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5. Postreform Stalemate on Labor's Agenda

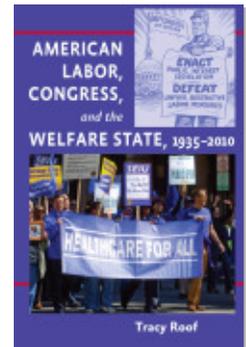
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Postreform Stalemate on Labor's Agenda

The 1970s were tough on organized labor.¹ Manufacturing employment fell as international competition increased and multinational corporations moved production to countries with rock-bottom wages. Employers became quite sophisticated at fighting union organizing, and union membership density entered a period of seemingly endless decline. The economy suffered the twin shocks of soaring inflation and unemployment, which complicated collective bargaining. In the arena of politics, labor appeared to be losing its influence.² Two Republican presidents were hostile to labor's agenda, and when a Democrat finally made it into office, he too failed to deliver. Contemporary observers and labor scholars have often suggested that the failure of labor's legislative priorities during Jimmy Carter's presidency was due to his chilly relationship with the labor movement.³ But enduring institutional constraints in the legislative process also played a very important role in undermining labor's agenda.⁴

As a result of congressional reform, divided government, and the rise of the filibuster, some of labor's proposals took different paths through the legislative process, and labor faced greater uncertainty in devising its legislative strategies. But after three decades of considerable political change, the record of labor's

legislative accomplishments during the seventies was quite consistent with the postwar pattern of incrementalism and obstruction. The minimum wage was again increased, but labor law reform again failed. Full-employment legislation in the form of the Humphrey-Hawkins Act passed, but like the employment legislation of 1946, it was largely symbolic and toothless. National health insurance gained a lot of attention but never made much progress toward becoming law. As in the 1940s, labor resisted committing to an incremental approach like Medicare that could attract a viable legislative coalition. Labor leaders hoped the congressional reforms of the late sixties and early seventies would eliminate the institutional roadblocks to their policy priorities. While committee obstruction did decline, the conservative coalition remained a force in floor votes, and other institutional obstacles—the presidential veto during the Nixon and Ford years and the Senate filibuster during the Carter years—prevented many labor-backed proposals from becoming law. Organized labor continued to exert influence in the political system, as reflected in support on roll call votes and Carter's efforts to accommodate labor. But its legislative accomplishments remained far more limited than its goals.

The Nixon-Ford Years

During Nixon's presidency, labor made incremental gains in public policy, despite the mutual hostility between the president and the labor movement. Organized labor was critical of Nixon's handling of the souring economy, particularly his efforts to hold down inflation through wage and price controls and his efforts to reduce spending on social programs. But labor was able to push its legislative agenda in the Democrat-controlled Congress. Several new categories of workers came under the jurisdiction of the NLRB, including postal workers and employees of nonprofit hospitals. The pattern of incremental growth in Social Security continued with substantial increases in benefits in 1969, 1971, and 1972, as well as expansion of the Medicare program to cover the disabled. The business community also suffered several defeats on legislation favored by labor, including one of the most progressive tax bills in history and legislation to shore up employer-provided pensions in the Employee Retirement Income Security Act of 1974 (ERISA).⁵ Despite arguments that the labor-liberal coalition was in decline by the late sixties,⁶ labor and the emerging public interest movement cooperated on shared areas of concern, and a coalition of old and new liberals helped pass the Coal Mine Health and Safety Act in 1969, the Occupa-

tional Safety and Health Act in 1970, a series of landmark environmental bills, and several consumer protection bills.⁷ But the New Left encountered the same obstacles in the legislative process as the old Left, and all these bills involved concessions and delays, just as in other policy areas.⁸ Organized labor also joined civil and women's rights groups to defeat the Supreme Court nominations of conservative Southerners Clement Haynesworth and Harrold Carswell.

Despite these accomplishments, the presidential veto became a powerful force in policy making, particularly during the Ford years. Nixon's resignation and the resulting election of a wave of Democratic "Watergate babies" in 1974, many of whom were endorsed by organized labor,⁹ produced a Congress that was quite supportive of labor-backed legislation.¹⁰ But most of this legislation failed to make it into law. President Ford, politically vulnerable and facing conservative challenger Ronald Reagan for the Republican presidential nomination, vetoed sixty-six bills in his short period in office. Ford vetoed numerous COPE priorities from emergency jobs legislation to legislation on common situs picketing (discussed in more detail below). Congress failed to override most of these vetoes, often coming only a handful of votes short of the two-thirds supermajority needed. Ford killed labor-backed bills, but Congress killed most of Ford's priorities as well. The 1975 COPE report found consolation in the fact that if the labor movement had not worked so hard to build a liberal majority in the 1974 elections, "the President would have had a virtually free hand in imposing negative and regressive policies upon the nation."¹¹ Gearing up for the 1976 elections, the AFL-CIO stressed Ford's "abuse" of the veto power and his desire to "impose minority rule," calling for the election of Jimmy Carter and "a Congress to back him up."¹² Labor got the electoral victories, but the legislative victories once again proved elusive.

The Arrival of Carter

Jimmy Carter was the first presidential nominee to be selected almost entirely through the primary process. The AFL-CIO leadership opposed the Democratic Party's shift to primaries and remained neutral in the 1976 contest because of the lack of a consensus candidate in a crowded field.¹³ But many of the affiliates got involved, and the UAW and AFSCME played an important role in building momentum behind Carter's nomination.¹⁴ As a Georgia governor with no experience in national politics, Carter ran against Washington and had very few connections with the Democratic Party establishment. Although he was not

their first choice, liberals, labor, and minorities joined in support of Carter's candidacy as it gained momentum, hoping he would appeal to the electorate as a fresh voice untainted by the corruption of Washington in the aftermath of Watergate. Carter tried to woo liberal and labor support by selecting Walter Mondale as his running mate. Several planks were also put into the Democratic platform to build labor's enthusiasm in the election, including support of national health insurance, indexing of the minimum wage to inflation, repeal of 14(b), and strengthening of the National Labor Relations Act. Hoping to capitalize on the liberal gains in Congress that had been checked by Ford's veto, the AFL-CIO threw its support behind Carter after the Democratic convention.

Numerous conflicts emerged between Carter and labor, but Congress imposed greater limits on labor's legislative objectives than the administration did. Labor leaders, particularly George Meany, were frustrated with missteps by the Carter administration and the lack of advance consultation before the release of major proposals. There were also tensions over wage and price controls, just as there had been with Truman and Johnson, and labor felt Carter worried too much about inflation in devising proposals on its legislative priorities. While these conflicts often led labor leaders to be publicly very critical of Carter's leadership, many of labor's problems in accomplishing its legislative goals were actually in Congress. The concessions necessary to get bills through the legislative process were greater than those demanded by the president. Labor would learn during the Carter years that even a reformed Congress would challenge its legislative priorities.

The Impact of Congressional Reform

The Shifting Institutional Base of Conservative Power

For labor, the biggest change in the 1970s was the shift from the House to the Senate as the main source of obstruction. The conservative coalition in the House was weakened by committee reforms and the increasing percentage of non-Southern Democrats in the Democratic Caucus, making it more likely that liberal policy proposals would make it to the House floor. The conservative coalition continued to appear regularly in floor votes, but the success rate declined from the highs of the 1940s and 1950s (table 2.1). No longer able to count on legislation being scaled back by the House, conservatives became more assertive in the Senate, increasingly resorting to the filibuster or filibuster threats to shape legislation. The filibuster's use had largely been limited to civil

rights legislation in the postwar years, but the range of legislation subjected to filibusters expanded and the number of filibusters crept up in the 1960s and grew faster in the 1970s.¹⁵ The number of cloture votes, which were typically unsuccessful, grew correspondingly (see figure 6.7). Whereas the House had often pulled legislation to the right in conference committees during the heyday of the conservative coalition, now the Senate was becoming the conservative force in negotiations.

