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The More Things Change, the More They Remain the Same

With the exception of a brief period during the first two years of Democratic president Bill Clinton's administration, the labor movement would find itself on the defensive from the election of Ronald Reagan in 1980 through President George W. Bush's last year in office in 2008. At many points during this almost thirty-year period, it looked as if the foundations of the limited welfare state that labor had fought so hard to establish would be washed away by a conservative, antigovernment tide. Reagan railed against "big government," and even Clinton asserted four years into his presidency that "the era of big government is over."¹ George W. Bush pledged to create an "ownership society" by privatizing government programs. Unified Republican control of the government during most of his two terms in office posed the greatest threat to labor's policy accomplishments in the postwar period. But by the time Bush left office, many of labor's most cherished programs were barely changed. Social Security, the third rail of politics, escaped with minimal modifications.² A Medicare prescription drug benefit provided through private insurers had been created, and some Medicare recipients were now covered by government-paid private health in-

urance policies, but most of the elderly remained in the targeted national health insurance program. The collective bargaining rights of a number of government workers were imperiled after their jobs were subsumed into the new Homeland Security Department, but for the most part labor laws remained unchanged.³ Meanwhile, even some incremental policy gains advocated by organized labor were realized.

The limited American welfare state remained largely intact because it is just as difficult to get rid of a program as it is to put one in place, as long as there are influential advocates to protect it.⁴ Labor was able to defend these programs during a period of conservative ascendancy for many of the same reasons it had difficulty realizing its most ambitious policy goals during periods of liberal strength. Labor benefited from the separation of powers and the enduring protections for political minorities in the legislative process. It also took advantage of its own improved position within the congressional Democratic Party as a result of the long-term impact of the reforms that labor pushed in the 1960s and 1970s. Underlying the limited changes in public policy were significant changes in the party system and the operation of Congress. These changes produced two countervailing trends for labor—the Democratic Party became more ideologically cohesive and more uniformly receptive to labor's policy agenda, despite declining union density, while the Democrats became less dominant in elections, throwing the presidency, for most of this period, and eventually the Congress into Republican hands.

This chapter looks at the fallout of the institutional and electoral reforms of the 1960s and 1970s and their effects on the public policies organized labor advocated from 1980 to 2008. The first part of the chapter outlines the realignment of the Democratic Party and the impact of these changes on the way Congress operates and the support of congressional Democrats for organized labor. The second part looks at public policy battles over these three decades, again focusing on the areas of labor law reform, universal health care, and workers' income security programs. In most of these policy struggles, labor was able to defend against conservative attacks on the welfare state and to make a few incremental gains. But even during the brief period when Democrats controlled both the White House and Congress (1993–94), labor continued to come up short in its efforts to pass pro-labor policies and significant expansions of the welfare state. During this period, the more things changed, the more they remained the same.

The Fallout of the Reforms of the 1960s and 1970s

The Realignment of the South

When Lyndon Johnson signed the Civil Rights Act of 1964, he predicted that the Democrats “have lost the South for a generation.” Instead, it took roughly a generation for the Democratic Party to lose its hold on the South—and likewise for the South to lose its grip on the Democratic Party. Over the course of the late sixties and seventies, the South became a two-party region. Although the Democrats lost the Deep South at the presidential level in the Democratic landslide of 1964, Southern states largely followed national patterns, and a few Southern states remained competitive for the Democrats through the Clinton years. But in the 2000 and 2004 presidential elections, the solid South became solidly Republican. The South also gradually shifted to the Republicans in congressional elections. The percentage of Southern seats held by Democrats fell off considerably in the 1970s and 1980s but dropped below a majority in the House and Senate only after the 1994 midterm elections gave Republicans control of Congress (table 6.1). The Southern contingent in the House Democratic Caucus gradually declined to a low point of 23.2% in the 2006 election, which returned control of Congress to the Democrats.

Over time, the Democratic contingent of the old antilabor conservative coalition became Republican. While more and more conservatives entering politics decided to run for office as Republicans, a number of prominent conservatives who had spent their careers as Democrats switched parties, such as Strom Thurmond of South Carolina in the 1960s, Newt Gingrich of Georgia in the 1970s, and Phil Gramm of Texas in the 1980s. Over the years Gramm repeatedly said in speeches to his conservative, once Democratic constituents, “I had to choose between [Speaker] Tip O’Neill and y’all and I decided to stand with y’all.”⁵ Continuing this trend, Alabama senator Richard Shelby announced he would switch party allegiance to the Republicans the morning after the 1994 elections. Five House members followed his example.⁶

The Demise of the Conservative Coalition

As Southern conservatives moved into the Republican Party, the remaining Southern Democrats gradually became much more like their non-Southern peers in their voting patterns. As Polsby notes, the percentage of “Dixiecrats,” or conservative Southern Democrats, in the House Democratic Caucus declined

Table 6.1. Decline of the South in the Democratic Caucus

Year	House		Senate	
	Percentage of Southern Seats Held by Democrats	Percentage of Democratic Caucus from the South (Size of Caucus)	Percentage of Southern Seats Held by Democrats	Percentage of Democratic Caucus from the South (Size of Caucus)
1937–38	98	29.8 (334)	100	28.9 (76)
1949–50	98.1	39.2 (263)	100	40.7 (54)
1961–62	93.4	37.8 (263)	100	33.8 (65)
1973–74	68.2	30.4 (242)	63.6	25.0 (56)
1981–82	63.9	28.4 (242)	54.4	23.9 (46)
1989–90	67	29.3 (260)	68.2	27.3 (55)
1991–92	66.4	28.8 (267)	68.2	26.8 (56)
1993–94	61.6	29.8 (258)	59.1	22.8 (57)
1995–96	48.8	29.9 (204)	36.4	19.1 (47)
1997–98	43.2	26.1 (206)	31.8	15.6 (45)
1999–2000	43.5	25.6 (211)	36.4	17.8 (45)
2001–2	42.4	25.1 (212)	36.4	16.0 (50) ^a
2003–4	41.9	26.8 (204)	40.9	18.8 (48)
2005–6	37.4	24.4 (202)	18.2	9.1 (44)
2007–8	41.2	23.2 (233)	22.7	10.2 (49)

Source: Based on figures from *Vital Statistics on Congress*. Size of House Democratic Caucus found at www.clerk.house.gov. Numbers in italics indicate Democrats are not in control of the legislative body.

^aThe Senate was 50/50 and controlled by the Republicans until Republican senator James Jeffords of Vermont switched to caucus with the Democrats in the summer of 2001.

precipitously from 27% in 1970 to 5% in 1990, while “mainstream Democrats” came to dominate the Southern contingent of the Democratic Caucus.⁷ Several factors contributed to the changing ideological orientation of Southern Democrats. The enfranchisement of African Americans, redistricting to group minority voters together in congressional districts, and growing urbanization increased the number of liberal-leaning House districts in the South. Two-party competition also encouraged a class cleavage in voting among Southern whites, and vote choice increasingly corresponded with positions on social welfare issues, which aligned the South with national patterns.⁸ This trend made it possible for Southern Democrats to move to the left, just as labor strategists had expected. As figures 6.1 and 6.2 indicate, the support of Southern Democrats in both the House and Senate for the Democratic Party position in votes that divided the parties increased considerably, and the gap between Southern and non-Southern Democrats narrowed. As a result, by the 1980s, the conservative coalition of Southern Democrats and Republicans that had controlled out-

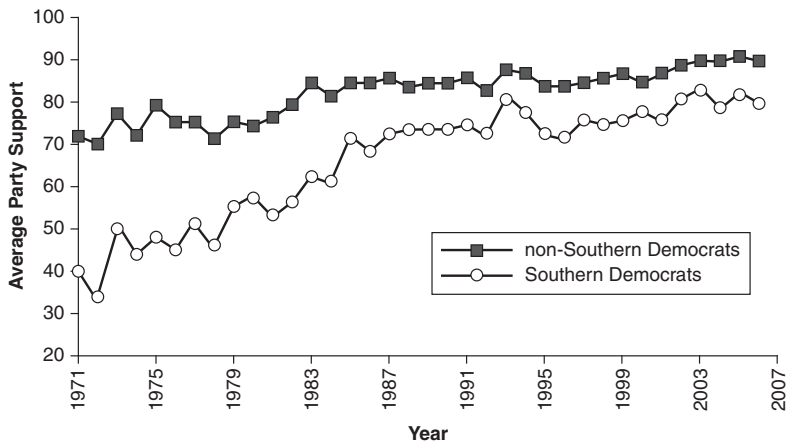


Figure 6.1. House Sectional Party Unity in Democratic Caucus. Average party support on party unity votes in which a majority of one party aligns against a majority of the other party. Source: Party unity support scores from *Congressional Quarterly*.

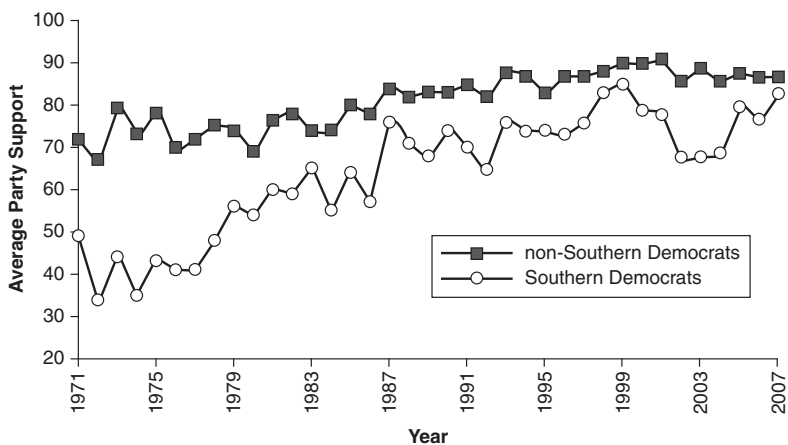


Figure 6.2. Senate Sectional Party Unity in Democratic Caucus. Average party support on party unity votes in which a majority of one party aligns against a majority of the other party. Source: Party unity support scores from *Congressional Quarterly*.

