

Health Care Reform and the Medicare Analogy
An Introductory Essay
By Don Wolfensberger
For the Seminar on Universal Health Care
Woodrow Wilson International Center for Scholars
Monday, September 21, 2009

In mapping its strategy, the Obama team chose to take its cues from another Democratic senator-turned president: following the legislative model employed by [Lyndon] Johnson to enact Medicare in 1965....just as Johnson gave legendary lawmaker Wilbur Mills (D-Ark.) latitude to craft the Medicare bill, Obama has asked Congress to write the health-care revamp legislation. And just as Johnson was known for his powers of personal persuasion, Obama, a former senator himself, has assiduously cultivated and cajoled lawmakers.

--Ceci Connolly
The Washington Post
July 14, 2009

Much has been made of how President Barack Obama has been the un-Clinton in his approach to passing a health care reform bill in Congress. Whereas the Clinton Administration produced its health care bill in secret White House task force sessions without the participation of Members of Congress or health industry executives, Obama simply presented the broad outlines and principles of what he wants in a health care bill and has let Congress fill-in the details through its multiple committee drafting sessions.

What has not been discussed as much is what particular model Obama is following, if any, and why it has a greater chance of success than did the Clinton bill (which passed neither House in 1994 before the 103rd Congress adjourned—a failure that is largely credited with turning the Democratic majority out of power in both houses of Congress in that fall's elections).

A *Washington Post* story by Ceci Connolly helps fill-in that gap by providing direct quotes from Obama's chief policy and health advisers, David Axelrod and Nancy-Ann DeParle, supporting the thesis that Obama is following the Lyndon B. Johnson model used to pass Medicare in 1965. DeParle even showed the reporter an LBJ quote she had under glass on her desk (which she often shares with the president), "as a reminder of the blueprint they have settled on." It reads: "There is but one way for a president to deal with the Congress, and that is continuously, incessantly, and without interruption."¹

Moreover, Senator Jay Rockefeller (D-W.Va.) is quoted in the same story as bolstering the comparison: "He [Obama] becomes Lyndon Johnson in a more graceful form but just as steely. Obama isn't a toucher [like Johnson], it's just intellect, this sort of streaming knowledge and a deep voice that never seems to get weary. It's clear he has to have this."²

The questions posed by this paper are: How comparable is Obama's approach to Congress on health care reform to LBJ's Medicare model? Where do the two approaches part ways? And, what are the chances Obamacare will meet with a same success as Medicare given the differences between the two eras in American public policy history?

The National Health Insurance Debate: 1943-1958

Calls for compulsory national health insurance, financed by a mandatory payroll tax, began as early as 1935 as part of the original Social Security Act debate. The campaign began in earnest in early 1943 with the introduction of the first "Wagner-Murray-Dingell" bill. When Vice President Harry S Truman became president in 1945 he sent Congress a message calling for a compulsory national health care bill to be financed by a 4 percent increase in the Social Security payroll tax. Truman renewed his request in 1947-48, but was rebuffed by the "do-nothing 80th Congress."

When Democrats regained control of Congress in 1949, extensive hearings were held on the Wagner-Murray Dingell legislation. Leading the campaign for the bill was the Committee for the Nation's Health, an ad hoc organization comprised of Eleanor Roosevelt and other leading Democratic and labor luminaries. Lined up against the bill was the American Medical Association, charging it was socialized medicine. The opposing forces fought to a stalemate, and no action was taken in either house.

During his 1952 campaign for president, Republican candidate Dwight D. Eisenhower opposed compulsory national health insurance but came out in support of a government reinsurance program that would enable insurance companies to broaden their coverage to help needy persons meet the costs of health care. The AMA opposed that as well, calling it, "the opening wedge to socialized medicine." The plan came to a House vote in 1954, but was recommitted to committee (killed), 238-184, (D: 162-14; R: 75-120; Independents: 1-0).

Meantime, in 1952, backers of national health insurance switched tactics when it became apparent that Truman's call for compulsory, universal coverage was going nowhere. In a speech to a New York women's group on Feb. 26, 1952, Federal Security Administrator Oscar Ewing suggested as an immediate first step that the Social Security system be expanded to provide hospital cost coverage for retired persons and their dependents. The bill was immediately introduced in the Senate and House by Sen. James E. Murray (D-Mont.) and Reps. John Dingell (D-Mich.)—father of the currently sitting Members--and Emanuel Celler (D-N.Y.). No action was taken in that Congress, but the bill became the basis for legislation introduced in each subsequent Congress. In 1957, the bill was introduced in the House by a junior House Ways and Means Committee member, Rep Aime Forand (D-R.I.), and was the subject of hearings but no floor action in that Congress.³

Senator Lyndon Johnson's Leadership Style

While Johnson compiled an amazing record of legislative enactments during his six-year tenure as Senate majority leader, his final year as leader in 1960 witnessed a colossal breakdown of the famous "Johnson system," largely a result of his own overconfidence and legislative overreach.