A Power Vacuum

Another prominent change in the legislative process in the 1970s was growing decentralization.¹⁶ The proliferation of subcommittee chairs and staff and the heightened role for the caucus reduced the power of committee chairs as brokers in the legislative process. A power vacuum emerged because party leaders did not fully assume the role once played by committee chairs in directing legislation.¹⁷ Because of continuing division within the Democratic Caucus, largely along regional lines, there was not enough party unity for liberals to take full advantage of the reforms passed earlier in the decade that held the potential to strengthen the caucus and the leadership.¹⁸ As Bruce Oppenheimer notes, a “new obstructionism” developed in Congress in which many members, rather than a few powerful committee chairs, now had the power to “delay or defeat” legislation unless their own particular demands were met.¹⁹ The reforms also confused committee jurisdictions, creating an ambiguity that fed institutional rather than ideological power struggles between committees and committee chairs. The various sunshine reforms that opened up the workings of the committees and the caucus to public scrutiny, in combination with external political changes in the media and elections, also precipitated changes in the way Congress operated. Insider bargaining and the brokering of compromise legislation became more difficult under the scrutiny of interest groups, the media, and the public.²⁰ As a result of these changes, the House occasionally descended into a state bordering on chaos in the first years of the postreform Congress.

For organized labor, these changes made lobbying more complicated and legislative outcomes more unpredictable. Although in many instances the institutions of the prereform Congress served to limit labor's political influence, labor lobbyists learned to function in the old system. Labor's experience in the mid- to late seventies demonstrated that an “insider” lobbying strategy of consulting with committee chairs, a few key committee members, and the party leadership was not as effective. Andrew Biemiller, the AFL-CIO legislative direc-

tor, noted upon retirement in 1979 that “more than ever before, you have to see practically every member of Congress if you are to have any hope of success.”²¹ In this more open system, party leaders continued to have difficulty delivering votes. Meany complained, “Quite a few new House members are not paying attention to their own leaders. . . . We just keep plugging away at what we think is good legislation, and we do have the cooperation of the leadership. But that doesn’t mean that the leadership can automatically turn over to us the membership of either the House or the Senate.”²² One lobbyist within the AFL-CIO Department of Legislation during this period observed that after the “upheaval of the congressional seniority system where a lobbyist could deal with the chairman of a committee and cut a deal and votes would be delivered . . . you had to do more lobbying of the rank-and-file members. We found, after some hard lessons, that we could not rely on lobbying by a chief officer, we had to go deeper into the movement to broaden the pressure base of the organization.”²³

Meany mourned the decline of party discipline, but of course organized labor had always faced the recalcitrance of conservative Southerners within the Democratic Party. Yet since the 1940s labor had been able to count on most Democrats from industrial states as fairly reliable friends. But party unity among House Democrats declined slightly in the 1970s, and non-Southern Democrats on average were less likely to support liberal positions during the Carter years.²⁴ A number of scholars argue that Democrats were increasingly open to the pressure of a range of groups as labor’s dominant position in the party was challenged by the “new politics” groups on the left and business influence on the right.²⁵ However, the new Democratic representatives were not reflexively antilabor as the conservative Southern and rural Democrats had been. Their votes were in play. These Democrats could not be counted on in the way many of the occupants of Northeastern and industrial Midwestern and Western seats had been counted on before. But as the discussion of labor law reform below illustrates, labor lobbyists could often win their votes if they fought for them.

The congressional reforms occurred under Republican presidents, and labor lobbyists hoped a Democratic president would fill the leadership vacuum in Congress. But Meany complained about Carter’s ability to deal on the Hill after a series of legislative losses: “I don’t think he has been able to deal with Congress the way you would normally expect the President to deal with the Congress in control of his own party. So, while I certainly don’t blame President Carter for the setbacks, I think that if he were a stronger President, stronger

in relation with Congress, I think he might have been helpful to us.”²⁶ A stronger president might have been more helpful, but in many ways Carter's weakness was institutionally embedded and exacerbated by external circumstances such as the oil shocks and the staggering economy. The factors that complicated labor's efforts to persuade Congress, such as the growing decentralization of power, also made it more difficult for the president to lead.²⁷ Moreover, if Meany had reflected on labor's experience during the Truman administration, he would have realized Truman was not very “helpful” either, even with a Congress controlled by the Democratic Party. Even the legendary Johnson's success rate in Congress fell from its peak in 1965 to a figure on par with Carter's for the rest of his presidency.²⁸ Labor was very disappointed in the Carter presidency, but as the next sections illustrate, the record of legislative accomplishments on labor's issues was quite consistent with the postwar pattern.

Continued Incrementalism on the Minimum Wage

Incrementalism and the need to make repeated legislative attempts in order to improve the minimum wage continued into the 1970s. Since most jobs were now covered by the FLSA, the fight was over whether certain workers should have a subminimum wage. In 1972, the House passed a minimum wage increase that included a subminimum wage for teenagers, a provision strongly opposed by organized labor. When the Senate passed a much more liberal bill without the youth subminimum, the House twice voted against sending the measure to conference with the Senate. The members of the conservative coalition united on these votes because they were convinced that House conferees, who would be drawn from the increasingly pro-labor House Education and Labor Committee, would approve the Senate version. In the first session of the next Congress, a bill favored by labor passed both the House and the Senate. But Nixon vetoed it because the bill did not include a youth subminimum, and he viewed the size of the wage increase as inflationary. Although the House failed to override the veto, both the House and Senate passed a similar bill in the next congressional session by such substantial margins that Nixon signed it, convinced his veto would be successfully overridden.²⁹

After years of skirmishes like these on the minimum wage, labor hoped to realize a longtime goal in the Carter administration of raising the minimum wage and permanently indexing it to inflation to allow automatic increases without new legislation. Labor supported a House bill increasing the minimum

wage from \$2.30 an hour to \$2.85 and indexing it to 60% of the average manufacturing wage.³⁰ Two months into his administration, Carter called for a minimum wage increase to only \$2.50 an hour and indexing to only 50% of the manufacturing wage. The administration failed to consult with labor leaders before the announcement, which was routine for Democratic presidents on long-standing issues of interest to the labor movement. This failure ensured that the relationship with labor would get off to a rocky start. A shocked George Meany termed the proposal “shameful.”³¹ By summer the disagreement was smoothed over, and the administration and labor reached a compromise. However, labor was unable to prevail in Congress on the indexing provision. The final version phased in a more generous increase to \$3.35 an hour by 1981, but its value was eroded by high inflation. The minimum wage’s value fell even further as conservatives gained power in Washington over the next decade, which contributed to rising income inequality.³² In contrast to the incrementalism on the minimum wage, stalemate continued on labor law reform.

The Return of Labor Law Reform

Compared with earlier efforts, the committees that handled labor law reform in the 1970s were very responsive to labor, and the House Rules Committee no longer posed an obstacle. Instead the struggle over labor law reform emerged as an elaborate game of legislative “whack-a-mole” as labor lobbyists struggled to get victories in the House, Senate, and executive branch in one legislative session. A bill to deal with the common situs picketing issue in the construction industry fell victim to a presidential veto in one Congress and to a House floor defeat in another. A comprehensive package to reform the NLRA, pursued during the first years of the Carter administration, received the highest level of support in both the House and Senate that any pro-labor reform had received in the postwar period, but it was still defeated by a filibuster. The path of these legislative proposals indicated the new opportunities—and complications—for labor in building support in the reformed political system, as well as the impact of the enduring protections for the minority that allowed the conservative coalition to continue to exert veto power on legislation of interest to organized labor.