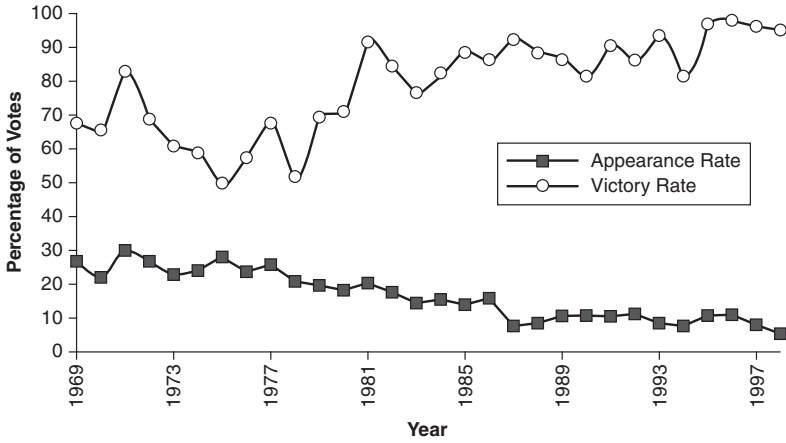


Figure 6.3. Decline of Conservative Coalition in Congress. Votes in the House and Senate are combined here. *Source:* Statistics from *Congressional Quarterly*.

comes on legislation of interest to organized labor for decades gradually declined as a force in Congress,⁹ although on those occasions when the conservative coalition did appear, it was on average more successful in the 1980s and 1990s (fig. 6.3).

The shift among Southern Democrats was also reflected in increased support for labor’s position in roll call votes. The AFL-CIO’s Committee on Political Education compiles the voting records of members of Congress on the AFL-CIO’s top-priority legislation. The average lifetime COPE scores of Southern House Democrats almost doubled from 45.5% in support of labor’s position in 1970 to 88.2% in 2007.¹⁰ Some of the most liberal members in the House, with lifetime COPE ratings in excess of 95%, now come from the South. Many of these Southern Democrats with strong pro-labor voting records are African Americans elected from districts with substantial minority populations.¹¹ Although, on average, Southern Democrats in the Senate remain less supportive of labor than those in the House, the gap has closed in recent years. In 2000, the eight Southern Democratic senators had an average lifetime COPE score of 70.8%, compared with the Southern average of 80.7% in the House. In 2007, the five Southern Democratic senators had an average lifetime COPE score of 85.6%, compared with a regional average of 88.2% in the House. Whereas only one Southern senator, aspiring presidential candidate John Edwards of North

Carolina, had a lifetime average over 75% in support of the AFL-CIO's position in 2000, all five Southern Democratic senators did in 2007.

Party Competition and Party Polarization

The price that Democrats and organized labor paid for greater party cohesion was less success in the electoral arena. As Larry Bartels observes, the net decline in support for Democratic presidential candidates associated with the demise of the New Deal coalition “is *entirely* attributable to partisan change in the South.”¹² The growing competitiveness of the Republicans in the South corresponded with the growing dominance of the Republican Party at the presidential level with the election of Presidents Nixon, Reagan, George H. W. Bush, and George W. Bush. Carter and Clinton, both Southerners, were temporary diversions from this trend. While many Southern states and congressional districts became Republican strongholds in the 1990s, a number of Northeastern and Midwestern states and districts remained competitive, making it more difficult for the Democrats to win both the presidency and control of Congress. This trend certainly hurt labor's overall political position, but in many ways it improved organized labor's position in the Democratic Party.

Given the narrow partisan balance from the mid-1990s through the 2008 elections, organized labor remained a very valuable constituency in the Democratic Party. Despite declining union membership, labor was a pivotal player in industrial swing states like Michigan, Ohio, Pennsylvania, and Wisconsin and an important force even in swing states like Florida.¹³ As Peter Francia documents, labor successfully ramped up its electoral mobilization beginning in 1996.¹⁴ In the 1996, 2000, and 2004 presidential elections, voters from union households represented about a quarter of the electorate, and significant majorities voted for the Democratic candidates in both the presidential and congressional races.¹⁵ Even though union membership continued to decline, labor's efforts to mobilize union members and allied constituencies improved.

In recent election cycles the most highly unionized states have been more likely to go Democratic, and the least unionized states have been more likely to go Republican.¹⁶ Of the twenty-seven states with union density over 10% of the workforce, twenty-four went for Democratic nominee Barack Obama in the 2008 election. Of the twenty-three states with union density under 10%, only five went for the Democrat. There is a fairly strong correlation of the percentage of the workforce unionized in a state with the percentage of the vote that went

for the Democratic presidential candidate in 2008 ($r = .61$). In the wake of the 2008 elections, only one of the twenty-seven states with union density over 10% was represented by two Republicans in the Senate, compared with thirteen of the twenty-three states with union density under 10%.¹⁷ As a result, unions now find more support in the congressional Democratic caucuses, which are more heavily weighted with members from comparatively high union density areas in the Northeast, industrial Midwest, and Pacific Coast region. Labor's electoral mobilization has no doubt contributed to this regional realignment of party strength, but so has the shifting regional appeal of the parties based on ethnicity, religion, cultural issues, and policy positions.¹⁸ The rising dominance of Southern conservatives in the Republican Party has further alienated moderate voters outside the South in recent election cycles.¹⁹ The impact can be seen in the near extinction of Northeastern Republicans in Congress. Historical regional attachments to the Democratic and Republican parties dating from the Civil War have been replaced by party preferences that are more closely linked to policy preferences.²⁰

Another consequence of these changes is that both parties have become more ideologically cohesive and polarized from each other. From a low point in the late 1960s and early 1970s, party unity in both parties in both the House and Senate has gradually risen to postwar highs in recent years (figs. 6.4 and 6.5). The ideological distance between the two parties has also grown, with measures of party polarization reaching postwar highs as well. The parties have developed more distinct policy agendas, which are more likely to be supported by a larger percentage of each party's caucus in Congress than in the period from the 1940s to the 1970s.

Although labor issues have always been quite partisan, they have become even more so. Through the 1970s, it was common to have a number of pro-labor Republicans from high union density areas, such as Senator Jacob Javits of New York, who cosponsored and fought for the labor law reform bill during the Carter administration. These Republicans have all but disappeared. By 2008, there were only a handful of Republicans from more heavily unionized areas who tended to vote with labor in the House. The lone labor-friendly Republican remaining in the Senate, Pennsylvania's Arlen Specter, became a Democrat in 2009. Because of the importance of labor to the national Democratic Party, there are strong party pressures on all Democrats to support labor on its legislative priorities. Members from areas with low union density are still more likely to resist this pressure, but as the discussion of congressional support for labor

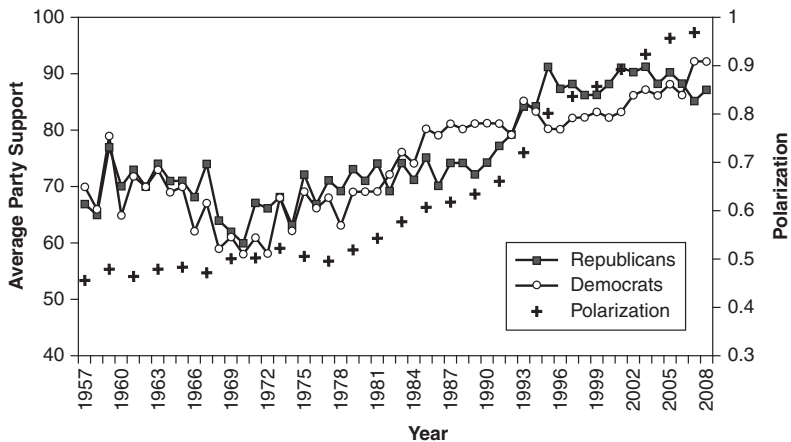


Figure 6.4. House Polarization and Party Unity. Sources: Party unity scores from *Congressional Quarterly*. Polarization is the difference between the Democrats' and Republicans' means on Poole and Rosenthal's nominate scores on the liberal-conservative dimension; Poole and Rosenthal's scores obtained from www.polarizedamerica.com.

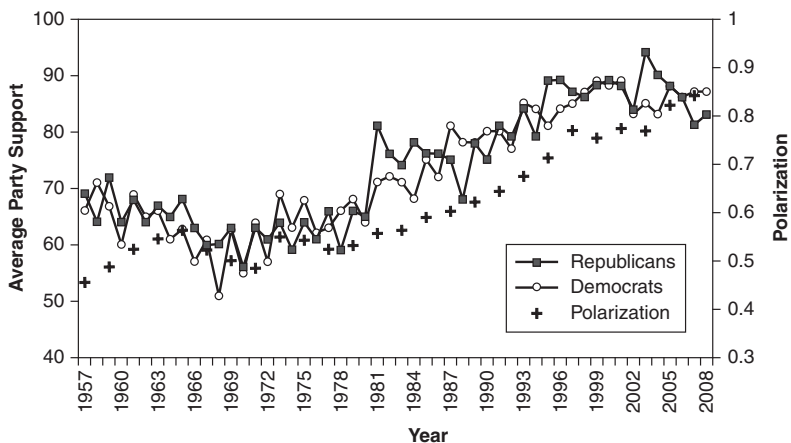


Figure 6.5. Senate Polarization and Party Unity. Sources: Party unity scores from *Congressional Quarterly*. Polarization is the difference between the Democrats' and Republicans' means on Poole and Rosenthal's nominate scores on the liberal-conservative dimension; Poole and Rosenthal's scores obtained from www.polarizedamerica.com.

law reform below illustrates, support for labor among all Democrats increased considerably from the eighties through the first decade of the new millennium.

