

The Limits of the Law: The Rise and Collapse of the Hospital Unionization Wave of the 1970s

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On July 26, 1974, President Richard Nixon signed Public Law 93-360, amending the National Labor Relations Act. It was his last act before the House impeached him. Until then, an amendment to the 1947 Taft-Hartley Act had excluded nonprofit hospitals from coverage under the NLRA. Hospitals, Congress had assumed then, were locally-oriented charities, not workplaces with antagonistic relations between labor and capital. The passage of Taft Hartley effectively halted incipient efforts to organize hospital workers, save a few pockets where unions had established an early foothold.

By the late 1960s and early 1970s, however, hospitals experienced increased strike activity. Some strikes, like those that shook Bay Area hospitals, took place in hospitals with longstanding bargaining relationships. But workers undertook many of these strikes in pursuit of union recognition, trying to establish the right to bargain where the law did not do so. Perhaps the most prominent strikes were organized by New York's Local 1199, a union of non-professional hospital workers who by the late 1960s had pushed its efforts beyond the city. The union organized recognition strikes in labor-friendly states such as Ohio and Pennsylvania, as well as the more hostile climates of North and South Carolina.ⁱ 1199's efforts had effectively widened union organizers' imaginations: they showed that organizing hospitals was possible beyond labor's early footholds. But it was not easy. In both new and old unions, union organizers saw their efforts to build a hospital workers' movement throttled by Taft-Hartley.

Taft-Hartley, of course, had been bad for the labor movement, well beyond the hospital. But in those pockets where hospital unions survived—with the Bay Area among the most important—organizing had continued in some interesting ways. By cutting healthcare unions off from the normal procedures of recognition and bargaining, Taft-Hartley's exclusions had also created a space for innovation. As the preceding chapters show, CNA and SEIU had built different, but effective models of unionism that built on an alternative set of foundations. They had figured out how to exercise power, and even strike. They had developed bargaining units that reflected the peculiar and rigid occupational hierarchies of the hospital. And, they had developed a mode of organizing and bargaining that accommodated the moral obligations of caring professionals.

The 1974 amendments, however, opened the door for the organization of hospital workers throughout the country. Organizers reasonably saw the 1974 reform as a tremendous opportunity for empowering hospital workers. The incorporation of nonprofit hospitals under the NLRA brought these organizations into the mainstream of labor relations and labor law. For SEIU, the reform was an unambiguous opportunity to grow. "We're in the middle of the biggest, most comprehensive and most potentially rewarding organizing drive the labor movement has seen since the 1930s," SEIU President George Hardy wrote to the union's organizers a year after the passage of the amendments. "Every SEIU Local involved in hospital organizing is faced with the very real chance of doubling or tripling its membership in the next 24 months."ⁱⁱ But the legal restrictions had not only constrained SEIU's growth—it had also constrained its tactics. The

healthcare amendments created an opportunity for the union to operate as a traditional union, unconstrained in its working-class missions.

CNA also saw opportunities to grow, but the turn to traditional union institutions was more complicated. Through a series of organizational reconciliations, nurses had come to develop an approach to collective bargaining that leaned heavily on notions of professional control, and on bargaining units that reflected nurses' longstanding efforts to insulate nursing practice from encroachment. Incorporating legal structures designed for other industries, and abiding by the determinations of the National Labor Relations Board, could potentially threaten that emergent model, and the fragile truce that undergirded it.

1974 was also, unbeknownst to these organizers, the beginning of a profound shift in the political economic landscape. Amidst recession and inflation, workers across the economy triggered a strike wave that summer which rivaled that of 1946. But if strikers three decades prior would end that decade with an ascendant labor movement, those in the 1970s did not. They would soon see they were part of a movement in seemingly terminal decline, with organized employers empowered and aggressive. 1974 was, in short, the cusp of the neoliberal era. While this trend toward employer aggression did not originate in hospitals, it certainly went through them. Indeed, employers and their consultants would come to hone some of their most important anti-union tools in the hospital wards.

For both SEIU and CNA, failure to organize was shaped by clashes between preexisting occupational boundaries and the boundaries established by Taft-Hartley. Prior to 1974, organizing and bargaining customs evolved within the peculiar workplace structure of the non-profit hospital and the cultural traditions of professionalism. Nurses in particular resisted alliances across occupational lines, and sought to maintain cross-class coalitions within occupational boundaries. Since the passage of Taft Hartley, however, the NLRA had defined bargaining units on the basis of class boundaries. Legal disjuncture between the boundaries established in the pre-1974 hospital and those defined under the NLRA created critical obstacles for hospital organizing in the late 1970s. These uncertainties created a regulatory environment in which union-avoidance consultants learned to use bargaining unit disputes to delay or avoid NLRB elections. In the United States, these procedural tools served as critical instruments of de-unionization in the 1980s and since.

This analysis illustrates how and boundary drawing projects in the workplace shaped the early years of the crisis of collective bargaining in the United States, while adding necessary context to current debates concerning institutionalized labor conflict in contemporary capitalism.

ⁱ Fink, L., and B. Greenberg. 2009. *Upheaval in the Quiet Zone: 1199SEIU and the Politics of Health Care Unionism*. Univ of Illinois Pr.

ⁱⁱ SEIU Hospital organizer bulletin 1975 - Reuther SEIU Hardy ac 1542 - box 95 folder 15 - 4-28-16, 12-44 PM