Common Situs

In 1975, labor decided to take advantage of recently implemented congressional reforms, large Democratic majorities in Congress, and a promise from

President Ford to sign a common situs bill if it contained certain other provisions dealing with collective bargaining. Common situs legislation provoked intense opposition from business interests, which correctly feared that its passage would spur labor's effort to pursue more comprehensive labor law reform including another effort at repeal of 14(b). Despite this opposition and the appearance of the conservative coalition on the vote, the House easily passed a bill that contained the provisions desired by Ford 230–178.³³ In the familiar pattern, 95% of non-Southern Democrats voted for the bill, compared with only 31% of Southern Democrats and 20% of Republicans. In the Senate, a filibuster on the motion to proceed to consideration of the common situs bill was broken by a 66–30 cloture vote. Opponents then launched a filibuster of the bill itself. The first cloture vote failed 58–31, but after an intensive labor lobbying effort focused on members of both parties, the second cloture vote succeeded 62–37. These victories would not have been possible without the recent cloture reform lowering the threshold from 67 to 60 votes. As in the House votes, the conservative coalition also appeared in the votes on cloture, weakening amendments, and final passage, but it only succeeded in thwarting the majority on the first cloture vote on the bill. The bill finally passed 52–45. Desperate to break organized labor's momentum, business groups launched a major lobbying effort that convinced Ford to reverse his position and veto the bill early in 1976.³⁴ Ford changed his position in part because he feared giving an issue to Ronald Reagan in the primary.

After the election of Carter, labor leaders decided to pursue the common situs issue again. The AFL-CIO saw the 1977 legislative session as an opportunity for significant gains on issues that had been held up by the committee system in the prereform Congress or vetoed by the Republican presidents of the previous eight years. However, when a common situs bill came up early in the 95th Congress, it was met with a surprising defeat in the House, where it had passed handily fifteen months before. The National Action Committee on Secondary Boycotts, an umbrella organization of business groups, initiated a massive campaign against the bill to generate grassroots contacts with Congress from constituents, primarily owners and employees of small businesses and nonunionized construction firms. As the date for floor consideration approached, the campaign chipped away at labor's support. Although the Education and Labor Committee had easily passed a bill on a party-line vote, Democrats on the committee worked with moderate Republicans to produce a new compromise acceptable to labor that might draw more support by exempting

significant sectors of the construction industry from the law. However, even a weakened bill failed to pass (205–217), with 88% of non-Southern Democrats, 24% of Southern Democrats, and only 10% of Republicans voting for the bill.³⁵ If the same percentage of non-Southern Democrats had voted for the bill that voted for it in the Ford administration, it would have passed.

Fearing the loss, the Democratic congressional leadership had suggested pulling the bill off the floor schedule, but labor lobbyists felt confident that they had the votes.³⁶ However, rank-and-file Democrats, particularly electorally vulnerable freshmen, were open to the appeals of a resurgent business community, and labor was caught off guard by the need to fight for its agenda within the mainstream of the Democratic Party. While labor focused its lobbying on an expected Senate filibuster, the business community focused on the House. The National Association of Manufacturers targeted ninety-one congressional districts, sixty-eight of which were represented by freshmen.³⁷ Thirty-seven of these sixty-eight freshmen voted against the bill, including seven Northern Democrats and thirteen freshmen supported by COPE in the 1976 elections. Suggesting the success of the business lobbying effort, new members noted that the overwhelming balance of constituent mail opposed the bill and played a role in their final decisions.³⁸

The defeat of common situs legislation convinced many within the AFL-CIO that support on a controversial measure even among “liberal Democrats” could no longer be taken for granted at any stage in the legislative process. The labor movement was outmaneuvered by the business community, and many members of Congress questioned whether union lobbyists’ had the support of the rank and file.³⁹ Over the course of the late seventies, and particularly during the eighties, the AFL-CIO and many of the affiliated unions focused on improving their grassroots lobbying capacity. This effort began in earnest with the push for comprehensive labor law reform. After the common situs defeat, the AFL-CIO and its affiliates geared up for what was expected to be a tremendous battle with the business community and conservative organizations over reform of the NLRA later in the year and made a more concerted effort to mobilize union members. However, as occurred with repeal of 14(b), labor again ran into the obstacle of the filibuster.

Action on the Labor Law Reform Package

By the late seventies, the NLRA was no longer providing adequate protection for workers trying to organize. It became the standard practice for companies to

hire “labor-busting” consultants to exploit weaknesses in the law.⁴⁰ The often lengthy period of time between employees’ petition for a certification election and the actual election allowed employers to chip away at employee support for unionization. Employers had an advantage because they could hold employees as a “captive audience,” using work hours to address employees and convince them to vote against union representation. In contrast, union organizers had to contact workers outside work hours and generally off the employer’s property, making it virtually impossible to reach all employees at once, if at all. Moreover, employers were tempted to break labor laws, including harassing or firing union supporters, because the penalties were so minor. Even if a union was certified, it often struggled for months and sometimes years to get employers to bargain a first contract. Thus labor’s goals went beyond repeal of 14(b) to a range of reforms to address these problems.

In the first months of the Carter administration, labor leaders and lobbyists, congressional allies, the Labor Department, and White House staffers engaged in extensive negotiations to develop a comprehensive labor law reform package that all could endorse. Although the Carter administration is often believed to have given only lackluster support to labor’s policy goals, the administration made labor law reform a top legislative priority.⁴¹ The administration worked hard to pass the bill and never backed away from its commitment because the administration saw labor law reform as key to building a good working relationship with labor. As Carter’s chief domestic policy adviser, Stu Eizenstat, noted to the president, “It is difficult to overestimate the importance of this matter in terms of our future relationship with organized labor. Because of budget constraints and fiscal considerations, we will be unable to satisfy their desires in many areas requiring expenditure of government funds. This is an issue without adverse budget considerations, which the unions very much want. I think it can help cement our relations for a good while.”⁴²

The administration and labor finally agreed on a package of reforms in the summer of 1977. Over the course of the negotiations, labor dropped three of its most controversial goals—repeal of 14(b), a provision to allow certification of a union as a collective bargaining agent without a NLRB election based on signatures of support from employees (now known as “card-check” recognition), and a provision requiring the new owners taking over a company to honor existing union contracts.⁴³ These provisions were not supported by the administration, and they were certain to meet stiff resistance in Congress. The final package included several provisions to make it easier for unions to organize,

including accelerated certification elections, a larger NLRB capable of processing cases more quickly, and union access to employees during work hours on company property. It also stiffened penalties for employers who violated labor laws by prohibiting them from receiving government contracts and requiring them to pay double back pay (rather than the existing provision of back pay) to employees illegally fired for organizing activity. The package also addressed the difficulty newly unionized employees had in getting recalcitrant employers to bargain by empowering the NLRB to award workers the wages the board estimated they would have earned under an average collective bargaining agreement if employers were found to have illegally refused to negotiate.