Before proceeding to recount the events of that final year of Johnson's leadership of the Senate, it's important to understand just what is meant by the "Johnson System," as well as its corollaries: the "Johnson Network," the "Johnson Procedure," and the "Johnson Treatment."

Senator Lyndon B. Johnson is credited with being one of the most skillful and successful Senate majority leaders ever. His tenure in that leadership post extended from 1955 to 1961 after serving one term as minority leader in the 83rd Congress (1953-54), succeeding Ernest W. McFarland (D-Ariz.) as party leader. Given that his entire time as leader was under a Republican president, it should not be surprising that his leadership style was a blend of hard-nosed partisanship and pragmatic bipartisanship.

The political pundit team, Rowland Evans and Robert Novak, in their biography of LBJ, describe the "Johnson System" as one which "stretched the limits of the Majority Leader's inherently meager power to unimagined boundaries"—a "highly personalized intensive system of Senate rule adaptable to no successor." Because it involved so little institutional change, they continue, "it vanished overnight once Johnson himself left the Senate."⁴

The system consisted of no great master plan or tightly organized chart, they write, but of two interlocking components: "The Johnson Network" and "the Johnson Procedure." At the heart of the network were those peers Johnson depended on more for advice than votes: Democratic Senators Richard Russell (Ga.), Clinton Anderson (N.M.), Robert Kerr (Okla.), Earle Clements (Ky.), George Smathers (Fla.), and Hubert Humphrey (Minn.); and Republican Senator Styles Bridges (N.H.). They comprised an informal and uncoordinated group of lieutenants upon whom Johnson depended for information and whipping (when Clement was defeated in 1956 he was replaced as Majority Whip by Smathers).⁵ Johnson cemented his network with patronage, committee assignments, assistance in raising campaign funds, and scheduling favored senators' bills.

The key to the Johnson Procedure was flexibility. He knew he could not modernize the archaic Senate rules for efficiency, so he proceeded on a trial and error basis to determine what would work best in a particular situation. This entailed never making a commitment as to whether a major piece of legislation will pass; determining in advance what is possible under the best of circumstances for the Senate to accept, but not revealing it; keeping the leader's intentions carefully masked; exploiting the network by rounding up every detachable vote; and then striking quickly to pass the bill with minimal debate. The success of the Johnson Procedure was dependent on divided government

since it enabled Johnson to hold and play his own cards without having to worry about shepherding the Republican president's program through the Senate.⁶

Finally, part of the Johnson Procedure was “the Johnson Treatment”—the personal manner in which Johnson approached and persuaded colleagues and reporters alike. Sen. George Smathers (D-Fla.) perhaps best summed up Johnson's presence in the Senate as “a great, over-powering thunderstorm that consumed you as it closed in around you.”⁷ Evans and Novak say it could last for ten minutes or four hours, and enveloped its target wherever it occurred:

Its tone could be supplication, accusation, cajolery, exuberance, scorn, tears, complaints, the hint of threat. It was all of these together. It ran the gamut of human emotions. Its velocity was breathtaking, and it was all in one direction. Interjections from the target were rare. Johnson anticipated them before they could be spoken. He moved in close, his face a scant millimeter from the target, his eyes widening and narrowing, his eyebrows rising and falling. From his pockets poured clippings, memos, and statistics. Mimicry, humor and the genius of analogy made the treatment an almost hypnotic experience and rendered the target stunned helpless.⁸

The Push for Medicare in 1960

The breakdown of the Johnson system had its origins in large influx of liberal Democrats elected to Congress in 1958 with their pent-up demands for a whole range of domestic legislation, and the subsequent two-year run-up for the 1960 presidential nomination. Johnson saw the writing on the wall and as Senate leader agreed to push for passage of these important bills—from federal aid to education, medical care for the elderly, and housing legislation, to civil rights and minimum wage improvements. Johnson was especially anxious to curry favor with the liberal wing of the party to demonstrate he could be a viable national contender for president as the 1960 campaign season approached.

While Johnson may have been master of the Senate, he had no control over the House and its actions on medical care legislation—especially over Ways and Means Committee chairman Wilbur Mills who retained tight control over his committee. In March 1960, as part of the consideration of Social Security Act amendments, the Ways and Means Committee tabled the Forand proposal of medical care for the elderly, 17 to 8. Seven of the committee's 15 Democrats, including Chairman Mills, voted to table the measure.