Repercussions for the Operation of Congress

These changes in conjunction with the reforms from the 1970s opened new opportunities for organized labor, the liberal majority within the Democratic Party, and the congressional Democratic leadership to exert influence in congressional politics, particularly in the House. David Rohde argues that the growing homogeneity within the Democratic Party in the eighties made possible the emergence of “conditional party government” in the House whereby majority party leaders are able to use the powers granted them by the congressional reforms of the seventies to pursue a partisan legislative agenda.²¹ The leadership tries to establish party priorities and to build a national record for the parties’ candidates to run on.²²

Interest group pressures emerged as an important informal resource for party leaders. As Democratic leaders became more activist, the relationship between congressional party leaders and labor grew closer. As Taylor Dark points out, these changes helped organized labor pursue its agenda in Congress.²³ Jim Wright (D-TX), who assumed the speakership in 1987, set a new standard as an activist Speaker in the postwar period. Wright was eager not only to seize the initiative on issues on which there was already a consensus but also to try to generate consensus on more contentious issues by coordinating grassroots pressure with interest groups such as labor to bring wavering Democrats, and even some Republicans, into line. In return for labor’s cooperation on the Democratic leadership’s priorities, Wright and Majority Leader Tom Foley (D-WA) put some of labor’s priorities on the House’s agenda, despite the opposition of rank-and-file members from competitive districts.²⁴ The relationship between House Democratic Party leaders and the AFL-CIO was so strong that by 1987 the AFL-CIO Department of Legislation was hosting teleconference planning sessions with its field staff, state federation officers in target states, and congressional leaders to develop strategies for pressuring representatives to vote for shared legislative priorities.²⁵

The reforms of the seventies in the Senate were much more limited, and, unlike in the House, the leadership was given few new tools to encourage party discipline. The leadership played an important informal role in trying to build party consensus, but the minority has considerable power in the Senate because

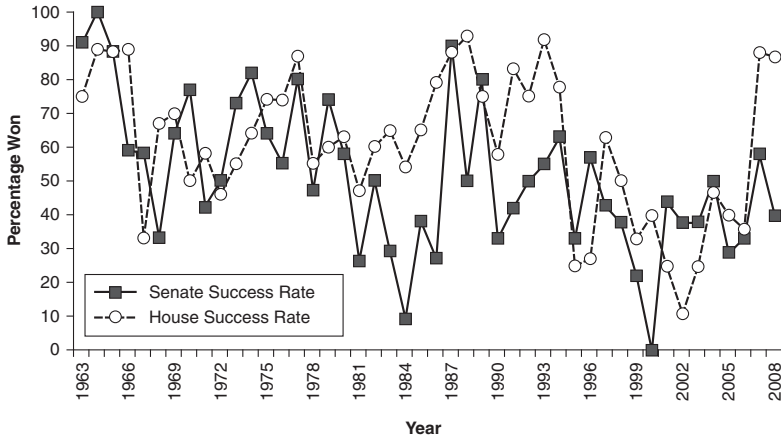


Figure 6.6. Success Rate on COPE Votes.

of the filibuster threat. Despite the commitment of the Democratic leadership in the Senate to many of labor’s legislative priorities, it had a much harder time delivering on them. Labor has typically prevailed on a smaller percentage of COPE votes in the Senate than in the House when both were under Democratic control (fig. 6.6). But while filibusters made it hard for labor to pursue its agenda when the Democrats were in power, they also made it hard for labor’s opponents to pursue theirs when the Republicans controlled the Senate for much of the period from 1980 to 2006, as elaborated later in this chapter.

Growing partisanship, along with reforms that allowed the Senate to take up other business while filibusters were being conducted, encouraged both individual senators and the minority party to resort to the filibuster more frequently.²⁶ As figure 6.7 indicates, efforts to invoke cloture picked up in the seventies, spiked in the late eighties when the Democrats took back control of the Senate, and remained at a high level throughout the contentious nineties and into the new century.²⁷ By 2008, almost 2 out of every 5 votes required a 60 vote supermajority.²⁸ Cloture fights on issues on labor’s legislative agenda have become routine. For example, of the 5 COPE votes that labor won in 2006 in the Republican-controlled Senate, 3 were failed cloture votes that prevented legislation labor opposed from coming to a vote. In 2007 and 2008, when the Democrats controlled the Senate, the circumstances were reversed. Of the 8 COPE votes that labor lost in 2007, 6 were failed cloture votes that prevented legislation labor supported from coming to a vote. All the 6 COPE votes that labor lost

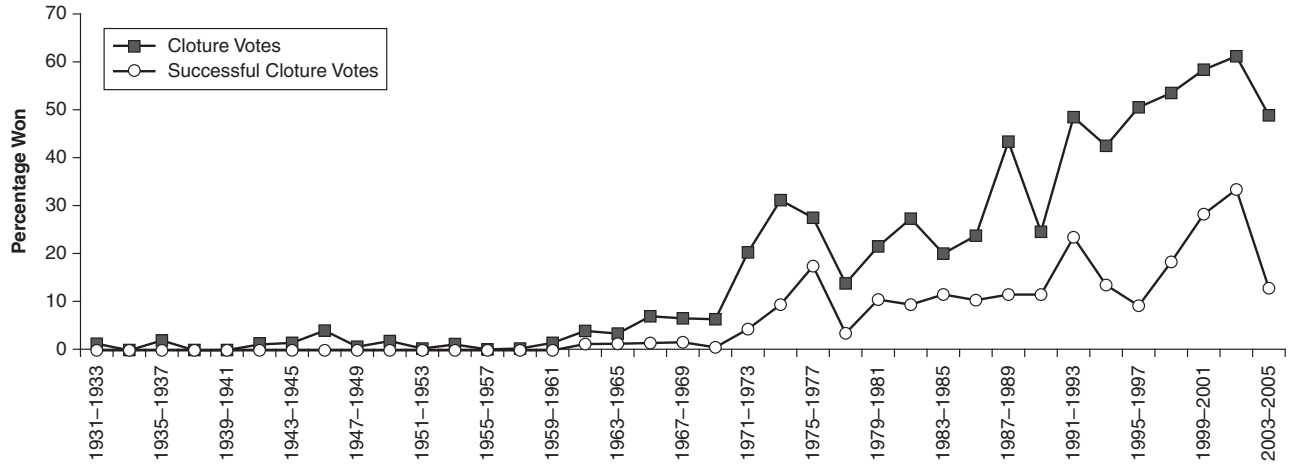


Figure 6.7. Number of Cloture Votes. Source: *Vital Statistics on Congress*.

in 2008 were failed cloture votes (the only 2 losses in the House were failed veto overrides that required a two-thirds supermajority).

All these changes had an impact on the legislative process and the way public policy decisions were made. Ironically, the growing liberalism of the Democratic Caucus came just as the public policy discussion moved to the right in the 1980s. By the 1990s, the Democrats and Republicans held more distinct approaches to the role of government, and both sides often fought to a stalemate on many of the issues on labor's legislative agenda.²⁹

Incrementalism and Stalemate in Public Policy

Divided government, in which one party controlled the White House and another controlled one or both houses of Congress, prevailed for twenty-one and half years out of the twenty-eight years from 1980 to 2008. Democrats controlled both branches for two years during the Clinton administration, but while they held fairly substantial majorities in Congress, they did not have enough seats in the Senate to invoke cloture against filibusters. Thus the Republican minority had an effective veto in the legislative process. The Republicans controlled both branches for four and a half years during the George W. Bush administration, but they also did not have filibuster-proof margins in the Senate. Particularly from the early nineties forward, the close partisan balance fed even greater partisanship in Congress as each party jockeyed for advantage in the upcoming election (see figs. 6.4 and 6.5). In this context, labor saw incremental adjustments on the minimum wage and emergency extensions of unemployment insurance but continued stalemate on labor law reform and universal health care, while full-employment planning moved off the agenda.

The Turn against Government

After the expansion of the welfare state from the 1930s through the early 1970s, there was a marked shift against government. Vietnam, Watergate, the intractable economic crisis of the 1970s, declining U.S. competitiveness in the global economy, and the Iranian hostage crisis all fed a crisis of confidence in the government. Ronald Reagan's message in the 1980 presidential campaign that government was the cause of rather than the solution to the nation's problems resonated with many voters. Reagan pledged to shrink or eliminate many of the programs that organized labor had spent the past fifty years building up.

The conventional wisdom holds that Reagan's presidency was the last gasp

for organized labor. Membership slid, and unions were forced to make contract concessions to hold on to members' jobs. Reagan's decision to fire striking air traffic controllers in 1981 and issue an executive order preventing them from ever being hired by the federal government again exemplified his administration's assault on labor. Congressional Democrats, sensing a conservative, anti-government turn in public opinion and the emergence of a new electoral force in the "Reagan Democrats," are believed to have rolled over. But, as Dark argues, the conventional wisdom of labor's political demise in the eighties generalizes the experience of the first half of the decade to the entire decade. Dark finds "a surprising resiliency in labor's relationship with congressional Democrats," noting that "in some respects, labor's position in the party actually improved over the course of the decade."³⁰ As the number of conservative Democrats declined, liberals used their power within the House and Senate Democratic caucuses to challenge the Reagan and Bush administrations in the latter half of the decade.