The administration-backed proposal sailed through the House. The House Education and Labor Committee quickly reported a clean bill with Republican amendments defeated on party-line votes. Shortly afterward the bill passed 257–163 on the House floor in a striking reversal of fortune compared with the defeat on common situs. Ninety-seven percent of non-Southern Democrats supported the measure, as did a sizeable minority of 41% of Southern Democrats along with 26% of Republicans. This time organized labor did not take support in the House for granted and launched a massive lobbying effort,⁴⁴ gaining support from many representatives who voted against common situs. In contrast with labor's previous experience with bills like Landrum-Griffin, floor consideration was structured to favor labor, largely because of the support of the congressional leadership and its ability to control the Rules Committee. The House adopted a rule that restricted amendments from congressional opponents. Those amendments that opponents did manage to offer that had a strong chance of passing were countered by more benign proposals from labor's supporters. These amendments gave House members cover and diverted support from the more antilabor provisions. Votes on amendments that would have weakened various provisions of the bill were defeated handily, although close margins were expected. One labor strategist noted, "We never lost control of the bill."⁴⁵ After a year of many defeats and disappointments that led pundits to declare the demise of organized labor's political influence, the victory on labor law reform demonstrated that organized labor could still win in Washington. But the real challenge would come in the Senate.

At the beginning of the 1978 session, the Senate Human Resources Committee easily approved the administration's labor law reform package sponsored by Senator Harrison Williams Jr. (D-NJ) and liberal Republican senator Jacob Javits (NY), in a bipartisan vote of 13–2. But Senate majority leader Robert

Byrd (D-WV) was reportedly reluctant to schedule the bill for fear the votes were not there to invoke cloture on an inevitable filibuster. Byrd wanted the administration's commitment that it would actively lobby the bill. White House staffers urged the president, "We believe the Administration should remain committed to go all out on this bill."⁴⁶ Byrd scheduled the bill for debate in mid-May, and the White House scheduled a number of public events to build momentum.⁴⁷

Although Carter was often accused of abandoning labor, the administration saw it the other way around. In a meeting with George Meany, the president pledged to do everything he could to pass labor law reform but was urged by staffers to demand something in return. They felt the administration should be given more credit for its support of labor's legislative agenda in Meany's public statements and that the administration should get more cooperation from labor. As presidential adviser Landon Butler emphasized to Carter, "The relationship between the AFL-CIO and the Administration cannot continue to be a one-way street."⁴⁸

Throughout the struggle, the administration and labor felt confident cloture could be invoked. The administration counted 53 "firm" votes, with another 6 who indicated they would "eventually" vote for cloture,⁴⁹ making it necessary to find only one more senator. They worried more about a likely "post-cloture filibuster" waged through endless amendments as labor's opponents, led by Senator Orrin Hatch (R-UR), had prepared roughly a thousand amendments to prolong consideration of the bill.⁵⁰

But getting the 60 vote supermajority to invoke cloture proved to be harder than expected.⁵¹ Although labor leaders had already made a number of concessions in negotiations with the administration, they agreed to more at various points in the Senate battle in the hope of picking up votes. In order to blunt the effects of a lobbying offensive by small business, Senator Byrd, with labor's concurrence, arranged for the introduction of an amendment that would exempt most small businesses from the law's protections.⁵² Unlike Majority Leader Mansfield in 1965, Byrd was working hard to get the bill through.⁵³ But after three weeks of debate that shut down consideration of all other legislation, the first two cloture votes failed 42–47 and 49–41. These votes underestimated labor's support because five cloture supporters were absent and others had indicated they would support cloture on subsequent votes.

After negotiations with the administration and labor, the majority leader and Senators Williams and Javits announced a compromise proposal somewhat

weakening the provisions to accelerate elections and to punish employers who violated labor laws in the hope of breaking the filibuster. However, the next cloture vote still failed 54–43. After picking up three Republicans targeted by labor and one absentee Republican supporter, the pro-cloture vote jumped to its highwater mark of 58 in the next two votes.⁵⁴ Ninety-five percent of non-Southern Democrats and a surprising 37% of Republicans supported cloture. But Southern Democratic support was disappointing at only 17%.

The efforts of the administration, congressional leaders, and labor focused on four Southern Democrats (Senator Dale Bumpers [AR], Senator Lawton Chiles [FL], Senator Russell Long [LA], and Senator John Sparkman [AL]), as well as two small state senators who had historically voted against cloture motions, regardless of the substance of the legislation, as a matter of principle (Senator Howard Cannon [NV] and Senator Edward Zorinsky [NE]). President Carter personally pressured a number of these senators to vote for cloture, plus he contacted Senator Ernest Hollings (D-SC), who was stirring opposition by the vehemence of his public criticism of the bill.⁵⁵ All parties made a feverish effort to pick up the remaining two votes. Senator Sparkman, a onetime labor supporter who had served in the Senate since 1946 and had been Adlai Stevenson's running mate in 1952, indicated he would support cloture on the sixth and final vote.⁵⁶ Everyone looked to Senators Chiles, Long, and Bumpers for the last necessary vote on the bill, with labor agreeing to drop the controversial provision granting unions' equal access to employees and promising to accept the Senate version over the more favorable House bill in conference in order to get one more vote.⁵⁷ It appeared that the filibuster might finally be broken with the support of Senator Long, but then Senator Ted Stevens (R-AL) started to waver.⁵⁸ It became clear that cloture could not be invoked.

The Senate voted to recommit the bill to the Human Resources Committee, where supporters attempted to reach a new compromise. Over the course of the negotiations, labor leaders realized that the compromises necessary to get the bill passed would make it virtually meaningless. Moreover, the end of the congressional session was approaching, making scheduling even a "bare bones" proposal difficult.⁵⁹ Labor and the administration finally abandoned the effort.

Just as political commentators had viewed passage of labor law reform in the House as a sign of labor's strength, failure in the Senate was viewed as a sign of labor's weakness. But the two peak cloture votes reflected roughly the same level of support in the Senate as the overwhelming victory in the House. Fifty-

eight percent of senators voted for cloture, while 59% of House members voted for the labor law bill.⁶⁰ The bill's failure was also blamed on the stridency of the opposition of the business community and Carter's failure to make a successful public appeal.⁶¹ But the bill's failure centered on a small handful of senators from conservative states with low unionization rates who were already predisposed to oppose the bill. Public appeals were unlikely to change these senators' position. Little had changed since the 1965 defeat on 14(b) repeal, except that labor had more support. The conservative coalition's ability to block legislation supported by a majority in the House had been all but eliminated by congressional reform. But an alliance of Republicans and Southern Democrats could still control the outcome on the labor law bill through the Senate filibuster—a tool they would increasingly turn to. As UAW president Douglas Fraser observed to President Carter, the defeat of labor law reform was "proof that because of the revival of the filibuster, no controversial legislation may be passed by a majority of the Congress. Apparently, now there must be 60 votes to pass such legislation."⁶²

Journalists and pundits depicted the loss as an indication of labor's declining political power in the seventies. In a press conference following the final failed cloture vote, a reporter asked Meany to comment on the state of labor given that labor leaders had been "hit over the head on legislation." Meany responded: "I would put the labor movement just where it has been in the forefront fighting for liberal and social causes. As far as legislative situations are concerned, if you look up the legislative record, we have had setbacks in legislation for many, many years, but we keep right on and, when you look back over the years, the progress has always been in our direction in the long run. Now, when you say we have had a setback I suppose you are talking about Labor Law Reform. Actually the labor law is today what it was yesterday, what it was last month, what it was last year. There is no change in it."⁶³ Meany's response highlights the legislative experience of organized labor in the postwar period, slow and incremental progress in some legislative areas and stalemate in others. The 1977–78 legislative path of labor law reform had been somewhat different from previous labor efforts on 14(b) and common situs. Demonstrating the impact of congressional reform, the committee system no longer served as an impediment, and the party leadership utilized some of its tools to strengthen labor's position. The bill made it fairly easily through the legislative system until it met the filibuster. As in 1965, labor was able to build majority support

for labor law reform but not the supermajority needed for cloture. Despite improvements in the legislative process, the outcome was the same—failure to alter the status quo. Conservative obstructionism in the Senate also played a major role on another labor priority, full-employment legislation.