In May the Eisenhower administration introduced its alternative Medicare bill under which matching grants would be paid to the states to enable them to pay for specified medical, hospital and nursing costs for elderly persons with incomes of \$2,500 a year or less. The Ways and Means Committee rejected both the Forand and Eisenhower approaches but instead adopted a plan for assisting the aged that was less generous than

the administration's proposal. The entire bill passed the House in late-June, under a closed amendment process.

Meantime, in the Senate, Majority Leader Johnson decided on a bold ploy to compensate for his failure to deliver on his commitment to the liberals' agenda. He would adjourn the Senate on July 3rd for the political conventions, and then return in August for an all-out push to pass the four priority bills: medical care for the aged, federal aid to education, minimum wage expansion, and housing legislation.

However, as Evans and Novak explain it, "In that politically supercharged atmosphere of August, the Johnson system was inoperative." Not only were John F. Kennedy and Lyndon Johnson their party's presidential and vice presidential nominees, but the Medicare bill was part of the Democratic platform and Kennedy had loudly proclaimed for its passage by the Senate in August in his acceptance speech. Moreover, Richard Nixon, the Republican nominee, was calling his party's signals from the Vice President's chair as president of the Senate. There was no room "for wooing Republican defectors or engaging in the vital art of compromise" that was so central to the Johnson system.⁹

The upshot of the five-week rump session was that none of the bills made it into law. The housing bill never emerged from committee; conservatives prevented final action on federal aid to education; the minimum wage bill died in the House-Senate conference committee; and medical care for the aged was rejected 41 to 54 by the Senate. As Evans and Novak assessed the dismal record: "Johnson had never worked so hard to round up votes for a bill, but he was stymied by the circumstances that denied him compromise....The defeat finally and sadly informed Kennedy what he and Johnson had suspected all along—that the rump session was a fiasco and that there was no time to lose for them to depart the frustration of the Senate and take to the hustings."¹⁰

However, all was not lost in the area of health care reform. While the Forand-Kennedy bill and the Eisenhower Administration's alternative were both rejected during the August session as amendments to the Social Security Act amendments, a strengthened version of the House Ways and Means Committee bill, now known as the Kerr-Mills "Medical Assistance for the Aged Act," did survive the amendment process and became law. The law provided federal matching grants to the state to provide medical assistance both to cover those on public assistance (old age, blind and permanently and totally disabled), and those elderly indigent persons not poor enough to qualify for public assistance but too poor to pay their medical bills. Even AMA had endorsed the Kerr-Mills bill and it was signed into law by President Eisenhower on September 13, 1960, as part of the 1960 Social Security Act Amendments.

The Medicare Push Under the Kennedy Administration, 1961-63

In campaigning for the presidency in 1960, Senator John F. Kennedy pledged to promote the enactment of a compulsory health insurance law for aged Social Security beneficiaries that would pay for most of all hospital, nursing and diagnostic services, by

increasing the Social Security payroll tax. His strong support put Medicare back on the front burner of policy activists, one of whom, New Deal warrior Wilbur Cohen, he recalled to Washington in late 1960 to head-up a health care task force to draft a Medicare bill for introduction in the first session of the 87th Congress.

As policy historian Theodore R. Marmor observed, “When a policy has presidential sponsorship and favorable reactions in public opinion polls, and the partisan alignments in the Congress are supportive of the president, the chance of the legislation’s adoption improve. The election of 1960 thus marked a pronounced shift for Medicare from the politics of legislative impossibility, characteristic of the previous eight years, to the politics of possibility.”¹¹

Less than a month after his inauguration, Kennedy sent his health care message to the Congress, extending hospital and nursing home benefits (but not surgical costs, as the Forand bill would do) to 14 million Americans over 65, to be financed by a one-quarter percent increase in Social Security taxes. In his message, Kennedy, anticipating the usual AMA objections, asserted the program was “not socialized medicine,” but a program of prepayment for health costs “with absolute freedom of choice guaranteed. Every person will choose his own doctor and hospital.”¹²

In the second week of February, Senator Clinton Anderson (D-N.M.) again introduced the bill in the Senate while a Ways and Means Committee member, Rep. Cecil King (D-Calif.) sponsored it in the House. Weighing against early action on the legislation was both the recent enactment of the Kerr-Mills bill and the ideological makeup of the Senate Finance and House Ways and Means committees. An early headcount by the Department of Health, Education and Welfare (HEW) showed the legislation had 196 supporters in the House (23 votes short of a majority).

Moreover, in the previous year the Ways and Means Committee had voted 17 to 8 against the Forand bill. While a Gallup poll showed two-thirds public support for increasing Social Security taxes to pay for medical insurance for the elderly, that provided little solace to the president. The Ways and Means Committee was still four votes short of what was needed to get the bill out of committee. Kennedy had an especially difficult time in dealing with Mills over Medicare since other major administration legislation in the areas of tax and trade were before the same committee. While Speaker Sam Rayburn supported Kennedy’s bill, he was in failing health, and more and more responsibilities were being shifted to Majority Leader John McCormack (D-Mass.) who, while quite knowledgeable about House norms and procedures, did not have Rayburn’s influence or personal popularity.

