

This case study will attempt to identify and analyze the many relevant political and policy issues surrounding Massachusetts Ballot Question Number 1. The question was related to establishing an additional excise tax on cigarettes and smokeless tobacco. It was placed by Initiative Petition on the November 3rd, 1992 State Ballot.

Over the course of this case study I will attempt to trace the origins and outline the history of the ballot question. I will attempt to identify the actors that played prominent roles in the case. The coalitions that developed around either side of the petition will be explored, as will their strengths, weaknesses, resources, and strategies. To conclude, I will attempt to identify who won, why, and what the consequences of that victory might be.

HISTORY

In November of 1988, California voters passed Proposition 99. It was a proposition much like the one to be described here. Its intent was to raise revenues via a 25 cents excise tax on each pack of cigarettes. The revenues raised were intended for health education and public awareness programs. The programs were designed to warn smokers of the dangers of tobacco. The tax was also designed to decrease the likelihood that new and younger individuals would begin smoking.

Despite the tobacco industry spending \$24 million in an effort to defeat the measure, the initiative passed. And, since January of 1989 when the initiative became effective, cigarette smoking in California has declined 17 percent. That figure represents the huge success the California initiative has experienced, and is more than double the decline in U.S. smokers over the same period.¹

According to the American Cancer Society, "more than 90% of all smokers begin their habit as teenagers", more than 60% of them begin by the age of 14, and 38,000 children start smoking in Massachusetts every year.² Additionally, American Public Health Association statistics show that 24% of all Massachusetts residents are smokers.

In the fall of 1991, armed with these statistics and a clear sense of duty to produce the same results, the Massachusetts Coalition for a Healthy Future garnered over 150,000 signatures from registered Massachusetts voters who approved of placing Question 1 on the ballot.³ That action was responsible for creating one of the most hotly contested referendum questions in Massachusetts history. It was also responsible for the

¹ Massachusetts Coalition for a Healthy Future, Help the American Cancer Society Fight the Tobacco Industry

² Ibidem

³ Massachusetts Coalition for a Healthy Future, Facts on the Health Protection Fund Initiative Petition

mobilization of large industries, the spending of tens of millions of dollars, the creation of powerful coalitions, and the rise of two articulate, passionate, and vocal spokespersons.

ORGANIZATIONS

Proponents: The organizations publicly supporting Question 1 numbered nearly 300 in total. They included large charitable organizations like The American Lung Association, the American Red Cross and the Massachusetts Public Health Association. They included most of the major hospitals in the state:

- Bay State Hospital
- Beth Israel Hospital
- Brigham and Women's Hospital
- Children's Hospital
- Dana Farber Cancer Institute
- Massachusetts General Hospital
- Mercy Hospital
- New England Deaconess Hospital
- St. Margaret's Hospital for Women
- Waltham Weston Hospital

Organizations also publicly supporting Question 1 included institutions of higher education. Holyoke Community College, Boston University and Tufts University all ^{publicly} supported the initiative.

Opponents: Organizations opposing the initiative included an ad-hoc organization of 600 Massachusetts small-store owners. They organized in opposition claiming that the tax "would drive shoppers across state borders and cost Massachusetts \$200 million

in lost revenue".⁴

Of course, the primary organization in opposition to the question was the "Tobacco Industry". In this instance the term "Tobacco Industry" refers to seven out-of-state tobacco interests:⁵

- R.J. Reynolds Co.
- Philip Morris Co.
- Lorillard Tobacco Co.
- The American Tobacco Co.
- The Tobacco Institute
- Smokeless Tobacco Council
- Brown & Williamson Tobacco Corp.