The Return of the Full-Employment Issue

Unemployment reached the highest levels since the Great Depression during the mid-1970s. Throughout the decade, the AFL-CIO and many affiliates pushed for public works and other government spending programs to stimulate employment. The combination of high unemployment and high inflation known as “stagflation” flummoxed policy makers because treating one problem risked exacerbating the other and traditional policy tools did not seem to bring much improvement. The long postwar economic boom had dampened interest in economic planning. But the new economic situation led a few economists outside the mainstream of the discipline, some businesspeople, and organized labor to pursue a less interventionist version of the type of economic planning that had been considered and rejected in the United States in the postwar reconversion period. Several supporters of centralized economic planning joined in early 1975 to form the Initiative Committee for National Economic Planning headed by Nobel prize-winning economist Wassily Leontief and United Auto Workers president Leonard Woodcock.⁶⁴ Later in the year, Hubert Humphrey, the former vice president and then senator from Minnesota, joined Senator Javits (also the Republican cosponsor of the administration’s labor law reform package) to sponsor legislation based on the recommendations of the committee to create new planning capacity in both the White House and Congress and new institutions focused on a longer-range outlook than those created in the Full Employment Act of 1946.

Humphrey soon joined forces with Representative Augustus Hawkins (D-CA), a leading member of the Congressional Black Caucus who had sponsored a full-employment bill guaranteeing a job to all who wanted to work. Civil rights leaders had long argued that civil rights legislation meant little without a comprehensive effort to end the economic isolation of blacks. Black unemployment was often double the rate of white and became a double-digit problem in many inner cities, particularly among young people. Several Great Society employment and training programs targeted black unemployment, but underfunded and perhaps poorly conceived, they failed to solve the problem. As the ratio of

black to white unemployment edged higher in the 1970s, there was growing demand for government action by civil rights leaders and black politicians.

Congressional Democrats hoped to make full employment a major campaign issue in 1976. As the chair of the Joint Economic Committee of Congress, which was created by the Employment Act of 1946, Humphrey held a series of regional hearings throughout the country in the winter of 1975 on unemployment and the need to amend the 1946 legislation. In the spring of 1976, Humphrey and Hawkins cosponsored the Full Employment and Balanced Growth Act, which joined the planning approach of the earlier Humphrey measure with the commitment to full employment of the Hawkins proposal. The Humphrey-Hawkins bill set a goal of 3% adult unemployment to be reached within four years. The president, Congress, and the Federal Reserve were to cooperate with state and local governments to stimulate private-sector job creation. The government would serve as the employer of "last resort," creating public-sector jobs when necessary to achieve full employment. The AFL-CIO, affiliated unions, the UAW, and civil rights groups formed the core support for the bill. Demonstrating the cooperation of old liberals and new, the coalition picked up support from women's organizations, churches, and even an organization of environmental groups under the umbrella of Environmentalists for Full Employment, uniting the major organizational supporters of the Democratic Party.⁶⁵ But between the introduction of the Humphrey-Hawkins proposal in March 1976 and its final passage in October 1978, the full-employment bill would gradually be winnowed down to a largely symbolic commitment to reducing unemployment.

Critics of the Humphrey-Hawkins bill argued it would send inflation soaring even higher. At the insistence of organized labor, the first Humphrey-Hawkins proposal excluded wage-price controls and guidelines and included a provision requiring the public-sector jobs created as a result of the legislation to pay "prevailing wages." Prevailing wages in government contract work were often determined through collective bargaining and were generally considerably higher than minimum wage. Opponents charged that these public-sector jobs would lure workers away from lower-paying private-sector jobs and feed wage inflation. These concerns stalled the bill in Congress and shaped negotiations over full-employment language in the Democratic platform committee. The AFL-CIO indicated a new willingness to go along with some form of wage-price stabilization and to drop the "prevailing wages" provision in exchange for Carter's support of full-employment legislation and other labor priorities. Before the election, the House Education and Labor Committee reported a substitute

proposal reflecting these changes, along with stronger measures to deal with inflation and the stipulation that the “last resort” public-sector jobs would primarily be low skilled and low paying.

Following his election, Carter felt obligated to support the bill, but the administration had numerous concerns, including the potential inflationary impact, possible redundancy with existing programs, and the effectiveness of the various proposals in addressing unemployment in a changing labor market. There was also an overarching fear the bill would “raise false expectations about the ability of the Government to remove the impediments to full employment quickly.”⁶⁶ Given the fragmentation in economic policy-making authority recognized in the bill between the Federal Reserve, Congress, the executive branch, and the states, the president would not be given the institutional tools needed to plan *and* implement a full-employment policy effectively, but he would likely be blamed politically for not fulfilling the goals of the act.⁶⁷ Although Representative Hawkins was initially resistant to significant changes in the bill,⁶⁸ supporters both in and outside Congress, including representatives of the AFL-CIO and the UAW, spent months negotiating a compromise that Carter could endorse.

The Humphrey-Hawkins proposal was revised to give the president more room to maneuver. It set a target unemployment rate of 4% overall and 3% for workers aged twenty and over to be reached in five years rather than four. The measure still embodied the principle that every person willing to work was entitled to a job and that public-sector jobs should be created to reduce unemployment when necessary. However, the president insisted on the authority to revise the goals and timetables at a later date. He also demanded flexibility in how to go about expanding the number of jobs. In a gesture to labor, there was no specific provision for wage-price guidelines, and the bill merely stated that price stability should be sought as soon as possible. The independent and politically insulated Federal Reserve Board, which had been subject to intense criticism by organized labor as committed to restraining inflation regardless of the costs in increased unemployment, was also required to explain how its monetary policies would address unemployment targets. Many proponents of full-employment legislation felt the proposal had been rendered all but worthless, whereas opponents continued to argue it could be devastating to the economy.⁶⁹

The House finally moved toward a vote in 1978. Following partisan wrangling within the House Education and Labor Committee, a modified bill reflecting a number of concessions to critics of the legislation was reported in Febru-

ary. On the House floor in March the bill was besieged with amendments.⁷⁰ After four days of tumultuous floor action, Humphrey-Hawkins finally passed 257–152, with more than 95% of non-Southern Democrats supporting the bill. More Southern Democrats supported Humphrey-Hawkins than the labor law reform bill in the House at 62%, while fewer Republicans voted for it at 18%.

