they had little expectation it would pass.⁷⁴ As an administration staffer warned Walter Reuther, “Organized labor, with its vast political resources, would have to call its chits sharply and force an impressive, broad uprising of liberal Senators to demand of the leadership immediate consideration and determined floor action to out last the filibuster.” He stressed that this was “just not something [the President could] effectively do.”⁷⁵ In a memo from Biemiller and other AFL-CIO staff to Meany in late October, the lobbyists laid out a strategy for 14(b) repeal in the next congressional session.⁷⁶ It stressed a full-scale campaign-style approach focused on grassroots lobbying and a public relations blitz that would among other things stress the right of the Senate in a democracy to cast its vote. The strategy included more targeted appeals such as the loss of jobs from non-right-to-work states to right-to-work states, which was of special interest to Northeastern Republicans. Labor lobbyists and Al Barkan, the director of the COPE campaign operation, met informally with a group of influential and friendly senators to convince them to put pressure on Mansfield to hold round-the-clock sessions. While some senators supported the idea, others stressed it was simply not “realistic” unless the votes for cloture “were in sight,” which they were not.⁷⁷ Mansfield, who did not even hold round-the-clock sessions in the filibuster of the 1964 Civil Rights Act, continued to refuse but agreed to extended sessions. All these efforts produced only one additional vote for cloture. On February 8, there was a vote of 51–48 in favor of cloture with one pro-repeal senator absent due to illness. Reflecting the enduring power of the conservative coalition, 89%

of non-Southern Democrats voted for cloture, compared with only 23% of Southern Democrats and 19% of Republicans.⁷⁸ Another vote was taken two days later in which Senator George McGovern (D-SD), in a vote that would come back to haunt him, switched and voted against cloture. Recognizing the situation as futile, Senator Mansfield adjourned the Senate. The fight for 14(b) repeal was lost. The unusually large liberal majority in the 89th Congress narrowed in the 1966 elections, and the prospects for labor law reform and the rest of the unfinished Great Society initiatives dimmed.⁷⁹

In the wake of the defeat, many labor leaders lashed out at President Johnson and the Democrats in Congress. Criticism was particularly strident at the state and local level among the secondary labor leadership.⁸⁰ Although contemporary observers speculated that Johnson was not fully committed to repeal of 14(b) and that he did not work as hard as he could have to ensure its passage, there is considerable evidence that the administration did as much as it reasonably could to demonstrate its commitment to labor. The White House appears to have pressured Senate majority leader Mansfield to take up the bill in October when he expressed interest in pushing it over to the next session. Johnson and administration officials repeatedly met with Meany, Biemiller, and other labor officials to coordinate strategy.⁸¹ Vice President Hubert Humphrey, the former senator from Minnesota, was enlisted to use his ties to rural legislators to maximize their vote.⁸² The White House contacted sixty-one senators to urge a vote in favor of cloture.⁸³ The Democratic National Committee, acting as an arm of the White House, also lobbied for the bill.

It is true that the administration postponed consideration of 14(b) and that Johnson did not personally invest himself in the legislation the way he did with civil rights or Medicare. Not only was this due to the nature of the legislation, which did not carry the moral weight of civil rights and was not as popular or consequential as Medicare, but it was also due to the fact that repeal of 14(b) was never seen by the administration as achievable once Dirksen decided to filibuster. Twenty years after the battle, White House staffer Lawrence O'Brien suggested that if 14(b) repeal had been Johnson's top priority it still would not have succeeded. He noted that the bill was put off because it was "an impossible task." Had the situation been more promising, the administration would have been willing to take up the bill earlier. O'Brien suggested that "if labor had a head count jointly with us that showed a reasonable prospect of success, then obviously we would have moved at an earlier time. But it wasn't there throughout the session and the record shows it wasn't there. . . . We weren't conning

labor or trying to avoid our responsibilities. . . . We weren't dragging our feet; it just wasn't there."⁸⁴ The administration's most optimistic counts showed 53 votes in support of 14(b) in the Senate.⁸⁵ All the arm-twisting in the world was unlikely to produce another 14 votes for cloture, which would have required the support of numerous Southerners and senators from right-to-work states.

Because of the administration's efforts, Johnson himself grew testy with criticism of his handling of the repeal issue. A staff memo advising him that there should be visible White House efforts on common situs picketing, minimum wage, and unemployment compensation to "offset any unfavorable image in the labor movement on 14B" had scribbled in Johnson's handwriting beside it "I am sick of having to offset any image."⁸⁶ Johnson felt the administration had done all it could do without wasting political capital on a bill that had no chance of passage.

National AFL-CIO leaders and lobbyists acknowledged Johnson's role. In reference to the fight for repeal, Biemiller later noted that Johnson went out of his way and that "there wasn't any question that our relations with Lyndon were so good as to be almost incredible."⁸⁷ Both Meany and Reuther agreed to leave the timing of 14(b) to the administration and were willing to accept postponement until after other priority legislation cleared.⁸⁸ Reuther even apparently told Secretary of Labor Willard Wirtz that he thought the AFL-CIO pursuing 14(b) in the second congressional session was a mistake.⁸⁹ The main issue in the failure of repeal of 14(b) was not the lack of presidential commitment but the filibuster that allowed a minority of senators to obstruct action.