Rather than try to bargain with other Ways and Means members for support, Kennedy decided to take the alternative tack (tried unsuccessfully in 1960), of attaching the Anderson-King bill to a House-passed bill Social Security bill pending in the Senate. While that strategy was temporary shelved, it was renewed the following year when Sen. Clinton Anderson (D-N.M.) offered the proposal as a floor amendment to a public

assistance bill. The amendment was tabled, 52-49, with a conservative coalition of Republicans (31-5) and Southern Democrats (21-43) providing the margin of defeat.

Kennedy fared no better in 1963, his last year in office before being assassinated. The administration still had the same unfavorable alignment in the Ways and Means Committee and were still 23 votes short in the House. Hearings were held in both houses that year, but no further action was taken.¹³

Nevertheless, in Kennedy's final year, Mills showed some signs of softening, discussing various alternative options with the administration and allowing two outspoken southern advocates of Medicare on his committee—Rep. Pat Jennings (Va.) and Ross Bass (Tenn.) instead of more conservative opponents of Medicare.¹⁴

Evans and Novak indicate that since 1961, Kennedy had been wooing Mills “and a strange partnership had been growing strong and warmer,” with Mills becoming “the enthusiastic and effective congressional partner” of Kennedy's most important legislation: the Trade Expansion Act, the Tax Revision Act of 1962, and the tax cuts of 1963. By November 1963, the White House was certain that Mills was about ready to abandon his longstanding opposition to Medicare and guide a compromise through the House the following year. But Kennedy's death on November 22 changed all that.

President Johnson and Medicare, 1964

It might be assumed that as vice president, Lyndon Johnson had played a key role in President Kennedy's legislative strategies and lobbying. But that was not the case. As congressional relations chief Larry O'Brien explains in his memoir, he believed Johnson had hoped to play a key role as Kennedy's ambassador to Congress and somehow continue to serve as defector leader of the Senate. But “his hopes suffered two rebuffs” when his Senate Democratic colleagues objected to his plan to continue to chair their policy group and O'Brien was assigned the job as Kennedy's chief emissary to Congress.¹⁵

“There was no continuing role for him [LBJ], as Vice President to play in our congressional relations program. He was always invited to our strategy sessions in [Senate Majority Leader] Mike Mansfield's office, but he didn't always attend.” O'Brien adds that LBJ also regularly attended the weekly congressional breakfasts at the White House, “but he rarely volunteered any comment. If he had something to say, he would usually speak to me privately after the breakfast.”¹⁶

It therefore must have been somewhat strange for Johnson, once he became president, to get back into the business of dealing directly with Congress after a three year hiatus. However, he told O'Brien he wanted to finish the work that Kennedy had begun and convinced O'Brien to stay on as his legislative affairs chief.

One of Johnson's first orders, much as Kennedy had done after he was elected president, was to task Wilbur Cohen with re-designing a politically feasible version of the

King-Anderson Medicare bill. At the same time, Mills accelerated his talks with Cohen at HEW and Social Security Commissioner Robert M. Ball, both of whom had been authorized to negotiate with the Ways and Means Committee.

O'Brien mentions in his memoir that on the morning of Kennedy's assassination one of his aides, Henry Hall Wilson, tried to reach O'Brien in Texas to inform him that an agreement had been reached with Mills on a formula to finance Medicare, thereby making final passage of the bill inevitable. However, Kennedy's party had already left for Dallas.¹⁷

Kennedy had laid the groundwork for Medicare, but it would take more time to develop the final details given a different dynamic between the new president and Mills. The relationship between Mills and Johnson was awkward, write Evans and Novak. "For all they had in common in legislative craftsmanship and ideological flexibility, Lyndon Johnson and Wilbur Mills had never been close. Mills' self-possessed urbanity seemed to intimidate Johnson."¹⁸

As former Senate leader, Johnson knew the advantages of negotiation versus confrontation. Administration officials felt that 'we might as well let Mills tell us what he'd go with and then send it up as ours.' However, by late March 1964, Johnson recognized that Mills was controlling the deliberations, and he told Cohen in a phone conversation that he intended to work as long as necessary to get medical care for the elderly. LBJ instructed Cohen, "You get him [Mills] something through... if labor will buy it, that he can call a Mills bill, that's what it amounts to, and you're smart enough to do that." Cohen replied, "I think we can...Mr. President. I'm positive of that."¹⁹