Reagan and his business and conservative supporters hoped to scale back the welfare state and regulations that protected workers and unions. Presidential appointment of pro-business conservatives to executive departments and agencies, shifting budget priorities, a rising deficit, and the continuation of a trend toward deregulation begun in the Carter years made some headway toward these goals. But in terms of antilabor legislation, the Reagan years left a small legacy. The biggest accomplishment was a major regressive and pro-corporate tax cut the first year of Reagan's presidency. Labor had only a marginal impact on Reagan's tax package and the administration's 1981 and 1982 budget proposals, which cut social spending and increased defense spending. But after the Democrats picked up twenty-six House seats in the 1982 elections, the situation for organized labor improved.

Labor's opponents, while benefiting from the ideological shift of the eighties, were no more successful in reaching their most ambitious legislative goals than labor had been when liberalism was ascendant. Although labor's legislative priorities stalled, it defended past accomplishments. Labor's experience for most of the Reagan presidency was summed up in COPE's 1986 Report on Congress: "For workers, progress on key bills was stymied in the right-wing controlled Senate where a long list of key bills has been buried. Meanwhile, the House continued to prevent Senate-inspired, anti-labor initiatives from seeing the light of day."³¹

Labor Law

Reagan's appointments to the NLRB, his firing of the Professional Air Traffic Controllers Organization (PATCO) strikers, and weak enforcement of existing labor laws had a chilling effect on organizing and collective bargaining, but Congress never passed major labor law changes.³² Plans to restrict the protections of the NLRA went nowhere. Conservatives found it difficult to make even less controversial changes—labor defeated nine efforts between 1981 and 1992 to restrict Davis-Bacon protections that guarantee prevailing wage rates on federal construction contracts. On another front, organized labor defeated repeated attempts in 1982, 1984, and 1985 to prohibit unions' use of funds for political activities including voter registration, get-out-the-vote drives, and voter education. Labor's friends in the Senate also led a successful filibuster against an attempt to amend the Hobbes Act in 1986 to apply stiff fines and prison sentences to strikers involved in picket line violence. Legislation requiring employers to offer employees sixty days' notification in advance of a plant closing was initially vetoed by Reagan but subsequently passed by veto-proof margins at the end of 1987 and became law without Reagan's signature. Thus, not only were conservatives unsuccessful at rolling back the legal protections for labor through legislation, but by the conclusion of Reagan's term they had suffered a mild defeat in the passage of a law pushed by organized labor.

Unemployment, Health Care, and the Minimum Wage

The major problem for advocates of an activist government in the Reagan years is that pressing social and economic problems went unaddressed. Unemployment surged as the Federal Reserve focused on reducing inflation and the economy slipped into a recession.³³ The number of medically uninsured continued to creep up. The trade imbalance spiraled out of control as whole manufacturing industries disappeared from the United States, with some companies going out of business and others moving manufacturing to low-wage countries. Facing stiff international competition, core industries such as steel struggled to survive and went through a wrenching transformation that hurt thousands of workers and their communities.³⁴ As a consequence, manufacturing employment fell steeply, and millions of comparatively high-wage jobs that served as the steppingstone for workers and their families to the middle class were eliminated. Many of these lost jobs were unionized, accelerating the long-term de-

cline in the unionized percentage of the workforce. Real wages for most Americans fell, the value of the minimum wage plummeted, and income inequality grew during the eighties.³⁵

In response to these conditions, labor's political allies in the House passed extensions and expansions of unemployment compensation, increases in the minimum wage, protectionist trade measures, and tax reforms to reverse the benefits extended to high-income groups in 1981. But many of these labor-backed House bills were either not taken up, filibustered, or voted down in the Senate, or were vetoed by Reagan. The status quo again worked against the political position of organized labor.

The George H. W. Bush Years: Obstruction and Incrementalism

During Bush's entire term, the Democrats controlled both houses of Congress, and partisanship was very high. Bush vetoed a wide range of labor-backed legislation over the four years from protectionist trade measures to legislation dealing with a labor dispute at Eastern Airlines. On several bills a veto override failed in the Senate by only 1 or 2 votes, demonstrating the support for labor-backed legislation in Congress but not the supermajority support needed to counter a hostile president. However, legislative compromises were reached on several bills that Bush signed after vetoing earlier versions, such as a minimum wage increase, an emergency extension of unemployment benefits, and civil rights legislation endorsed by the AFL-CIO designed to reverse several Supreme Court decisions that shifted the burden of proving discrimination by employers to the employees. In one of the few areas of agreement with the Bush administration, labor backed the first significant expansion of federal government regulation since OSHA in the Americans with Disabilities Act.

Policy Stalemate in the Clinton Administration

Frustrated with the obstruction and incrementalism of the Bush years and eager to depose the Republicans from the White House and break the legislative stalemate, labor worked diligently for the election of Democrat Bill Clinton in 1992. As in 1976, the Democratic nominee was not the first choice of much of the labor movement but instead a centrist, relatively unknown Southern governor who appeared to be the Democrats' best shot at recapturing the presidency.

Like Carter, Clinton made overtures to organized labor as a key Democratic constituency and pledged to back labor's legislative priorities including universal health care, labor law reform, and economic stimulus.³⁶

For the first two years of Clinton's administration, Democrats again tried to expand the welfare state and pass legislation favorable to labor. When Clinton came to power in 1993, a small wave of legislation that had been vetoed by Bush was quickly passed and signed into law, including the Family and Medical Leave Act, enabling employees to take unpaid leave to care for a new child or ill family member; the Motor Voter bill, allowing people to register to vote when they applied for drivers' licenses or government benefits; and Hatch Act reform, allowing federal and postal workers to participate in partisan politics. In the typical postwar pattern, Clinton also signed two bills extending emergency unemployment benefits, instead of fundamentally reforming the system.

But major legislative proposals encountered difficulty on the Hill. With partisanship reaching postwar highs, Republicans were increasingly unwilling to compromise and eager to challenge many of the president's initiatives. While Clinton still had to fight for his most contentious proposals in the House, the Senate was the major obstacle. Without the party margins to invoke cloture, Clinton had to gain the support of a few Republicans in the Senate and hold every Democrat. The likelihood of obstruction in the Senate also made it difficult to force Democrats to take tough votes in the House on legislation they feared would never make it into law. Thus, even with unified Democratic control of the government, rising Democratic Party unity, and greater support for liberal initiatives among Democrats in Congress, the most ambitious goals on labor's agenda like labor law reform and universal health care again failed to make it into law. Despite significant political change, the pattern of postwar policy making changed very little. After a series of legislative failures in Clinton's first two years of office, the antigovernment tide returned to Washington when the Republican revolution was launched in the 1994 congressional elections.

An Inauspicious Beginning

Clinton encountered major problems when he tried to legislate his economic plan. The first casualty was an economic stimulus package strongly supported by labor. Even though a scaled-back version easily passed the House, Clinton was forced to make more concessions to fend off a filibuster by two fiscally conservative Southern Democrats in the Senate. With only fifty-seven Demo-

crats in the Senate (one of whom would soon become a Republican), he needed the support of a handful of Republicans to get around the filibuster. Despite heavy labor lobbying of Northeastern Republicans such as Al D'Amato of New York and Arlen Specter of Pennsylvania, the Administration failed to get their votes. Clinton was forced to concede defeat, arguing in frustration that "democracy and majority rule [was] being undermined" by the Senate filibuster.³⁷ This fight set the tone for the beginning of his administration.

Clinton barely succeeded in getting his first budget through Congress, a massive deficit reduction package that included tax increases, budget cuts, and spending increases for Clinton's priority programs. Tax increases prevented him from attracting any Republican support and jeopardized support from conservative members of his own party. But because the budget resolution and reconciliation bills were not subject to filibuster, he did manage to get a bill after making major concessions. The budget included some consolation prizes for liberals, including tax increases on the wealthy and the expansion of the Earned Income Tax Credit targeted at the working poor. Vice President Al Gore was needed to cast a tie-breaking vote in the Senate.

The one major area in which organized labor and the Clinton administration differed was the North American Free Trade Agreement (NAFTA), which lowered trade barriers between the United States, Canada, and, most controversially, Mexico. The grassroots lobbying operation that the AFL-CIO and many of the affiliates had developed during the Reagan and Bush years was utilized and expanded to fight NAFTA. One Clinton administration staffer noted of the union effort, "They almost took it across the goal line. We [on the pro-NAFTA side] had all the editorial pages controlled, the economists, the think tanks, the intelligentsia all over this town was on the pro side, and they almost won."³⁸ But in the days leading up to the vote in Congress, the business community and the Clinton administration launched a major effort to ensure passage.³⁹ The NAFTA fight strained the relationship between labor and the administration and many congressional Democrats. Labor leaders blamed their defeat on Clinton's promises of pork barrel projects and other goodies to wavering legislators. In retribution, labor pledged to fight pro-NAFTA Democrats in the upcoming primaries, and it cut off funding for the Democratic National Committee (DNC) for six months. Although NAFTA caused a lot of bitterness, if labor wanted to achieve any legislative goals, it had to put the trade bill behind and move on to areas of agreement with the administration, such as labor law and health care.

Labor Law Reform

In the area of labor law, Clinton did what he could as chief executive by making labor-friendly appointments to the NLRB, reversing Reagan's executive order prohibiting the rehiring of former striking PATCO members, and appointing a commission led by former secretary of labor John Dunlop to study labor policy and make recommendations for changes. Labor hoped to build momentum for broader labor law reform by first passing a bill to prohibit the permanent replacement of striking workers. The problem stemmed from a 1938 Supreme Court decision that interpreted the NLRA to permit the permanent hiring of replacements for strikers. During the recession of the early nineties, many locals were broken by employers who replaced their striking workforce. Some companies intentionally and illegally used this tactic to get rid of a union in their workplaces by essentially refusing to bargain in good faith, provoking a strike, and then replacing all the workers. Union leaders argued that the tactic undermined the economic power of the strike and scared many workers into accepting unfair contracts. A striker replacement bill passed the House in 1991 but stalled in the Senate as labor came 3 votes short of invoking cloture against a filibuster in 1992.