Organized labor managed to avoid or overcome almost every obstacle that stood in its way before—the opposition of the president, a deadlock in committee, the hostility of committee chairs, and the opposition of the House Rules Committee. However, organized labor could not overcome the filibuster and the bias in the Senate toward the representation of rural areas, making labor's recruitment of the support of sixty-seven senators even more difficult. The votes for cloture came from senators representing 61% of the population.⁹⁰ In 1965 organized labor faced the best prospects for labor law reform since the passage of Taft-Hartley, but while the labor movement could muster a majority for repeal, the necessary supermajority was beyond its grasp. This failure may be, and was, attributed to organized labor's weakness, but labor appeared weak in the 14(b) struggle because the bar was so high. It had the support of the Democratic administration, a majority in the House and Senate, and the overwhelming support of non-Southern Democrats.

Perhaps if Meany had been willing to make a deal with Dirksen on the reapportionment issue, repeal of 14(b) could have made it through. However, in making a deal to get around minority obstruction on this one bill, labor would have had to jeopardize the enduring reform of another feature in the American political system that had long privileged rural minorities at the expense of urban, labor-oriented majorities. In a speech to the 1965 AFL-CIO convention Meany railed against Dirksen:

The issue of 14(b) repeal and the issue of reapportionment in particular and progress in general are solidly and inescapably intertwined. There is no illusion about that either in our minds or the mind of the Senate Minority Leader. The filibuster is a punitive and coercive tactic. It is a cynical invitation to a "deal." It is crafty politician's way of saying: "Come around to the back door. Give up your opposition to the reapportionment amendment and you can have 14(b) repeal."

Well, as badly as I want 14(b) repealed, I do not want it that badly. And the Senate Minority Leader and all his anti-labor stooges can filibuster until hell freezes over before I will agree to sell the people short for that kind of a deal.⁹¹

More than any other legislative battle, the 1965–66 fight over 14(b) vividly demonstrates the institutional conundrum faced by organized labor. The failure to gain favorable labor law changes makes it more difficult for the labor movement to organize outside its geographic base, which in turn makes it seemingly impossible for organized labor to muster the supermajority support in the Senate necessary to change labor laws. While the filibuster had predominantly been used on civil rights legislation in the postwar period, its use on repeal of 14(b) was an early indication that the filibuster would become a common tactic as conservatives' control over other institutions like congressional committees declined over the next two decades.

Common Situs

After the failure on 14(b), some labor leaders still hoped to get a consolation provision passed dealing with the common situs picketing issue. It would have eased stringent limits placed on picketing in the construction industry by a Supreme Court decision that prohibited employees in a dispute with one contractor on a construction site from picketing the entire site. However, some liberals in the House were not very enthusiastic about the measure because of the poor record of the construction unions on civil rights and the greater support among construction unions for Republicans. Other House members

wanted to wait for the Senate to act first after sticking their neck out for 14(b) repeal only to see it killed by a filibuster. Chairman Powell of the House Education and Labor Committee refused to call it up for a floor vote until a controversial measure dealing with employment discrimination was passed, and it never reached the floor.⁹² The AFL-CIO also backed off in the Senate for fear the legislation would attract unfavorable Taft-Hartley amendments and it would likely be filibustered with the same outcome as 14(b) repeal.⁹³

Efforts to Improve Workers' Income Security Programs

While the outcomes were divergent in the areas of health care and labor law reform, both the prospects and limits for policy change backed by organized labor could be seen in the workers' income security programs. The protections of the Fair Labor Standards Act were again significantly improved, but proposals for national standards for unemployment compensation again failed to make it into law—this time because of differences between the House and Senate.

Minimum Wage

The pattern of incrementalism—and extended wrangling across several congressional sessions—on the minimum wage that developed in the postwar decades continued through the height of the Great Society. After his minimum wage bill died in conference committee with the House while he was running for president, Kennedy resumed the fight from the White House. A Senate proposal largely embodied the recommendations of the president and the AFL-CIO, but the House passed a much weaker bill. This time the conference committee was pulled in the Senate's direction, and the final bill resulted in the first significant expansion of coverage since the passage of the original FLSA in 1938 and a 25% increase in the minimum wage. Johnson resumed the enduring battle over the FLSA in 1964 when he called for further expanding coverage and increasing overtime pay from time and a half to double time as a measure to address unemployment. The legislation did not move beyond committee consideration for two years, and in fact the administration behind the scenes opposed the bill eventually reported by the House Education and Labor Committee as providing too inflationary an increase in the minimum wage, one that even exceeded labor's demands.⁹⁴ But in the only notable legislative victory for the labor movement in 1966, a major minimum wage bill finally passed that

increased the wage, expanded coverage to an estimated nine million workers, and lowered the threshold for overtime pay from forty-four to forty hours.⁹⁵ The conservative coalition appeared but lost on votes to remove coverage of agricultural workers from the bill. Once again the Senate's more generous bill largely prevailed in conference. The AFL-CIO termed the bill "the most important and best minimum wage law that has ever been passed."⁹⁶ Even in this instance, labor had called for much more, including a thirty-five-hour workweek. But various labor leaders closely negotiated the details with the administration to get an acceptable—and politically feasible—bill.⁹⁷