In April, administration negotiators and the tax writing committees seemed to be approaching a compromise. However, when White House congressional affairs chief O'Brien questioned Mills about newspaper accounts that said nothing was happening, Mills dismissed the stories but warned that "the administration could not have everything it wanted, and that ultimately the bill would need 'the Mills stamp on it.'" O'Brien reported the conversation to the president, saying the chairman was still finding his way and "isn't pinning anything down that can't be unwound." But O'Brien expressed confidence Mills would contact them soon.²⁰

Frustrated with Mills' autonomy, LBJ ordered O'Brien: "Now tell him, god dammit, if they're [Ways and Means] getting to where that is getting out [in the press] I would like to know what he has in mind...tell him they're asking me questions and I don't know what the hell he is doing. A Democratic president ought to know what a Democratic chairman is doing."²¹

By early June, it looked like a compromise was in the offing that Cohen thought Mills could buy-off on. It would consist of individuals having the option of receiving additional cash benefits through Social Security or hospital insurance, with Blue Cross/Blue Shield administering the latter. But Cohen said the negotiations had been difficult because "liberal friends keep giving me that advice—don't sell out on any bad

compromise.” The president called Mills on June 9 to encourage him forward: “The single most important thing is the bill you are working on....I think it will mean more to posterity and to you and to me. So I am not trying to write a new section every morning or title....”²²

Mills told the president he was looking for something different from King-Anderson that would allow those opposed to it to endorse the legislation, and said he wanted some Republican votes as well. Johnson replied he should not expect any Republican votes because they have opposed every poverty bill. But Mills said Republicans had not always been against Social Security and that he’d have them in a bind if they voted against this.²³

Mills’ talk of a possible compromise fell through later in June as several Democratic members of his committee got cold feet, saying they couldn’t vote for anything prior to the November elections. By June 22 O’Brien would report to the president that “the Wilbur Mills situation is deteriorated, I would say at this moment totally.” And Mills confirmed this to Cohen, saying he couldn’t “put this thing together.” Mills suggested to Cohen they take the bill off the table until the following year, or try attaching it to the Social Security amendments in the Senate. However, O’Brien told the president he didn’t trust Mills to fight for it in conference²⁴

Nevertheless, the Senate strategy was chosen, and a bipartisan coalition of Senators Albert Gore, Clinton Anderson and Jacob Javits attached a modified version of the King-Anderson measure to a House-passed Social Security bill. The amendment carried, 49 to 44—the first time either chamber had passed any version of Medicare. Before it even reached the conference committee, Mills announced his opposition to it, saying he had enough votes to block passage. As Mills predicted, House conferees voted 3-2 against including any health plan in the bill, while Senate conferees voted 4 to 3 not to accept any bill that did not include hospital care.²⁵

Assessing the sorry ending in 1964, Evans and Novak observe: “Even with Mills’ help, passing the bill in the House would not have been assured. Without Mills, it was hopeless.” LBJ’s insistence on making a stab at Medicare anyway in the closing weeks of the Congress, “revealed that there were, after all, finite limits to Johnson’s control of Congress.”²⁶ Nevertheless, in his first full year as president, Johnson compiled an enviable record of legislative accomplishments that would obscure the significance of his single failure. Moreover, the fall election results would render even that failure a temporary setback.

President Johnson and Medicare, 1965

In 1964 President Johnson scored a landslide victory over Sen. Barry Goldwater for the presidency, carrying 61 percent of the popular vote and 90 percent of the electoral vote. The victory produced a coattail effect that swept a large group of new Democrats into Congress--a 23 seat pickup in the House that gave the president’s party a 295-140 majority, and a two-seat gain in the Senate for a 68-32 edge.

The day after the election, Mills told reporters he would be receptive to a Medicare proposal in the new Congress. And he would clearly have more help from his own committee as the majority-minority ratio increased from 15-10 to 17-8. On December 2, Mills announced his support for a payroll tax to support health benefits, just as he had supported it for cash benefits.

At Mills' direction, the Social Security Administration prepared a new hospital insurance plan with a separate trust fund and a higher tax schedule. On January 3, 1965, the Social Security Advisory Council made its recommendation for a program of hospital care for the aged with a separate trust fund, and two days later the administration submitted a revised version of King-Anderson based on the recommendations. Writes policy scholar Julian Zelizer, "Mills' imprint on this bill was visible to all those who were involved."²⁷