As with labor law reform, Humphrey-Hawkins faced more trouble in the Senate. It was referred to two committees, which delayed final action. Although the more liberal Human Resources Committee reported a bill in May without major amendments, Humphrey-Hawkins faced more opposition in the Banking Committee. The committee finally reported a bill in late June with a number of amendments added by fiscal conservatives to establish a goal to eliminate inflation by 1983, to balance the budget, and to reduce the federal budget to 20% of gross national product. Meeting these goals would likely make it impossible to reach the unemployment targets. The committees failed to reach a compromise after two months of contentious negotiations, and instead of melding the two bills, each reported its version as a substitute for the original bill. With roughly a month left in the congressional session and a crowded Senate calendar, Majority Leader Byrd was reluctant to bring up the bill for fear of bogging down the Senate. Republicans were threatening to launch three possible filibusters—one on the motion to consider the bill, another on the bill itself, and a postcloture filibuster through endless amendments (a tactic also threatened on labor law reform). To forestall these possibilities, Byrd repeatedly tried to negotiate a time agreement for consideration of the bill with Republican leaders to limit debate, but conservatives dug in their heels.⁷¹

Carter, fearing further deterioration of his relations with core groups in the Democratic Party, initiated a last-ditch effort to broker a compromise. He brought leading Republican opponents to the White House to “attempt to secure their agreement to allow the bill to be considered in an orderly manner” and called media attention to Republican obstructionism.⁷² The White House launched a major lobbying effort to get the votes for cloture and fight off unfavorable amendments. White House staff also coordinated the efforts of interest group supporters to maximize pressure on targeted senators.⁷³

The bill came to be derisively referred to as the Humphrey-Hawkins-Hatch Act because of the concessions supporters granted the leading Republican opponent, Orrin Hatch, to avert a filibuster. The labor–civil rights coalition struggled to maintain the integrity of the bill and threatened to pull its support if the Banking Committee’s provisions on inflation and federal spending were in-

cluded. The coalition opposed making so many concessions to prevent a filibuster and preferred to take up the fight in floor votes. It finally got its wish. The vote on the inflation measure came in an episode of legislative brinkmanship in which the labor–civil rights coalition lobbyists again differed over strategy with many of their congressional allies. Senate liberals feared that if they did not vote for Hatch’s inflation amendment, he would kill the bill through endless amendments. AFL-CIO lobbyists were convinced Republicans would not allow Hatch to do this, but they failed to persuade enough senators to call Hatch’s bluff.⁷⁴ A vote on a weak inflation amendment backed by labor and sponsored by Humphrey’s widow produced a tie. It was broken by several senators changing their votes to no, and the Hatch amendment was adopted with the votes of several liberals who favored the weaker approach. However, the coalition prevailed on the federal spending issue when the stringent goals of fiscal conservatives were rejected in favor of a vague commitment to reducing the federal share of the economy.⁷⁵ The amended Humphrey-Hawkins bill passed 70–19 with Hatch voting against it despite his role in shaping the final product. On the last day of the congressional session the House accepted the Senate amendments on a voice vote.

Just as organized labor had been disappointed with the final version of the Employment Act of 1946, the AFL-CIO and its allies were disappointed with the final version of the Humphrey-Hawkins Act. Ken Young, an AFL-CIO lobbyist, tried to muster some enthusiasm after passage: “It does represent a small symbolic step forward but the Senate weakened it severely.”⁷⁶ Like the Employment Act of 1946, Humphrey-Hawkins committed the government to full employment in principle but provided no real way to achieve it. However, the barriers to passage of a strong bill were quite different. Unlike Truman, Carter had insisted on weakening changes in the bill to protect his own institutional and political position. But in both cases, Congress insisted on a weaker bill than the administration. However, in what was becoming the typical pattern of obstruction, the Senate rather than the House emerged as the major obstacle to Humphrey-Hawkins. Congressional reform and the changing composition of the Democratic Party meant that conservative committee chairs no longer dictated the outcome in the House. The Senate’s fiscal conservatives played a role in weakening the bill in the Banking Committee, but the real challenge was the threatened filibuster. Conservative opponents were never forced to prove they had the 41 votes to maintain a filibuster. The labor–civil rights coalition begged for the opportunity to call what they felt was a bluff by Republicans led by

Hatch. Instead, some of the coalition's allies in the Senate blinked first and caved to Hatch's demands. Liberals bore the burden of compromise because they wanted a bill and Hatch did not. The threat of a filibuster thus had a substantial impact on the bill, even though a filibuster was never actually launched. This calculus became a major feature of legislating with the rise of the filibuster in the postreform period in Congress.

The Renewed Push for National Health Insurance

After the passage of Medicare, labor resumed the pursuit of universal health care. But the situation that confronted advocates of national health insurance in the 1970s had become even more complicated than in the 1940s. By the 1970s, a set of problems that continue to plague the American health care system—and efforts to reform it—became apparent. Health care costs were increasing at rates far in excess of general inflation. American health care had tilted in favor of overutilization of expensive, high-technology care over prevention, and methods of reimbursement encouraged spiraling costs. Health care had also become a major sector in the economy with a diverse range of interested parties eager to protect their stake in the system. Most working-age Americans were covered by private insurance provided by their employers, but a substantial percentage, particularly among the unemployed, part-time workers, low-wage workers, and those working for small businesses, were uninsured. Many who had insurance were underinsured for sizable health costs and could still face bankruptcy from excessive medical bills.

Although almost everyone agreed that health care reform was needed, there was no consensus on the best way to address these problems. While some advocates of reform favored universal coverage that would guarantee that no one went without care, others favored a targeted approach focused on vulnerable populations such as mothers and children or low-income workers. Similarly, some advocates of reform felt that everyone should have coverage for a comprehensive set of benefits, whereas others felt the government should act only to protect people from catastrophic medical costs. As in the development of the Medicare proposal, those on the left advocated a national health insurance approach, in which the government would pay directly for medical care; conservatives and some moderates favored the expansion of private insurance coverage. There was also broad disagreement on how to control and distribute spiraling costs between the government, employers, and the individual. There

was no consensus on what combination of reforms would preserve the best features of American health care while eliminating the worst. Organized labor stood on one end of the continuum in advocating a universal, comprehensive, government-funded health care system with no cost sharing for the individual (outside of the tax system) and cost controls imposed by health budgeting by the federal government.

Labor leaders understood that compromise on national health care would be inevitable given the realities of the American political system. However, labor struggled in the 1970s to find the right balance between how much needed to be sacrificed to reach a politically viable compromise and how much was too much to sacrifice in the interests of a legislative victory. Momentum behind health care reform grew and subsided in fits and starts during the 1970s, and at several points sweeping health care reform appeared all but inevitable. However, labor rejected what might have been a viable compromise in the Nixon years, and health care reform ultimately fell victim to sparring among reform advocates, jurisdictional struggles in the reformed congressional committee system, and growing budget woes during the Carter administration.

Efforts at Reform in the Nixon-Ford Years

Numerous proposals for health care reform circulated as the issue gained momentum in the 1970s. At the beginning of the decade, organized labor commenced a long-term partnership with Senator Edward Kennedy (D-MA) to push health care reform. The AFL-CIO, UAW, and the Committee for National Health Insurance (CNHI), an organization formed by labor to build support outside the labor movement, worked with Kennedy to prepare a bill for comprehensive national health insurance funded through payroll taxes and general revenues that was first introduced in early 1971. Labor and the CNHI worked on building a broader coalition in support of this approach with minority groups, religious groups, and state and local political leaders.⁷⁷ As part of a budding rivalry with Kennedy as the 1972 elections approached, President Nixon countered Kennedy's proposal with a plan based on a mandate on employers to cover 75% of the cost of government-approved health insurance plans for their employees. A new federal program would cover low-income families without access to employer plans. Other major bills introduced that year included a plan endorsed by the AMA to provide tax credits for the purchase of private health insurance with the size of the credit scaled to income. Hearings were held in a number of congressional committees on the various plans. The Health Subcommittee of

the Democratic Policy Council, a division of the Democratic National Committee headed by UAW president Woodcock, held field hearings in numerous cities on national health insurance to build momentum for labor's position heading into the 1972 Democratic Convention. However, there was no movement in Congress before or after the election.