Unemployment Insurance

Another agenda item carried over from the Truman years into the Great Society was federal standards to improve the unemployment insurance program. But as with the stalemate on labor law reform in both periods, Congress also failed to act on unemployment compensation. Like Truman, both Kennedy and Johnson proposed minimum federal standards for the amount and duration of benefit payments to minimize the variation among states. Kennedy's proposals went nowhere, and Johnson's proposals were not acted on until 1966. Even though Chairman Mills sponsored the administration's bill and promised he would "get out a good bill," the same House Ways and Means Committee that supported the Medicare bill stripped the federal standards from the unemployment bill.⁹⁸ Labor lobbyists had been optimistic, but when the Ways and Means legislation passed overwhelmingly on the House floor, AFL-CIO president George Meany termed it "a mere token measure."⁹⁹ As was typically true of Ways and Means bills, it was considered under a closed rule, so amendments adding the federal standards back in could not be considered. In narrow votes both in the Senate Finance Committee and on the Senate floor, federal standards were added back into the bill over the opposition of the conservative coalition. The House delayed sending the bill to conference, where it ultimately died with the end of the session. The House conferees refused to accept the federal standards, and the Senate conferees refused to concede them. Labor, too, was unwilling to accept a bill without federal benefit standards and preferred to resume the battle in another Congress. As with the nationalization of the labor law reflected in 14(b) repeal, there was still significant opposition to federal standards for unemployment benefits, and the conservative coalition succeeded in killing the proposal in conference.

The Window Closes

After the explosion of legislative activity in the 89th Congress, the power of the conservative coalition rebounded in the 90th (see table 2.1). Many factors played a role—fatigue with the rapid legislative pace, rising concern about the Vietnam War, and growing disillusionment with Johnson’s leadership. But probably the most consequential factor was the loss of liberal Democrats in the 1966 elections. In the wake of the elections even George Meany indicated that he was going to try to dissuade the AFL-CIO’s Executive Council from urging legislation.¹⁰⁰ By summer of 1967, after a surprisingly large defeat on a small but symbolic bill dealing with federal funding for rat extermination in urban areas, House Speaker Carl Albert referred to a “rebellious mood” in the House and recommended that no “new programs” be sent to the House floor for the “remainder” of the session.¹⁰¹ Johnson’s need to make serious concessions to get anything accomplished in Congress led to increased sparring between labor and the administration. Labor leaders were particularly upset by the administration’s acquiescence in substantial budget cuts in order to get congressional support for a tax surcharge necessary to fund the Vietnam War.¹⁰² Even prior to the elections, there were signs of growing dissatisfaction within the lower ranks of the labor movement over the failure of repeal of 14(b), administration efforts to control inflation through wage-price guidelines, and Vietnam.¹⁰³ Although national labor leaders remained one of Johnson’s closest allies, sticking with him even on the war, the heady days of the Great Society were over. Congress would give labor very few victories in the last session of Johnson’s presidency.

Conclusion

Observations by political scientist J. David Greenstone and others that labor has often been more successful on welfare state initiatives than labor legislation are well illustrated by organized labor’s track record in the sixties.¹⁰⁴ In the purest test of labor’s influence, organized labor could not obtain repeal of 14(b) because of the filibuster. But labor did succeed on a range of broader issues such as civil rights legislation, minimum wage improvements, public works spending, federal aid to education, and medical assistance to the elderly. These achievements should be neither underestimated nor overvalued.

The legislative successes represented a high level of influence in the political process for organized labor, but they also show the limitations in the American

political system on broad welfare state measures. Most of the successful initiatives involved significant compromises necessary to overcome legislative veto points, even during a period with sizable liberal majorities in both houses of Congress. The civil rights bills did not bring an end to discrimination. The minimum wage increases were not adequate to eliminate poverty among all working families. Federal aid to elementary and secondary education targeted at disadvantaged schools was not adequate to overcome the disparities in education. The Medicare bill was national health insurance targeted to the elderly rather than the entire population. Yet even these compromised pieces of legislation taken as a whole reflect a significant expansion in the size and reach of the American welfare state that has benefited millions of Americans within and outside the labor movement.

Labor was a much stronger political force in the mid-sixties than it had been in the mid-fifties. There was greater unity in the political efforts of the labor movement under the merged AFL-CIO. The AFL-CIO's political operation also became one of the—if not *the*—most sophisticated and respected forces in Washington. Despite these strengths, labor's power was obviously limited by institutions like the filibuster, even with unusually large liberal majorities in Congress and a supportive president. It was clear there would have to be changes in the political system for organized labor to achieve more. As discussed in the next chapter, labor responded to the failures of the mid-sixties by redoubling its commitment to transforming the Democratic Party and congressional institutions.