Mills opened the Ways and Means Committee deliberations on January 27 (after the committee had decided against holding further hearings). The AMA for the first time came up with an alternative called "Eldercare." Introduced by Reps. Tom Curtis (R-Mo.) and Albert S. Herlong, Jr. (D-Fla.) the bill would expand on the Kerr-Mills Act of medical insurance for the elderly based on need in participating states. The plan would include coverage for the costs of hospitals, doctors, and prescription drugs. On February 4, Ways and Means Committee Ranking Republican, John Byrnes (R-Wis.) introduced his own, more expansive alternative, "Bettercare," a cross between social insurance and public assistance. Under his plan, retirees could choose to participate in a program that covered hospital and doctors' bills, as well as selected patient services. Instead of relying on the payroll tax, the Byrnes bill would provide two-thirds funding from general revenues, and one-third from a graduated premium based the Social Security payments the individual received.²⁸

One of the biggest criticisms being heaped on the King-Anderson bill by the AMA and Republicans was that it was "inadequate," because it only covered hospitalization costs. Moreover, Byrnes boasted his bill was voluntary, not mandatory as the Democrats' bill was. While the Byrnes and King-Anderson bills had been presented as mutually exclusive alternatives, on March 2 Mills turned to Cohen and asked whether a combination of the two were possible. Cohen was "stunned," and his initial impression that it was a plot to kill the entire administration effort (even though it was Cohen who at one time had proposed a three-layer cake approach of first enacting hospital insurance, then private insurance for physicians' coverage, and finally an expanded Kerr-Mills program of health coverage for the elderly indigent). Mills' suggestion was for a different combination medicare-eldercare-bettercare rolled into a single cake, baked all at once.²⁹

That night Cohen drafted a memo to the president in which he labeled the Mills plan "ingenious" because putting into a single bill the features of all three major alternatives would make Medicare "unassailable politically from any serious Republican attack."³⁰ Cohen's memo went on: "By absorbing the proposal of each constituency in this debate, the chairman neutralized their opposition."³¹

In his memoir, LBJ confirms that on the night of March 2, Cohen came to his office “in a state of high excitement” and explained the “three-layer cake” Mills had suggested, with himself as chef. “He [Cohen] said Republicans were dumbstruck.” One of the committee members recalled of the moment: “It was fantastic. It was Wilbur Mills at his best. His maneuvering was beautiful....he had just said, why don’t we take it all.” According to another participant, everyone in the room knew “that it was all over. The rest would be details.”³²

Cohen said Mills had asked him to draft the bill during the night, and Cohen asked whether he could have 24 hours. Mills said no, tomorrow morning. Cohen concluded “he wanted to push it. The tempo was with him.” Cohen asked the president what he should do about it, and LBJ writes, “I sent Cohen away with instructions to ‘call them and raise them if necessary, but get this bill now.’”³³

On March 24 the Ways and Means Committee, on a party-line vote, ordered a clean bill, introduced by Mills, reported to the House. When Mills presented it on the House floor on April 7, he was greeted by a standing ovation from both sides of the aisle. The measure was considered under a closed rule (no amendments), and, after two days of debate was passed on a 313 to 115 vote after the Byrne’s alternative was rejected, 191 to 236, as part of a motion to recommit the bill with instructions. Of the 138 Republicans voting, 65 voted for the bill on final passage while 42 Democrats voted against.

The Senate Finance Committee had several days of hearings on the House-passed bill between April 29 and May 18 and then went into executive session where it approved the bill, 12-5, after adopting several amendments. After adopting 29 additional amendments, the Senate passed the bill July 9, 68 to 21, with 13 Republicans joining 55 Democrats in support. The bill was then sent the bill to conference with the House. The conference committee cleared the measure on July 26.

Mills claimed the final compromise was 95 percent of the House’s original version. Senate Majority Whip Russell Long confirmed this when he said, “I have been to conference with a House bill that the Senate had amended, and the attitude of the House conferees was that we had no right whatever to amend it except ...in keeping with something the House had put in its bill in the first place.”

The conference report was subsequently adopted by the House on July 27, 307 to 116, with 237 Democrats and 70 Republicans in support, and 48 Democrats and 68 Republicans opposing.³⁴ The Senate adopted the conference report the next day, 70 to 24, with 57 Democrats and 13 Republicans in favor, and seven Democrats and 17 Republicans against. President Johnson, over the objections of some aides, insisted on having the signing ceremony in Independence, Missouri, on July 30, 1965, in the presence of and in tribute to former President Truman who had launched the national health care debate back in 1945. “No longer will older Americans be denied the healing miracle of modern medicine,” Johnson said, in signing the bill. “No longer will illness crush and destroy savings that they have so carefully put away over a lifetime so that they might enjoy dignity in their later years.”³⁵

Conclusions

This paper set out to determine whether President Barack Obama's emulation of the Lyndon Johnson leadership model for passing Medicare in 1965 is an apt approach to health care reform in 2009. The central principle involved in 1965 was to allow the chairman of the House committee, Ways and Means, take the lead on developing the details of the legislation while the president and his aides helped move the ball forward by rounding-up other committee votes as they kept close tabs on the chairman's moves. However, that attitude did not prevent Johnson from initially taking the lead and sending to Congress a revised version of the bill that JFK had also backed.