Clinton pledged to work for and sign the bill, and organized labor immediately set out to pass it at the beginning of Clinton's term. Even though a group of conservative Democrats petitioned the leadership not to take up the controversial legislation so soon after the difficult vote on Clinton's budget,⁴⁰ the Democratic leadership was eager to get Democrats on record in support of one of labor's top priorities. The striker replacement bill passed the House 239–190 in the summer of 1993 with all but one non-Southern Democrat voting for the bill, compared with 62% of Southern Democrats and 10% of Republicans. The Senate finally took up the legislation a year later, but as in 1992, Republicans launched a filibuster. This time organized labor could muster only 53 votes for cloture. The vestiges of the conservative coalition and the enduring regional deviations from party positions were apparent on the cloture vote. Every non-Southern Democrat voted for cloture; all but three Republicans (D'Amato, Specter, and Mark O. Hatfield of Oregon) and six of fourteen Southern Democrats voted against it. Although the vote could have been expected, it was salt in labor's wounds. Union leaders argued that if Clinton had worked as hard for the striker replacement bill as he did for NAFTA, it would have passed. But it is virtually impossible to envision how Clinton or organized labor could have

gotten 60 votes. Neither had much leverage with Republicans, other than the three who voted for cloture, but the support of one more Republican and all of the Southern Democrats would have been necessary to cut off debate.⁴¹ No compromise, short of entirely gutting the bill, could garner this level of support. The defeat on striker replacement dashed labor's hopes of broader labor law reform. As during the Johnson and Carter years, labor simply could not muster the supermajority support necessary to get favorable labor law reform passed. This also proved true on health care reform.

The Return of Universal Health Care Reform

Labor activists believed another window of opportunity had opened for health care reform in 1993. Employer-based health coverage was declining, health care costs were spiraling out of control, and businesses argued that these costs put them at a competitive disadvantage with companies in other countries. Unions were concerned about both the international competitive disadvantage and the prevalence of nonunionized firms that did not provide health insurance. All these problems led to consistently high levels of support in polls for health care reform.⁴² Indicating the popular appeal of the issue, Harris Wofford, a dark horse Democratic candidate in a special election to fill an open Senate seat in Pennsylvania in 1991, was largely credited with winning because of an ad he ran that argued if an accused criminal had the right to a lawyer, every American citizen should have the right to see a doctor.⁴³ Clinton's victory, greater party unity among Democrats, the decline of the conservative coalition, and stronger congressional party leadership strengthened prospects for reform on Capitol Hill. However, as the battle unfolded, Democrats struggled to find a compromise that could hold the support of Democrats and attract a few Republicans, giving the minority party the ability to obstruct legislation in the Senate.

Shortly after taking office, Clinton charged his wife, Hillary, with developing a detailed plan for universal health coverage.⁴⁴ Hillary Clinton and her task force advisers held extensive sessions with experts and stakeholders including organized labor. After months of work, the president unveiled his plan and promised to veto any bill that did not contain universal coverage in a dramatic nationally televised speech before a joint session of Congress in September 1993. Clinton's plan was based on a novel, hybrid concept of "managed competition" in which heavily regulated private insurers would compete for customers in government-run regional health care alliances that would offer individ-

uals a choice from a range of plans.⁴⁵ Employers would be required to cover 80% of the cost of their employees' premiums, and the government would subsidize the premiums of the poor, the unemployed, and others traditionally without access to group insurance plans.

Although organized labor was initially divided over what type of proposal to endorse, most of the labor movement coalesced behind Clinton's approach, convinced that more far-reaching reforms like single-payer, national health insurance had no shot of making it through Congress.⁴⁶ Fearing that intransigence might result in a replay of the failures of the 1970s, the AFL-CIO and most of the affiliates were willing to drop the idea of a government-run system and were open to compromise as long as universal coverage was the goal and the comprehensiveness of existing health coverage for most union members with employer-sponsored insurance was not scaled back. Labor hoped a moderate proposal based on the existing system would draw a wider range of support, including business groups, that might be capable of breaking the decades-long impasse on health care reform. The Clinton plan also included several specific proposals to keep labor on board. During the task force stage, labor lobbyists succeeded in killing a proposal to tax employer-provided health benefits beyond the basic plan established by government regulators.⁴⁷ In response to a request by unions and automakers, the plan included a provision for government subsidization of 80% of the cost of early retirees' health premiums. Postal workers, unlike other federal employees, were also exempted from the regional health alliances and allowed to keep their union-run plans. The AFL-CIO Executive Council officially endorsed the Clinton plan the day before Clinton's televised speech.

Labor ultimately played a major role in pushing for Clinton's health care plan in Congress, even though tension over the NAFTA fight lingered and some labor leaders questioned the administration's commitment.⁴⁸ Some leaders feared labor had caved too soon in supporting Clinton's plan and lost valuable negotiating room. After watching Clinton compromise away his agenda in Congress, they feared that he might drop some of the core provisions of his plan, which already involved substantial compromises. As Congress and the administration entered into negotiations over the health proposal late in 1993, union leaders made it clear that they would not be willing to compromise over the employer mandate and warned the administration against making concessions early in the debate. The Clinton administration pledged to maintain the mandate. To keep labor on board and to try to smooth over the split produced

by the NAFTA fight, Vice President Al Gore and an unprecedented number of administration officials were dispatched to the AFL-CIO's February Executive Council meeting in Florida to confer with labor leaders on health care legislation.⁴⁹ The AFL-CIO pledged to spend \$10 million on the health care battle, including \$3 million on media.⁵⁰ However, this spending was eventually dwarfed by opponents of the Clinton plan, which included small businesses and small and medium-size insurers that stood to lose their customers. The labor effort began with a campaign of political education of union members and grassroots lobbying in the districts of twenty-four swing members on the three key House committees that would initiate action on the bill.⁵¹ The AFL-CIO also joined and funded several coalitions pushing for health care reform such as the Health Care Reform Project, which included the AARP, several provider organizations, and prominent large companies such as Ford.

Yet there was substantial opposition among conservatives in Congress, and several influential interest groups were determined to kill the Clinton plan, in particular the National Federation of Independent Business (NFIB) and the Health Insurance Association of America (HIAA). Notably absent from the early opponents of the Clinton plan was the American Medical Association, which was at least rhetorically committed to reaching universal coverage. But as Steinmo and Watts point out, over time the opposition to Clinton's plan grew: "Opponents of reform, we should remember, have always been careful not to argue against any kind of health care reform. Instead, opponents of Clinton's plan did exactly what opponents of the Truman, Nixon, Ford and Carter health plans did: They said, 'Oh yes, we *do* need reform. But there are particular things about *this* reform plan that we don't like.' Then they slowed the reform inside the congressional labyrinth. This left time for the media and the industry's public (dis)information campaigns to frighten voters and members of Congress about the details of the administration plan."⁵² Public support began to slide under the advertising onslaught launched by interest groups and conservatives. A March 1994 poll found that 45% of respondents opposed the "Clinton plan" and only 37% supported it. The same poll asked if respondents favored a plan with a list of characteristics that described the Clinton plan, but did not label the plan as Clinton's, and 76% of respondents expressed support.⁵³

Congress and Clinton's Plan

Scholars and pundits have suggested a number of reasons for the health care plan's failure, including a lack of adequate leadership from Clinton, the un-

popularity of Hillary Clinton, neglect of Congress, lack of outreach to Republicans, the strength of the organized opposition, the poor quality of the pro-reform public relations effort, and the weakness of organized groups that supported reform including labor.⁵⁴ But the filibuster threat and the need for supermajority consensus in a partisan environment on such a complex issue exaggerated the effects of these factors and were just as critical to the outcome.

A summary of legislative action on the bill in *Congressional Quarterly* noted, "At every point in the congressional process, health care proved too difficult for the institution to digest."⁵⁵ To begin with, Speaker Foley chose to put off the jurisdictional fight by referring the bill to multiple committees. The bill was taken up by three major committees in the House (Ways and Means, Education and Labor, and Energy and Commerce), two major committees in the Senate (Finance and Labor and Human Resources), and a host of secondary committees in both houses. On each of the committees the familiar splits arose between liberals who supported a single-payer national health insurance proposal, others who supported the administration's plan, still others who favored a more incremental approach, and conservatives who preferred nothing. Multiple referrals made it more likely that a diversity of approaches would be reported and that a single powerful committee like Ways and Means or Finance would not control the outcome. But it also meant that the committee process did little to generate a viable floor bill.

The House committees produced a range of bills. The Education and Labor Committee endorsed an expanded version of Clinton's plan, but in order to get the votes of the more liberal members to report the modified Clinton bill, the committee chair agreed to reporting a single-payer, traditional national health insurance bill as well. The House Ways and Means Committee reported a patchwork bill full of provisions and concessions necessary to build a narrow committee majority. The bill abandoned the regional alliances in the Clinton bill and relied on an employer mandate and an expansion of Medicare to reach universal coverage. Only the House Energy and Commerce Committee, chaired by John Dingell, the son of the legendary champion of national health insurance and cosponsor of the multiple Wagner-Murray-Dingell bills back in the forties, could not produce a bill. Viewed as a bellwether of congressional opinion because of its ideological and regional mix of members, the committee could not reach a consensus that would hold together liberals and the large number of Democratic moderates on the panel.⁵⁶

On the Senate side, the two bills reported by the main committees were quite

different. The Senate Labor and Human Resources Committee, chaired by Senator Kennedy—who, like most labor leaders, was a convert to the Clinton plan—reported a modified version of Clinton’s proposal. In contrast, the Senate Finance Committee was the only committee to produce a bill that could reasonably be called bipartisan.⁵⁷ To reach this consensus, the goal of universal coverage and the employer mandate had to be dropped in favor of a goal of health coverage for 95% of the population by 2002, to be reached through insurance regulations and government subsidies for the purchase of health insurance.