This opposition group is numerically smaller than the group of supporters, however, that did not have a handicapping affect. For example, during the campaign it had been argued that the effort to defeat Question 1 had been funded entirely by this group of seven,⁶ and that the money they spent was "more than has ever been spent on a political campaign in Massachusetts history".⁷

COALITIONS

Proponents: The primary coalition that took form in the battle against the tobacco interests was called the Massachusetts

⁴ The Boston Globe, October 22, 1992, Tobacco Tax opposed by 600 Merchants

⁵ The Boston Globe, November 1, 1992, Advertisement paid for by the Massachusetts Coalition for a Healthy Future, Help the American Cancer Society Fight the Tobacco Industry

⁶ Ibidem

⁷ Massachusetts Coalition for a Healthy Future, Help the American Cancer Society Fight the Tobacco Industry

Coalition for a Healthy Future. As stated in their campaign literature,

The Coalition is an alliance of businesses and health organizations concerned about the devastating effect tobacco has on the state's economy.⁸

The leading and most active organizations in this coalition made up its executive committee and they are listed below:

- American Cancer Society
- Blue Cross and Blue Shield
- Massachusetts Association of HMOs
- Massachusetts Medical Society

The rest of the coalition consists of the nearly 300 similarly high profile businesses and health care organizations mentioned in the "Organizations" section above.

Opponents: The primary coalition that formed to combat Question 1, was called the Committee Against Unfair Taxes. It was a group formed, as their spokesman Jack Flood argued, to combat Question 1 on the basis that it "is bad public policy, it's bad economic policy, and it's unnecessary".⁹ The organizations that formed the committee, gave it shape, and funded it in its entirety, consisted primarily of the above mentioned 7 tobacco interests.

ACTORS

Proponents: Dr. Blake Cady was the most visible and the primary

⁸ Massachusetts Coalition for a Healthy Future, Facts on the Health Protection Fund Initiative Petition

⁹ The Boston Globe, October 16, 1992, Clashing Voices Wage Cigarette-Tax Battle

actor for the Massachusetts Coalition for a Healthy Future. He is chief of surgical oncology at New England Deaconess Hospital and president of the Massachusetts division of the American Cancer Society. He is "a surgeon who learned to hate cigarettes as he gazed upon the human wreckage of cancer-ridden smokers on operating tables".¹⁰

Despite working 60-plus hours a week at his surgical practice, Dr. Cady volunteered his time at night speaking, participating in debates, and making the case for Question 1.¹¹

Opponents: John H. Flood, assumed the role of spokesperson for the Committee Against Unfair Taxes. He is a former State Representative and chairman of the House Taxation Committee. He came to be identified as a Democratic Party maverick during his tenure on Beacon Hill, and he is now recognized as one who could,

...easily toss off opinions, factoids, and one-liners as he strides through the State House corridors that he inhabited for 10 years as a representative and still frequents as a lawyer-lobbyist for tobacco interests, among others.¹²

Unlike the spokesman for the Massachusetts Coalition for a Healthy Future, Jack Flood did not volunteer his services. As the spokesperson for the Committee Against Unfair Taxes, Jack Flood received compensation on the order of \$5,000 per month.

¹⁰ Ibidem

¹¹ Ibidem

¹² Ibidem

This is in addition to Flood's assumed compensation for his role as a lobbyist for the tobacco industry.

STRENGTHS

Proponents: Blake Cady is well connected to the booming medical/health industry in Massachusetts. This is demonstrated by his presidency of the Massachusetts division of the American Cancer Society and his chairmanship of surgical oncology at New England Deaconess Hospital. He is strongly familiar with the dangers of smoking and the medical, scientific, and public health data. These factors made an excellent foundation for easily and strongly defining this initiative as a public health issue.

Another major strength of the Coalition For a Healthy Future is their outstanding and comprehensive grassroots effort. Their efforts included getting out the vote, or "GOTV", soliciting campaign contributions, and a strong volunteer distribution network for campaign information. This network was composed almost entirely of volunteers who distributed brochures and canvassed neighborhoods, workplaces, MBTA stops, community groups, schools, colleges and universities.¹³

Perhaps as a result of this outstanding effort, the coalition received the endorsements all the major television stations and

¹³ Massachusetts Coalition for a Healthy Future, Help the American Cancer Society Fight the Tobacco Industry

newspapers in the state.¹⁴ They were endorsed by:

- The Boston Globe
- Springfield Union News
- Worcester Telegram & Gazette
- Quincy Patriot Ledger
- Boston Business Journal
- WBZ-TV Channel 4
- WCVB-TV Channel 5
- WHDH-TV Channel 7

These endorsements had the obvious effect of enhancing the coalition's broad-based grassroots campaign and increasing its visibility significantly.