The failure of Johnson to pass Medicare in 1964, by having it attached it to another bill in the Senate when negotiations collapsed in the House, was a warning to the president that Mills would not relinquish control of the final product (even though he had initially suggested the Senate strategy). House conferees supported Mills in resisting a compromise in conference, and there the bill died.

The 1965 switch by Mills from opponent to proponent was a recognition of prevailing political winds given the newly swollen ranks of the Democratic majority in the wake of LBJ's landslide election. The surprise move by Mills to expand the legislation beyond what the administration had proposed killed two birds with one stone: First, it took away the minority's criticism that the administration bill, by covering only hospitalization costs, was "inadequate;" and second, it impressed on the president that Mills was still in charge of the final product and that it would bear his lasting imprint. In short, the president had little choice but to defer to Mills given his expertise, legislative skills, fierce independence, and his committee's autonomy and pride.

LBJ may have been master of the Senate at one time, but he never was master of the House when he was a Member of that body, and certainly could not be as president. LBJ fully recognized this. Mills not only made his committee proud, but made the House proud that he had one-upped his own president and given lie to the notion that Congress was simply a puppet, rubber-stamping LBJ's Great Society. As one committee member boasted, "The stimulus for all of these changes had come from the committee and not from HEW—Wilbur Mills and the Committee are telling HEW what to do and initiating the changes."³⁶

Evans and Novak contrast the Medicare episode with the rest of Johnson's historic legislative feats:

For much of 1965, Congress was a curious study of conformity after decades of semi-rebellion....There was now a mood that approached slavish timidity and obedience to the merest presidential suggestion. Johnson's performance was mesmerizing Congress and the country watched transfixed.³⁷

Johnson was so intent on passing his Great Society program without change, they continue, “that he showed irritation at weekly meetings of his congressional leaders because Wilbur Mills had rewritten his Medicare bill...and was getting credit for it in the press.”³⁸

Attempting to transplant these lessons and techniques from the Medicare fight in the 1960s to the 2009 health care struggle breaks down on several counts. First, the so-called “text book Congress” in which southern committee barons ruled their autonomous fiefdoms is long gone. It was partially in reaction to that conservative iron rule that the new breed of more liberal Democrats began a congressional reform revolution in the mid-1960s that culminated in a new power arrangement by the mid 1970s that stripped chairmen of their independent powers and eventually shifted power to the Democratic Caucus and elected party leaders.

Second, power was dispersed both within committees to newly semi-autonomous subcommittees, as well as across committees with the referral of bills to multiple committees beginning in 1975. The president no longer has the luxury of focusing on a single chairman and committee to negotiate a compromise. The current health bill is the product of three House committees and two Senate committees. The bill was initially drafted in the office of the House Speaker, drawing on the ideas and expertise of relevant committee and subcommittee chairmen.

While the president may have been correct in deferring to Congress to take the lead in drafting detailed legislation, thereby avoiding the pitfalls that befell President Bill Clinton’s health care reform efforts in 1993-94, the president is still left with the problem of confronting a multiplicity of competing power centers and interests (as was Clinton)—a more complex political puzzle than LBJ confronted in 1965. Obviously, the hope and expectation was that the party leaders in Congress would be able to reconcile inter-committee differences—at least until presidential intervention might become necessary in sorting out the differences between the two houses in conference committee.

While that may have seemed a reasonable enough approach given the power of party leaders in the modern Congress--especially in the House which is more tightly organized and efficient under majority party leaders--it was still no guarantee of a harmonic convergence. House party leaders may not have been begging for earlier presidential leadership and intervention, but by September everyone else in Congress and the media seemed to be beseeching Obama to step-up and make clear what he wanted to see in the final bill.

That had become abundantly clear over the August 2009 break after neither house had met the recess deadline for holding floor votes as public support for pending health care plans continued to erode, and with it confidence in the president’s job performance. That new reality prompted a shift in plans, with the president addressing a joint session of Congress September 9 to spell-out what an Obama health care bill should look like. Unlike LBJ’s Great Society legislative blitz, which many in Congress resented as an affront to their independent status, today Members are practically begging a seemingly

aloof president to become more engaged by working his old campaign magic to revive public support.

Ultimately, the success of the current efforts to finally pass major health care reform legislation will hinge on that ability to recapture sufficient public backing and momentum behind the effort. That is a tall order in 2009 with less than majority support at present for pending health reform bills, compared to two-thirds public support for Medicare in 1965. Moreover, President Obama does not have a two-thirds majority in both houses of Congress as LBJ did in 1965. Although Johnson lost 48 Democrats on final adoption of the Medicare conference report, he still had a comfortable majority of 237 Democrats voting for it, plus another 70 Republicans in support. It truly was a bipartisan victory. True, Johnson had told Mills not to expect any Republican votes; but that was before Mills crafted a version that co-opted the Republican and AMA alternatives.