The prospects for passage of significant health reform improved considerably over the course of the 1974 congressional session.⁷⁸ As had initially happened with Medicare, the Ways and Means Committee was deadlocked with members split in support of different proposals. In a major breakthrough, it appeared that the stalemate might finally be broken when Ways and Means chair Mills, under threat that his committee's jurisdiction over health care might be taken away by a rebellious caucus, joined Senator Kennedy to develop a compromise measure announced in early April.⁷⁹ The Kennedy-Mills compromise required all employers and employees to participate in a new national program with a standard menu of benefits that would also be extended to Medicare and Medicaid beneficiaries. The program would be funded by payroll taxes and run by an independent Social Security Administration with a role for private insurers as financial intermediaries. Unlike in the original Kennedy-labor proposal, individuals would be responsible for deductibles and copayments. Shortly after the proposal was introduced, Ways and Means opened long-awaited hearings on national health care. At the same time, another proposal by Senators Russell Long (D-LA) and Abraham Ribicoff (D-CT) to cover catastrophic medical expenses funded by a small payroll tax appeared to have majority support in the Senate Finance Committee.⁸⁰ But the Nixon administration voiced opposition to the catastrophic approach, with Health, Education, and Welfare (HEW) secretary Caspar Weinberger arguing that "partial action" was as undesirable as "no action."⁸¹ Mills later indicated similar feelings. Momentum was building behind a comprehensive approach.

As compromise between the administration and leading figures in the House and Senate seemed more likely, organized labor began to drag its feet. The CNHI refused to endorse Kennedy-Mills and criticized its approach as inadequate as compared with the more comprehensive national health insurance bill. Internal AFL-CIO documents suggest that by early April figures within the AFL-CIO and the CNHI were beginning to consider less comprehensive proposals including proposals with some of the compromise features of Kennedy-Mills and modified versions of the administration plan.⁸² But publicly the position of the AFL-CIO and other labor supporters of national health insurance hardened in

opposition to the Kennedy-Mills compromise. Two factors played into this strategy. Labor was willing to settle for Kennedy-Mills, but labor leaders and lobbyists feared that if they softened their position this early in the legislative process, an even more watered-down proposal would be likely to emerge in the final legislative product.⁸³ Clearly this had happened to labor numerous times before, and past experiences encouraged labor leaders and lobbyists to dig in to preserve organized labor's goals of universal and comprehensive coverage in the face of proposals like the Long-Ribicoff catastrophic bill. There was also the fear on the part of labor leaders like Woodcock that it would be hard to shift their stance after spending years selling their memberships on a comprehensive, government-funded approach. The other major factor was the growing likelihood of liberal gains in the 1974 congressional elections as the Watergate scandal heated up, which labor leaders assumed would improve the prospects for a bill more to their liking.⁸⁴ This created a great deal of strategic uncertainty.

When Ford assumed office, he urged quick action on health care, but the Ways and Means Committee remained divided on whether health insurance should be compulsory and how it should be financed. A vote on the AMA's limited proposal for tax credits for health insurance premiums tied 12–12 with five Southern Democrats joining all but three Republicans in support.⁸⁵ The conservative coalition's hold on important committees had been loosened but clearly not eliminated. Subsequently, the committee tentatively adopted 12–11 a staff-engineered compromise with many of the features of the Nixon proposal, but Mills refused to report the bill, believing the narrow committee margin implied trouble on the floor.⁸⁶ Supporters of a broader bill including organized labor fended off further action in a lame-duck legislative session called after the November elections, safe in the knowledge that a whole new class of liberals would arrive in the 94th Congress. Labor did not realize that the window for national health insurance was closing rather than opening wider.

Political analysts felt action in the next Congress was inevitable, but a growing federal budget deficit complicated the picture. Critics of national health insurance have always tarred it with the label of "socialized medicine," but moderates and even some liberals were far more open to the criticism that national health insurance would create a vast new entitlement program that was financially unsustainable.⁸⁷ In the two months between the election and the opening of the 94th Congress, the growing tensions over the cost of national health insurance spilled into negotiations between labor lobbyists, representatives of the CNHI, Senator Kennedy, and Representative James Corman

(D-CA), who had become the chief sponsor of the labor-endorsed proposal in the House. In one meeting, Kennedy, acting in what was described as "almost a belligerent manner," stated that he resented charges made against him that he was "selling out on the health issue" but insisted he did not want to reintroduce the national health insurance bill in its present form because it would be "saddled" with its "\$90 billion cost."⁸⁸ Representative Corman and the AFL-CIO's Andrew Biemiller disagreed with Kennedy and argued that a national health insurance bill should again be introduced even though compromises would eventually be necessary. Corman and Biemiller won out, but the CNHI continued to develop and evaluate alternative proposals to utilize in future negotiations, including the possibility of phasing in national health insurance coverage by demographic categories such as children and mothers.⁸⁹

As the economy sagged and spending on entitlements grew precipitously, the federal budget deficit (though nothing compared with what it would become in the eighties) became a greater problem, giving opponents of national health insurance ammunition. The Ford administration announced a moratorium on new federal spending at the beginning of the 94th Congress, while congressional proposals became entangled in jurisdictional conflicts in the House, precipitated by the decentralization of power in the reformed Congress. The health subcommittees of the Ways and Means and Commerce committees both claimed jurisdiction, and both held hearings. Efforts to build consensus between the two committees, including negotiations led by a DSG task force, proved futile in 1975 and 1976. The divisions between the committees were so deep that a consensus could not be reached on a stopgap measure to provide health insurance for the rising number of unemployed, which was viewed as a legislative dress rehearsal for broader health care reform.⁹⁰ There was no further action on benefits for the unemployed or national health insurance in 1975 or 1976 as presidential election year politics again entered the picture.

Health Care Reform in the Carter Administration

As a candidate, Carter pledged his support of national health insurance, but in recognition of budget constraints, the 1976 Democratic platform called for phasing in reform. In office, the administration first focused on a hospital cost containment bill, arguing that holding down health care inflation was a necessary precursor to national health insurance. Labor and Senator Kennedy made every effort to push the administration to develop an acceptable health reform approach while they prepared a new, somewhat compromised version of their

own proposal released in spring of 1978.⁹¹ But disagreement between the administration and Senator Kennedy and organized labor persisted over cost sharing, cost containment, and the role for private insurers.⁹² There were signs of trouble by Carter's second year in office. As Eizenstat noted in a memo to President Carter to prepare him for yet another meeting with Senator Kennedy and labor representatives:

In our discussions with labor, we assume that their support is probably indispensable to passage of NHI legislation, since most other interest groups are satisfied by the status quo. On the other hand, the type of bill that labor is supporting cannot possibly be enacted and may well be ill-advised substantively. The goal therefore must be to persuade labor to accept a viable bill.