Opponents: Jack Flood knows the Massachusetts political system as well as the Massachusetts taxation structures. He worked for 10 years as a State Representative and is a former chairman of the House Taxation Committee. This background lends Flood, and the committee he represents, a certain air of legitimacy when he claims that Question 1 is not a public health issue, but an issue of taxation.

It is consistent, he insists, with the antitax philosophy he espoused as a Democratic legislator who sounded the clarion about the budget deficits in 1988, long before Governor Dukakis acknowledged the scope of the problem.¹⁵

Another, perhaps obvious, strength of the Committee Against Unfair Taxes, is their vast amount of financial resources.

¹⁴ The Boston Globe, November 1, 1992, Advertisement Paid for by the Massachusetts Coalition for a Healthy Future, Help the American Cancer Society Fight the Tobacco Industry

¹⁵ The Boston Globe, October 16, 1992, Clashing Voices Wage Cigarette-Tax Battle

RESOURCES

Proponents: Mary Ann Preskul-Ricca, Communications Director for the Committee on Unfair Taxes, points out that "The proponents [the Massachusetts Coalition for a Healthy Future] have all the free media".¹⁶ To a great extent this was true. Witness the endorsement of almost all the major media outlets across the state. With these endorsements came glowing testimonials to the virtues of Question 1 and its campaign. This essentially amounted to a slew of free media.

They did also have the organizational and financial resources of their primary sponsors, including the American Cancer Society, Blue Cross & Blue Shield, and the Massachusetts Medical Society. In their support, these organizations donated time, resources, and independent advertising efforts. For example, Blue Cross & Blue Shield spent \$30,000 of their own money to support Question 1 in newspaper ads.¹⁷

Opponents: As previously mentioned, the Committee Against Unfair Taxation had, and used, extraordinary organizational and financial resources. Outside of the state of Massachusetts, the tobacco industry spent \$1.7 million in campaign contributions to U.S. House and Senate members, according to the Public Citizen's

¹⁶ The Boston Globe, November 1, 1992, With Millions Spent, Ballot Initiatives Go Down to the Wire

¹⁷ The Boston Globe, October 31, 1992, Blue Cross Advertising to Support Question 1

Health Research Group.¹⁸

Within the state, spending for the defeat of this initiative totaled somewhere between \$6.5 and \$10 million dollars. This effectively amounts to out-spending the Massachusetts Coalition for a Healthy Future by a ratio of .0 to 1.¹⁹

WEAKNESSES

Proponents: One of the primary weakness the proponents for Question 1 faced was the actual wording of the legislation that comprised the initiative. It can be, and was by the opposition, construed as weak and perhaps purposefully vague. While the legislation does mandate the creation of a "Health Protection Fund", it does not mandate what the raised taxes must be spent on. It only offers guidelines. The section of the legislation in question reads:

Amounts credited to said Fund shall be expended, subject to appropriation (my emphasis), to supplement existing levels of funding for the following purposes:

- (a) for comprehensive school health education programs...
- (b) for workplace-based and community smoking prevention and smoking cessation programs...
- (c) for the support of community health centers, and their programs of prenatal and maternal care...

¹⁸ The Boston Globe, October 27, 1992, Consumer Groups Decry Tobacco 'Death Money'

¹⁹ The Boston Globe, October 28, 1992, The Question is Death Not Taxes

(d) for ongoing activities, by said department of public health...²⁰

Opponents: Jack Flood's strengths, as mentioned above, also came to be perceived as his greatest weaknesses. In a year of strong anti-incumbent sentiment, Mr. Flood was easily lambasted by Dr. Cady as "a retired politician who was hired by the tobacco industry to spout their line".²¹

The tobacco industry was a similarly easy target. It was painted by Dr. Cady and the media as a villainous, greedy, and deceptive industry that preys on children for the sake of obscene profits.