The proliferation of proposals during committee consideration fragmented the legislative process with individual members and interest groups developing allegiances to their favorite among the competing bills. As Representative David Skaggs (D-CO) noted, “Typically, the committee process clears out the underbrush on legislation. That didn’t happen on health care.”⁵⁸ Because none of the committee bills was considered viable for floor consideration in either the House or the Senate, the leadership in both houses asserted its growing role in the legislative process by trying to craft a compromise.

By this point most Republicans were convinced of the political wisdom of letting health care die and were not willing to come to the table. Conservative strategists, most notably Bill Kristol, argued for months that passage of universal health care could present serious problems for the Republican Party by strengthening the attachment of the middle class to government programs and their Democratic defenders.⁵⁹ Kristol argued that if the Republicans refused to cooperate there would be no way for the Democrats to get a bill passed but the Democrats, in control of both the White House and Congress, would likely be held responsible for inaction in the 1994 elections. Newt Gingrich, who had been laying the groundwork for a Republican takeover of the House for more than a decade, saw the health care issue as the perfect way to portray the Democrats as ineffectual, out of touch, and wedded to inefficient, big government programs.

This highly partisan atmosphere complicated the congressional leadership’s task. House majority leader Dick Gephardt (MO) cobbled together a plan, but House Democrats did not want to take the difficult vote until the Senate deadlock was broken. As the Senate took up debate in August, Majority Leader George Mitchell (ME) struggled to devise a compromise that could attract Republican and Democratic moderates without losing the liberals. A few Republican moderates still seemed willing to work on legislation in the Senate (Lincoln Chafee of Rhode Island, David Durenberger of Minnesota, John Danforth of

Missouri, William Roth of Delaware, and James Jeffords of Vermont). Because of Republicans' filibuster threat, the leadership would have to hold all the Democrats, including several (mostly Southern) moderates who did not see much political payoff in the health care issue, and pick up four of the five Republicans to invoke cloture. It became clear that a filibuster-proof majority could not be built around a bill that maintained quick implementation of the employer mandate and universal coverage. Clinton began to lay the groundwork for conceding on these points by talking about "functional" universal coverage. However, in dropping these commitments, the leadership risked losing the support of liberal members of Congress and organized labor. After a bitter, partisan fight on Clinton's crime bill that suggested the political environment was not ripe for compromise, Congress went away for its August recess without either house voting on a health care bill. Mitchell continued to negotiate into September but could never count 60 votes for any given compromise. He officially announced the demise of health care reform on September 26, noting, "Even though Republicans are a minority in Congress, in the Senate they're a minority with a veto. They have the ability to block legislation and they have chosen to do so."⁶⁰ Once again the window of opportunity for significant health care reform closed.

The 1994 Elections

The first two years of the Clinton administration proved to be a short detour in the march of American politics to the right. The 1994 elections brought Republican control in the House for the first time in forty years and Republican control in the Senate for the first time in eight years. Scholars such as Theda Skocpol have argued that the Republican surge that dashed so many of labor's legislative expectations for the Clinton administration was in large part a result of the spectacular failure of Clinton's proposal to ensure universal health care.⁶¹ In a vision shared by many labor leaders, Clinton hoped that his health care program would create an enduring boost for the Democratic Party, much as Social Security had decades earlier. It had the opposite effect, giving Republicans a campaign issue on which to attack the ineffectiveness of the Democrats, even though the Republicans had played a major role in defeating the plan. It is hard to determine how much of an effect health care had on the 1994 elections, but the outcome certainly had a profound impact on future policy debates and the labor movement.

The overwhelming majority of Republicans running for House seats, both incumbents and challengers, ran on the Contract with America, a ten-point platform developed by Gingrich, Republican Conference chairman Dick Armey (D-TX), and other conservatives. Echoing the conservative themes of Reagan, the contract pledged to restrict the role and spending of government (except on defense), shift federal responsibilities to the states, unfetter the private sector through deregulation and tax cuts, and emphasize personal responsibility. But as journalists George Hager and Eric Pianin suggest, Gingrich was Reagan at “warp-speed.”⁶² Reagan was opposed to many of the programs of the Great Society, but he was not very interested in taking on safety net programs for the middle class like Social Security and Medicare. Gingrich and his followers wanted not only to roll back the Great Society but also to push back the New Deal.⁶³ Almost every piece of legislation organized labor had pushed in the past seven decades was a target. Many of the insurgents wanted to drop the progressive income tax, privatize Social Security, convert Medicare to subsidized private insurance, eliminate federal departments such as Education and Energy, and replace regulatory regimes such as OSHA with voluntary programs. Many of the old-line Republicans in the Senate did not share the commitments of the Gingrich revolutionaries in the House, but even the Senate experienced an influx of conservative freshmen.

Far more ominous than the election of Ronald Reagan in 1980, the 1994 elections were an earthquake for liberals that shook the entire labor movement. The loss of the House to the Republicans was particularly disheartening. Through the dark years of the Reagan and Bush administrations, the labor movement had always found protective allies in the House. Given Clinton’s low public approval ratings in the immediate aftermath of the 1994 election, labor leaders feared the 1996 election might bring unified Republican control of all three branches of the government and labor would have nowhere to turn. Many of the leaders of the affiliates began to question openly the competence and commitment of the leadership of the AFL-CIO that was primarily responsible for directing organized labor’s political activity. The result was the first contested election for the AFL-CIO’s presidency in the federation’s history, in which the existing leadership was ousted and John J. Sweeney, the president of the growing and occasionally militant Service Employees International Union (SEIU), was elected. Sweeney pledged to reinvigorate the labor movement through a greater federation role in organizing and more effective political mobilization.

The first priority for the AFL-CIO under the new leadership was to stop the conservatives in Congress and push the political agenda back toward issues of economic fairness and a strong government safety net. Owing to the lobbying efforts of organized labor, in combination with the protections of the minority and the bias toward the status quo in the legislative process, labor was able to play a fairly effective role in defending the core of the welfare state against conservative attacks during the Clinton administration. Much like the Reagan revolution, the Gingrich revolution fizzled out as the conservative agenda worked its way through the legislative process.

The Republican Revolution and the Attack on the Welfare State

The 1994 election furthered the process of partisan realignment and polarization that had been accelerating since the 1980s. On average, the Democratic incumbents who won were more liberal than the Democratic incumbents who lost.⁶⁴ All Republican incumbents won in 1994, and the victorious Republican freshmen who joined them were on average quite conservative. The pool of moderates shrank considerably. As noted above, there was a marked shift in Southern seats in both the House and the Senate, with Republicans finally winning a majority of seats from the South in both bodies. The 1994 elections also brought Southerners back to dominance of the leadership ranks with Trent Lott of Mississippi becoming the majority whip in the Senate and Gingrich of Georgia and Texans Dick Armey and Tom Delay taking the top leadership slots in the House. The South rose again and pushed the Republican Party further to the right.

With the exception of term limits, the provisions of the Contract with America sailed through the House over the opposition of a unified Democratic Party. The Senate was a different story. Many of the contract proposals died in the Senate or were significantly compromised. The presidential veto and the filibuster became effective weapons as liberal groups such as labor turned to President Clinton and the Senate to protect past legislative gains. In 1995, Republicans set up a showdown with President Clinton by passing a filibuster-proof budget reconciliation bill that included extensive changes and cuts in Medicare, Medicaid, welfare, farm policy, and a host of other public policy areas, including areas that directly affected labor such as job training and OSHA funding. In dramatic fashion, Clinton vetoed the bill with the same pen Lyndon

Johnson had used to sign Medicare into law.⁶⁵ Vetoes and veto threats prevented much labor-opposed legislation from becoming law. Given the strong party unity among Democrats, it was almost impossible for the Republicans to override Clinton's vetoes. Only two were overridden in Clinton's two terms in office. Labor was now in the position its political opponents had occupied for years under Republican presidents and Democratic Congresses. The ability of organized labor to stop antilabor legislation was particularly apparent in the contentious area of labor law and worker protections.

Conservatives Take Up Labor Law Reform

Conservative Republicans developed an agenda of labor law reforms designed to offer businesses greater flexibility and scale back protections for workers and unions. Most of these proposals either died in the Senate or were vetoed. After the failure of the striker replacement bill, Clinton issued an executive order in March 1995 to bar federal contractors from permanently replacing strikers. Democrats successfully filibustered Republicans' efforts to deny funding for enforcement of the executive order.⁶⁶ An effort to pass a national right-to-work bill in the Senate that would have made union dues voluntary was also successfully filibustered. In the perennial effort to repeal Davis-Bacon, the Republicans passed an amendment to the budget reconciliation bill to end the provision, but it died when Clinton vetoed the underlying bill. Repeated efforts in the 104th (1995–96) and 105th (1997–98) Congresses to scale back OSHA either died in committee or were successfully filibustered. A top priority for the Republican leadership was a bill to allow employers to offer employees "comp time," time off for overtime hours worked, rather than the time-and-a-half pay mandated in the Fair Labor Standards Act. While advocates argued that the bill would give employees greater flexibility, unions argued that employers would coerce employees into taking the comp time and the income of many hourly-wage workers would fall considerably. The bill passed in the House in both 1996 and 1997. Clinton threatened to veto the bills, but Democratic filibusters kept them from reaching his desk.⁶⁷

Clinton vetoed another Republican leadership priority, the TEAM Act, allowing companies to set up worker-management groups to address workplace issues by repealing a provision in the NLRA that bars "company unions." Republicans argued that the bill would allow companies to address workers' concerns and become more competitive. Unions argued that the act would allow companies to set up company-controlled unions and discourage workers from

joining independent unions. Frustrated with their inability to get legislation enacted and angered by labor's efforts to target Republicans in the 1996 elections, House Republicans launched a \$1.4 million study of labor law and workplace regulations and an investigation into union political activity, but very little came of it. Republicans were again defeated by a filibuster in one final effort to pass a bill in the 105th Congress (1997–98) to fight off what companies feared might be a new wave of union organizing under Sweeney's leadership of the AFL-CIO. The bill banned the practice of "salting," whereby union organizers or supporters gain employment in a nonunionized company with the intention of building support for unionization. As a consequence of the filibuster, the veto, and the narrow Republican majority, six years of Republican control of Congress brought no appreciable labor law changes.