Today it's hard to imagine any kind of compromise that would attract a sizeable number of Republicans in either house. The type of moderate Republicans who supported Medicare in the House and Senate in the mid-1960s is a vanishing, near-extinct breed. While the so-called Blue Dog Democrats are not as ideologically conservative as their southern conservative counterparts were in the 1960s, their fiscal conservatism could deprive the president of majority support for his health care reforms if their concerns are not addressed. If all 52 Blue Dogs deserted the Democratic bill today, the measure would be 14 votes short of the 218 majority needed.

President Obama is fond of saying, you must play the hand you're dealt, and that has been a full house of economic, fiscal and financial problems inherited from the previous administration. While the administration has been counting on these crises to also present opportunities to advance the president's own domestic agenda as a partial solution, it did not anticipate that upping the ante might meet with resistance among independent voters and fiscally conservative Democrats in Congress.

The potential costs of health care reforms (as opposed to their originally-touted savings), have given everyone pause to rethink just what components are necessary and affordable. While Wilbur Mills always held out for a Social Security system and medical care subsystem that would be actuarially sound, his final expansion of the latter by relying on general revenues and voluntary premiums rather than the payroll tax to finance physicians' fees paved the way for a new health care system for the elderly that far exceeded initial cost estimates and that is now on the verge of bankruptcy. Today, with cost estimates generated by OMB, CBO, and dozens of renowned economists ensconced in private think tanks, it is not as easy to bull something through by sheer force of political will and legislative skill. The LBJ-Wilbur Mills' ways of doing things are rusty relics of a bygone era, hardly adaptable to today's high-wire, no-net partisanship.

Endnotes

¹ Ceci Connolly, "On Health-Care Reform, Obama Looks to the LBJ Model," *The Washington Post*, July 14, 2009.

² *Ibid.*

³ The chronological account in this section is adapted from "History of Medical Care Proposals, 1945-64," *Congress and the Nation, 1945-1964* (Washington, D.C.: Congressional Quarterly Service, 1965 First Edition), 1151-1155.

⁴ Rowland Evans and Robert Novak, *Lyndon B. Johnson: Exercise of Power* (New York: The New American Library, 1968), 106-106.

⁵ *Ibid.*, 107-110.

⁶ *Ibid.*, 123-124.

⁷ *Ibid.*, 105.

⁸ *Ibid.*, 115-116.

⁹ *Ibid.*, 238-239.

¹⁰ *Ibid.*, 240.

¹¹ Theodore R. Marmor, *The Politics of Medicare* (New York: Aldine De Gruyter, second edition, 2000), 30.

¹² *Ibid.*, 31.

¹³ *Ibid.*, 35-41.

¹⁴ Julian Zelizer, *Taxing America: Wilbur Mills, Congress, and the State, 1945-1975* (Cambridge, U.K.: Cambridge University Press, 1998), 220.

¹⁵ Lawrence F. O'Brien, *No Final Victories: A Life in Politics from John F. Kennedy to Watergate* (Garden City, New York: Double Day & Company, Inc., 1974), 165

¹⁶ *Ibid.*, 166.

¹⁷ *Ibid.*, 143.

¹⁸ Evans and Novak, 402.

¹⁹ Zelizer, 221, 223.

²⁰ *Ibid.*, 224.

²¹ *Ibid.*, 225.

²² *Ibid.*

²³ *Ibid.*, 227.

²⁴ Ibid.

²⁵ *Congress and the Nation*, 1155.

²⁶ Evans and Novak, 403.

²⁷ Zelizer, 232.

²⁸ Ibid, 233, 239.

²⁹ Marmor, 49.

³⁰ Ibid.

³¹ Zelizer 242.

³² Ibid, 241.

³³ Lyndon Baines Johnson, *The Vantage Point: Perspectives of the Presidency, 1963-1969* (New York: Holt, Rinehart and Winston, 1971), 216-216.

³⁴ “Legislative History: Vote Tallies for Passage of Medicare in 1965,” Social Security Online, History, accessed at: <http://www.ssa.gov/history/tally65.html> on July 14, 2009.

³⁵ “Chronology of Legislation on Welfare, 1965, Medicare,” *Congress and the Nation, Volume II, 1965-1968* (Washington, D.C.: Congressional Quarterly Service, 1969), 751-757.

³⁶ Zelizer, 243.

³⁷ Evans and Novak, 517, 522.

³⁸ Ibid.