We may be able to reach an acceptable compromise with labor. However, we are by no means certain of this. NHI is not a "bread and butter" issue for labor. Most unions have good health insurance; many (including the UAW) have excellent coverage. Thus, labor can afford to be ideologically pure on NHI. At the same time they have invested years in educating their workers on the desirability of the Kennedy/Corman Bill. Labor may not be as willing to compromise on this issue as it has been on such "bread and butter" issues as labor law reform.⁹³

While Kennedy and labor pressed the administration to introduce a proposal in time for hearings to be held prior to the 1978 elections, other key members of Congress urged the administration to hold off. Al Ullman (D-OR), the new chairman of the House Ways and Means Committee, believed that submitting a national health insurance bill would "destroy" Carter's presidency because it ran "so counter to the fight on inflation."⁹⁴ The president's advisers argued, "Although the UAW may believe otherwise, the climate is not right to make national health insurance a major campaign issue. More time is also required to educate the public that the national health plan is needed to bring health expenditures under control and is not simply another expensive benefit program."⁹⁵ The administration decided to release a set of principles for health reform in July, with the understanding that legislation would be introduced in the 1979 congressional session. Labor and Kennedy were losing faith that the administration would act.⁹⁶

Internally the administration continued to struggle with how comprehensive its proposal should be. Labor leaders were opposed to a phased-in approach because they feared it would alleviate the pressure on Congress to take further action, whereas the Carter administration was convinced that an incremental

proposal was the only approach that had a chance of passing Congress.⁹⁷ The administration also debated the merits of a “targeted” approach of adding limited coverage for certain vulnerable populations versus a “broad” approach of universal, comprehensive health care for all. While recognizing the importance of fulfilling the administration’s campaign pledge on national health insurance and its commitment to labor and Senator Kennedy, Secretary of Health, Education, and Welfare Joe Califano struggled with finding the most effective strategy in Congress:

Passage of a National Health program that follows the broad approach will not be easy in either this or the next session of Congress. Indeed, given the strong congressional sentiment against a broad approach, there is the very real danger that the Administration will be criticized for, once again, proposing broad, comprehensive legislation that has little chance of passage when it could have submitted a more modest bill (following the targeted approach) that does have reasonable chances of Congressional success and will effect important reforms.

But it is highly unlikely that a targeted approach *that included the types of cost containment and system reforms that the Administration is likely to propose* would have an easier passage through Congress than a broad approach. Moreover, adoption of the broad approach allows you to educate the American people more fully on the health system as a whole and puts you in a position to compromise if Congress decides to accept only the initial phases of a broad bill (phases that might be similar to a targeted approach).⁹⁸

The administration was struggling to pass its hospital cost containment bill—which was ultimately gutted in the House and dropped in the Senate because of a filibuster threat—and it recognized the difficulty of getting any meaningful legislation through Congress.⁹⁹

By the fall, organized labor and Kennedy finally broke with the administration and again pushed their own proposal. The Kennedy-labor proposal, however, had come a long way. The proposal was no longer based on a system of federally funded national health insurance but was instead a mixed system based on an employer mandate to provide highly regulated private insurance to employees and their dependents. Unlike in previous versions of the bill, employees could be asked to share the costs of premiums, but there would still be no deductibles or copayments. A government-funded program would cover the unemployed, the poor, the disabled, and the elderly. There were a lot of similarities to the Nixon plan that labor had rejected four years earlier as inadequate.

The Carter administration reached out beyond Kennedy and labor to consult with other health care leaders on the Hill. In summer of 1979, Carter finally announced a detailed proposal that was essentially a catastrophic health plan that offered limited coverage to everyone. Employers would be mandated to pay 75% of the premiums for a high-deductible policy. The elderly, disabled, and poor would be joined in a new, comprehensive fully federal program. The proposal was considerably smaller than what Carter had campaigned on, but the administration was trying “to occupy the middle ground in a polarized situation” and to thread the needle in Congress.¹⁰⁰ It hoped to win over Senator Long, chair of the Senate Finance Committee, whom they saw as key to passage of any bill, and other moderates. The administration presumed liberals would eventually find it hard to vote against a measure that significantly expanded health coverage. Anticipating labor’s criticism, Carter’s press secretary advised the president to emphasize in his public discussions of the proposal that “we believe that the time has come to concentrate on actually getting something done to help Americans and that this is more important than adhering to some semi-sacred ideological principle.”¹⁰¹

The longtime supporters of national health insurance led by organized labor and Kennedy, who was widely expected to challenge Carter for the Democratic presidential nomination, were highly critical of Carter’s plan as unfair to low- and middle-income families. Labor leaders refused to give any public indication of a willingness to accept a catastrophic health bill. While the AMA and insurers expressed qualified support for Carter’s plan, businesses attacked it as imposing new costs on employers who did not already provide insurance, thus encouraging inflation and further burdening business in a time of high unemployment and economic stagnation.¹⁰² Even this pared-down proposal was considered by many in Congress to be too expensive. The Senate Finance Committee worked on a catastrophic bill, and there was considerable interest in a catastrophic proposal in Congress. However, providing too little to attract liberal supporters and costing too much to attract conservatives, catastrophic health care reform languished on Capitol Hill.

Another episode in the efforts of organized labor to obtain universal, comprehensive health care came to a close. The election of Ronald Reagan as president pushed the issue off the agenda for more than a decade. Many observers and scholars believe the United States came closer to comprehensive health care reform in 1974 than it ever had before.¹⁰³ Policy makers, including organized labor, may have pulled back from negotiating a compromise at a critical

moment. Because of events beyond their control, supporters of universal health care lost momentum after the 1974 elections when they expected to gain it. The American labor movement is often criticized for being too willing to compromise on legislation, but in this instance they were not. Had organized labor been willing to accept the Kennedy-Mills compromise and more willing to make concessions, perhaps a program of universal health care would have passed in lieu of labor's preferred program of federal national health insurance. But supporters of national health insurance knew substantial concessions would likely be made to get even the Kennedy-Mills compromise through the legislative gauntlet. From this perspective it was not unreasonable to wait for the 1974 congressional elections to fortify liberal ranks, which might have given labor more leverage in the negotiations, if other problems like the deteriorating economy had not intervened.

There were many factors that contributed to failure of national health insurance in the 1970s, and, as in the 1940s, legislative institutions did not prevent a committed majority from acting. But they did complicate reformers' strategic calculus and create an inhospitable environment for reform. House committee obstruction was replaced with obstruction by the filibuster in the Senate, while the conservative coalition remained a force in both chambers. The greater fragmentation in the legislative process in the early postreform period in the absence of strong leaders and a unified caucus also made it more difficult to build legislative majorities. Having seen moderate proposals like labor law reform, Humphrey-Hawkins, and numerous other initiatives, including hospital cost containment, stalled or gutted in Congress, the Carter administration struggled to find a health reform proposal that might be politically viable, but in the process he lost labor's support.

Conclusion

The enfranchisement of African Americans and congressional reform did not produce the legislative outcomes labor had hoped for in the mid- to late seventies. The position of labor and liberals in Congress was improved in many respects, particularly in the declining power of the conservative coalition in the committee system. But the immediate decentralizing effects of congressional reform and confusion of committee jurisdictions further complicated efforts to build viable legislative coalitions and made the chamber more unpredictable. Furthermore, the parties did not instantly realign in the wake of civil rights,

and the conservative coalition, though weakening, still cropped up on labor-backed legislation. Most important, while obstruction in the House declined, obstruction in the Senate became more prominent, as conservatives increasingly turned to the filibuster. Even though the filibuster had been reformed to lower the cloture threshold in the mid-seventies, overcoming it still required an often elusive supermajority. Although viewed as a sign of labor's declining political influence in the 1970s, labor's legislative failures were shaped by this larger institutional context.

Government's failure to address pressing public policy problems in the 1970s, like the lack of access to health care and high levels of unemployment, further threatened labor's policy agenda as the public increasingly came to question the ability of government to deliver on its promises. Legislation like Humphrey-Hawkins was touted as a solution for unemployment, but it was so watered down that it had little effect. Carter and congressional liberals ran on pledges of universal health care that they never delivered on. Income inequality increased as the minimum wage failed to keep pace with inflation. Government's inability to act coherently in the face of widespread problems undermined public trust and made many in the public quite receptive to the criticisms of government made by Ronald Reagan and a subsequent generation of conservatives.¹⁰⁴