Incremental Gains: The Minimum Wage and Targeted Health Care Reform

Although labor was primarily on the defensive for the remainder of the Clinton years, there were some incremental gains. Under Sweeney's leadership the labor movement geared up for an unprecedented mobilization in the 1996 elections, with a special effort to target vulnerable Republican freshmen and call attention to public policy issues like the minimum wage and patients' rights in HMOs. The value of the minimum wage when adjusted for inflation was approaching a forty-year low. After consulting with the AFL-CIO on a proposed increase, Senator Kennedy led Democrats in the Senate in creating procedural havoc by trying to attach a minimum wage increase to almost every bill that came up on the Senate floor.⁶⁸ The Republican leadership in both the House and the Senate tried two strategies: avoiding taking up the minimum wage on the floor and trying to bundle it with other policy proposals the Democrats and organized labor would not support. But moderate Republicans got nervous they were going to pay a price in the elections, and the leadership ultimately conceded to a vote. Labor ran ads in thirty Republican congressional districts to build support for the bill, and fifteen of these House members ultimately changed their position to vote for the increase.⁶⁹ To save face the Republicans packaged the wage increase with business tax cuts and a short-term youth subminimum training wage. Despite these concessions, organized labor considered the bill the biggest accomplishment of the 104th Congress. A perennially popular issue, the minimum wage came up again in 1998, 1999, and 2000 but fell victim to strategic brinkmanship between Democratic and Republican party leaders.

Faced with swallowing substantial tax and spending cuts as the price for getting a minimum wage increase, organized labor and Democratic leaders favored saving the issue for the 2000 election.

In health care, labor turned to a few popular, targeted measures. Labor supported legislation passed in 1996 to prevent insurers from denying coverage for preexisting medical conditions if a new applicant had recently been covered by a group policy. As with the minimum wage, labor also tried to shape the debate around Medicare by running a massive ad campaign in the 1996 elections accusing Republicans of trying to kill the popular program. The public reaction muted Republicans' interest in transforming the program, although congressional leaders did get the Clinton administration to agree to some cuts in Medicare and Medicaid in the 1997 budget agreement. Clinton accepted these cuts in exchange for a new federal-state program at the top of the AFL-CIO's legislative agenda to expand health coverage for the children of the working poor, known as the State Children's Health Insurance Program (SCHIP).⁷⁰ These policies fell far short of labor's goals, but they added to the patchwork of protections in the American welfare state.

The George W. Bush Administration: Labor's Last Stand?

Perhaps no other political event in the post–World War II period more vividly illustrates the challenges to labor's influence posed by American political institutions than the outcome of the 2000 presidential election. Organized labor launched a record drive to elect the Democratic candidate Al Gore and helped produce a Gore victory in a series of swing states as well as the popular vote.⁷¹ However, Bush, one of the most antilabor presidents in recent history, won the electoral college vote. Given the disproportionate weight of small states in the electoral college and the winner-take-all allocation of electoral college votes in most states, labor's impact on the outcome was reduced because union members are concentrated in high-population, and in many cases high-voter-turnout, states. Labor had long advocated the elimination of the electoral college and direct election of the president, but the senators from small states had blocked these changes.⁷² The AFL-CIO and civil rights groups organized public demonstrations to protest electoral irregularities in Florida amid the recount in that highly contested state, but once the U.S. Supreme Court spoke in a controversial 5–4 decision ending the Florida recount, there was little labor could

do. George W. Bush assumed the presidency. In the wake of the election, the AFL-CIO set up a voter protection program across the country to avoid some of the problems at the polls in 2000.

The first defeat for organized labor came quickly in the elimination of sweeping new ergonomics regulations dealing with repetitive stress injuries issued in the final days of the Clinton administration. The ergonomics rules had already been the subject of skirmishes during the Clinton years as Congress repeatedly and unsuccessfully tried to deny funding to OSHA to issue the rules.⁷³ In a surprise move at the beginning of the 107th Congress (2001–2), Republicans invoked an obscure law known as the Congressional Review Act. The act allowed Congress to invalidate major rules by a simple majority vote within sixty days after the rules were formally reported to Congress. The resolution invalidating the rules passed narrowly in early March. If it had been procedurally permissible to filibuster the bill, it would have been very difficult for the Republican leadership to have found the 60 votes for cloture. However, because the resolution required only a simple majority vote, labor was unable to exercise its defensive role, and the ergonomics rules, more than ten years in the making, were repealed before they went into effect.

The next major defeat for labor and liberals was passage of Bush's centerpiece tax legislation in May, which, as part of budget reconciliation, was also not subject to filibuster. The bill included significant tax cuts for the wealthy that labor feared would create revenue shortfalls that might be used to justify cuts in social spending. The administration also pushed ahead with other priorities like a Medicare prescription drug bill, patients' rights legislation, and education reform, all in forms opposed by labor. But progress was slowed as the president encountered more resistance on the Hill. It appeared that labor's defensive role would be strengthened when Democrats gained control of the Senate because Republican senator James Jeffords of Vermont, frustrated with the strong-arm tactics and conservative orientation of the administration, decided to become an independent and caucus with the Democrats. The trajectory of the Bush administration might have been very similar to that of the Reagan administration—the accomplishment of a major tax cut in the first year followed by more incremental changes and stalemate. By summer of 2001, gridlock appeared to be returning to the Capitol. Then September 11 changed the political environment. Although there was a brief period of unity and peace on the Hill, bitter partisanship returned as Congress approached the 2002 elections. The position

of President Bush was transformed from the loser of the popular vote to the national leader in a time of war. Emboldened, the administration became even less interested in compromise with its opponents than it had been before.

Legislation to create a Department of Homeland Security produced the greatest clash of the Bush administration with organized labor and its Democratic allies. The Bush administration initially opposed a proposal by Democratic senator Joe Lieberman to create a cabinet-level homeland security department but later switched course and adopted the idea as its own in the summer of 2002.⁷⁴ The administration bill consolidated all or part of twenty-two federal agencies responsible for counterterrorism activities and sought maximum flexibility in managing the more than one hundred thousand federal government workers expected to become a part of the department. When debate on a version of the administration's proposal commenced in the House in July, a bitter fight erupted when Democrats and moderate Republicans from labor-oriented districts tried to insert protections for existing union representation and collective bargaining rights of federal government employees. This effort was defeated, and the final version of the House bill did not include the protections.

The Democrat-controlled Senate, however, took up debate in September on Lieberman's version of the bill that included these protections. But Senate Republicans wanted a vote on a Republican bill without the union protections. Neither side in the 51–49 Senate had the votes to avert a filibuster. An effort to invoke cloture on the Lieberman bill produced an almost purely party-line vote of 50–49. The only Democrat to vote with the Republicans was Zell Miller, the soon to be infamous Democratic senator from Georgia who would rail against the Democrats' position on national security in primetime at the 2004 Republican National Convention. The only Republican to vote for cloture was moderate senator Lincoln Chafee of Rhode Island. Unfruitful bipartisan negotiations among moderates continued until Majority Leader Tom Daschle pulled the bill from the floor as the regular session came to a close before the 2002 congressional elections. Senate Democrats all but unanimously defended organized labor's position until the end—a factor repeatedly pointed to by Republicans in the campaign. Democrats like Vietnam veteran Senator Max Cleland of Georgia were savaged as undermining national security, largely because of their votes on cloture. Losing Cleland's seat and one other, the Democrats lost control of the Senate. Defeated, the Democrats gave up the fight in a lame duck session after the election and passed the bill in the form favored by the administration.

Labor's ability to work with its congressional allies to play a defensive role in

the legislative process declined in the next Congress. The conservatism of the House in alliance with the conservatism of the administration became the dominant legislative force. Whereas conference committees had previously been an arena in which the final version of legislation was most often pulled in the more moderate Senate direction, the more conservative positions of the House and administration frequently prevailed in conference over the objections of moderate Republicans, who were increasingly unlikely to challenge the administration's position. The Democrats, who had been attacked in the elections as obstructionists, also appeared chastened. In the 108th Congress (2003–4), with Republican strength bolstered by the midterm elections, Republican leaders and the administration managed narrowly to push through priorities that had stalled in the previous Congress, including additional tax cuts and a version of the Medicare prescription drug benefit opposed by organized labor that benefited private insurers. By threatening vetoes, the administration prevailed in conference negotiations, winning its version of policies strongly fought by organized labor on outsourcing federal jobs, restricting worker eligibility for overtime pay, and allowing workers to be offered comp time by their employers instead of overtime. These were the very types of policies that labor was able to fend off in earlier administrations.

Because of its experience under the Bush administration, organized labor worked diligently to elect John Kerry in 2004, viewing it as a matter of political life and death. Despite labor's successes in getting its voters to the polls, once again the labor effort was not enough. Six months before he would pull his union out of the AFL-CIO to form a rival federation, SEIU president Andrew Stern argued in a postelection meeting of the AFL-CIO Executive Council that organized labor was too geographically concentrated and its membership had fallen too much to allow it to shift the political balance of power.⁷⁵

But Bush's second term was not as productive as the first. Following the 2004 election, the president asserted that he had earned political capital and he was going to spend it. Emboldened, conservative Republicans in the Senate even proposed a major institutional change to prohibit filibusters of judicial nominees to allow President Bush to shape the federal judiciary unimpeded by Democrats' obstruction.⁷⁶ But the president's declining popularity as a result of the Iraq War and the administration's poor handling of Hurricane Katrina, as well as the disaffection of many congressional conservatives who were increasingly critical of a growing government and deficit spending, ate away at Bush's effectiveness on the Hill. Gridlock returned as Bush administration proposals such

as making his massive tax cuts permanent and overhauling immigration policy bogged down. Bush was also forced to drop serious talk of reforming Social Security. Labor activists considered this defeat to be at least partially a result of their efforts to fight the privatization proposals.⁷⁷ The changing political tide was reflected in the 2006 elections when the Democrats won back control of both the House and the Senate and ended twelve years of Republican rule.

Old Patterns and New: The 110th Congress

Organized labor's efforts played an important role in many of the Democratic victories in the 2006 elections, and the new Congress was much more supportive of labor's agenda. The elections reflected a continuation of the trends discussed in the first section of this chapter. While the Democrats picked up one Southern seat in the Senate (Jim Webb in Virginia), the remainder of the pickups came from more heavily unionized areas. Many of the gains in the House were also from more heavily unionized regions. Even many of the moderates among the Democratic freshmen ran as economic populists, and they were supportive of most of labor's policy positions. The actions of the 110th Congress also reflected the trends discussed earlier in this chapter. Partisanship remained high. The Democratic congressional leadership also worked hard to deliver for organized labor. The success rate on COPE votes surged to 88% in the House in 2007 and 87% in 2008 (see fig. 6.6). Four of the five defeats in the two-year period were failed veto overrides requiring a two-thirds supermajority. The success rate also increased in the Senate and would have been comparable to the House rate except for the large number of defeats on cloture votes against Republican-led filibusters, in which labor had majority, but not supermajority, support.

As expected, legislative accomplishments on labor's priorities were limited by filibusters and President Bush's vetoes. After exercising only one veto in his first six years in office, Bush issued eleven vetoes in the 110th Congress. In the typical postwar pattern, successes were largely incremental. For example, after almost a decade of deadlock on the minimum wage, the Democrats managed to attach an increase to an emergency war spending bill that the president was unlikely to veto. Demonstrating the continued impact of the minority Republicans in the Senate, this compromise proposal had to include five billion dollars in business tax breaks in order to attract enough Republican votes to avert a filibuster.

Table 6.2. Party Support on Labor Law Votes in the House

Legislation	Date of Vote	Percentage of Democrats Voting For (Vote)	Percentage of Republicans Voting Against (Vote)
14(b) repeal	July 28, 1965	70 (200–86)	85 (21–117)
Labor law reform package	October 6, 1977	79 (221–59)	74 (36–104)
Striker replacement	July 17, 1991	88 (230–33)	90 (16–149)
	June 15, 1993	87 (221–33)	90 (17–157)
Employee Free Choice Act	March 1, 2007	99 (228–2)	93 (13–183)

Source: *Congressional Quarterly*.

Although the bill did not become law, the growing support for organized labor in the Democratic caucus was best illustrated in a vote on labor law reform in the 110th Congress. The top legislative priority for organized labor, the Employee Free Choice Act (EFCA), would allow unions to circumvent the cumbersome NLRB union certification election process in favor of a procedure known as “card check.” Under card check, a union can be certified as the collective bargaining agent once it obtains signatures of support from more than 50% of employees. Labor agreed to drop this controversial provision from the package of labor law reforms pursued during the Carter administration, but like the 1970s proposal, EFCA would also impose stiffer penalties on employers who violate labor laws and make it easier for unions to force employers to negotiate first contracts. Employers have become increasingly sophisticated in fighting organizing drives during the drawn-out election process, and many willfully violate the labor law because the penalties are so negligible.⁷⁸ Organized labor viewed the EFCA as the key to more successful organizing and to reversing the steep slide in unionization rates. Most employer associations, including the National Association of Manufacturers and the Chamber of Commerce, were adamantly opposed to the bill. Even though Bush pledged to veto the bill, the Democratic leadership wanted to assure labor of its support and get members on record by bringing the bill to a vote in both the House and the Senate. Once again, the legislative path followed the typical pattern for labor law reform since the 1960s. The bill passed comfortably in the House but was successfully filibustered in the Senate.

The EFCA fight demonstrated an unprecedented level of Democratic support, as well as how partisan labor law reform had become. As indicated in tables 6.2 and 6.3, there was nearly unanimous support among Democrats in

Table 6.3. Party Support on Labor Law Votes in the Senate

Legislation	Date of Vote ^a	Percentage of Democrats Voting for Cloture (Vote)	Percentage of Republicans Voting against Cloture (Vote)
14(b) repeal	February 8, 1966	67 (45–22)	81 (6–26)
Labor law reform package	June 14, 1978	72 (44–17)	63 (14–24)
Striker replacement	June 16, 1991	91 (52–5)	88 (5–37)
	July 13, 1994	89 (50–6)	93 (3–41)
Employee Free Choice Act	June 26, 2007	100 (50 ^b –0)	98 (1–48)

Source: *Congressional Quarterly*.

^aWhen multiple cloture votes were taken, the vote reflecting the highest level of support for cloture is included here.

^bThe ill Tim Johnson (D-SD) was incapable of actively serving in the Senate at this time and did not vote, but he was a cosponsor of the legislation and would have almost certainly voted for it. Table includes the votes of independents Bernard Sanders (VT) and Joe Lieberman (CT), who caucus with the Democrats.

the House and unanimous support among Democrats in the Senate, compared with historically high levels of opposition among Republicans. In contrast with earlier efforts at labor law reform, the conservative coalition had finally disappeared, and Democrats from all regions and ideological persuasions went on record in support of a strong, pro-labor bill. All but eight Democratic House members were cosponsors of the legislation,⁷⁹ and forty-seven of forty-nine Democratic senators, plus two independents that caucused with the Democrats, were cosponsors. The partisan nature of the vote marked considerable change from the 1970s, which was actually the highpoint of congressional support for labor law reform because of much greater support among Republicans. The changing pattern of roll call votes on labor law reform clearly demonstrates the patterns discussed in the first section of this chapter—growing party unity, growing party polarization, and growing Democratic support for organized labor. Despite all these changes, the 2007 filibuster of the EFCA and the threatened presidential veto also demonstrated the continuing obstacles for labor in the legislative process.

At the end of the session Republicans also used a filibuster to kill an effort to extend government loans to GM and Chrysler to keep the companies out of bankruptcy. Reflecting the continued antagonism between Southern conservatives and organized labor, a number of Southern Republican senators led a direct attack on the UAW in the final days of the Bush administration. Writing in the mid-eighties, political scientist Richard Bense observed that “the now-

dominant labor wing of the Democratic party has rediscovered what many New Deal congressmen recognized fifty years ago, that class conflict was as much an intersectional phenomenon as a characteristic of northern, urban center politics. A United Auto Worker in Detroit takes home an annual salary greater than all but a small percentage of the population in Mississippi.⁸⁰ This intersectional class conflict has only been intensified by the location of nonunion, foreign-owned auto plants throughout the South since Bensele wrote. As the price for dropping their filibuster of the auto loans, a handful of Southern senators demanded that the UAW agree to cuts in pay and benefits to bring GM and Chrysler in line with the compensation offered by foreign-owned plants. The UAW refused the offer. UAW president Ron Gettelfinger noted of the Southern senators, "They thought perhaps they could have a twofer here maybe: Pierce the heart of organized labor while representing the foreign brands."⁸¹ Ultimately the Bush administration extended emergency funds to the auto companies from a fund created to stabilize the banking industry, thus buying time to allow the incoming Obama administration to make its own decision about how to handle the failing automakers.

Conclusion

The reforms that labor sought from the 1940s through the 1970s had a profound impact on the evolution of the political system from the 1980s through the first decade of the new millennium. Implementation of civil rights legislation, congressional reforms, and the decline of historical regional attachments to the political parties resulted in the gradual disappearance of labor's old arch-enemy, the conservative coalition. Labor had hoped this outcome would open up the political system to pro-labor policies and welfare state initiatives. Instead of producing a more powerful liberal coalition, the changes labor fought for contributed to Republican dominance of the political system for several decades. Throughout this period, organized labor was able to use the institutional protections for the minority in the legislative process to protect many of its past policy gains. But in standing still, workers were also losing ground.⁸² As Hacker has suggested, new public policies were not adopted to address changing "social risks," so most workers became more insecure.⁸³

The political system has been in a long period of what Brady and Volden term "revolving gridlock," in which, regardless of the partisan control of the elected branches, there is little significant policy change.⁸⁴ Increased party polarization

in conjunction with institutional veto points for the minority has contributed to greater inertia in the policy-making process.⁸⁵ As McCarty, Poole, and Rosenthal observe, “increased policy differences exacerbate the incentives to engage in brinksmanship so that even feasible policy compromises might not be reached.”⁸⁶ Narrow partisan majorities, like those of the past decade, make this situation worse.

But over this period of time, the Democratic Party also rebuilt some of its strength, forming a new electoral coalition that is strongest in areas with comparatively high rates of unionization. As a result, labor’s influence in the Democratic Party is no longer contested as it was in the early postwar period. Just as it seemed that organized labor’s influence over public policy might fall to near insignificance at the beginning of Bush’s second term, the Republicans’ fortunes declined and the Democrats’ fortunes surged.