STRATEGIES

Proponents: The Massachusetts Coalition for a Healthy Future had a three prong strategy. They attempted to define the initiative in terms favorable to their position. They attempted to define the opposition and their motives in negative terms. And, they attempted to reach out to both the large, powerful and popular health related institutions across the state and to the general population.

In defining the initiative in favorable terms, Dr. Cady argued, as did all of the coalition's literature, that the initiative was

²⁰ The Official Massachusetts '92 Information for Voters, Full Text of Proposals

²¹ The Boston Globe, October 16, 1992, Clashing Voices Wage Cigarette-Tax Battle

drafted as a public health issue. The following laundry list of "definitions" comes from the coalition's brochure titled Help the American Cancer Society Fight the Tobacco Industry:²²

- The American Cancer Society proposed Question 1 to reduce smoking and save lives.
- The goal is not to raise revenue. The goal is to reduce smoking.
- Smoking is currently the leading cause of preventable death in the U.S.
- Question 1 is aimed at reducing smoking among kids.
- Question 1 is especially intended to discourage young kids from taking up smoking.
- Tobacco-related illnesses cost Massachusetts taxpayers more than \$1.5 billion in medical costs and lost productivity each year.

From the same piece of literature comes a scathing attack on the tobacco industry:

- The tobacco industry opposes Question 1 because they know it will mean fewer smokers.
- The tobacco industry needs a steady supply of new customers -- most of whom are kids -- to replace those adult smokers who quit or die.
- The big out-of-state tobacco firms are pouring an estimated \$10 million (their italics) into Massachusetts to try to kill Question 1.
- They know that Question 1 will result in fewer customers and lower profits.

The third strategy was to reach out to both the large, powerful and popular health related institutions across the state and to the general population. Dr. Cady and the Massachusetts Coalition

²² Massachusetts Coalition for a Healthy Future, Help the American Cancer Society Fight the Tobacco Industry

for a Healthy Future were masterful at reaching out to the health care industry. As was mentioned above, they were able to garner the public support of almost all the large charitable organizations, all of the major hospitals in the state, and even many academic institutions. They were also quite adept at the grassroots level, using GOTV tactics, fund raising, and volunteer literature distribution networks.

Opponents: The Committee Against Unfair Taxes also had at least three strategies. They sought to frame the question as harmful to small businesses, as an issue of choice, and most importantly, as an unfair tax.

The Committee Against Unfair Taxes organized a group of 600 small-store owners in opposition to Question 1. They published the list of store owners and made a prediction that the increased excise tax would drive shoppers across state borders. They estimated that such cross-border shopping would cost the state of Massachusetts \$200 million in lost revenue.²³

"Massachusetts is well-known for our progressive outlook and protection of individual freedom".²⁴ So argues another of the tobacco industry's strategies as stated in a 30 second television

²³ The Boston Globe, October 22, 1992, Tobacco Tax Opposed by 600 Merchants

²⁴ The Boston Globe, October 24, 1992, Tobacco Industry Ads Tout Tolerance

advertisement and a brochure that stresses issues of tolerance and personal choice. The ad

...compares smokers with a list of minority positions and social movements and states that passage of a ballot question raising cigarette excise tax by 25 cents would send a message that "the majority of citizens in our state don't like something you do."²⁵

The brochure argues that Question 1 is "singling out a group of people who are different and using government's power to force them to change".²⁶

The final and foremost strategy of the committee was to identify Question 1 as an unfair tax. Jack Flood argued at a Boston Globe debate that Question 1 is simply an "unfair tax that would not deter smokers but would harm small businesses... When you start to use tax policy to influence people's behavior, it's a misuse of tax policy". Flood continued, "It's easy for the bow-tie and brie crowd to be for this. But you're hitting the little guy in the ear... you're putting small business owners in jeopardy".²⁷

To top off this argument, the committee argued in the Secretary of State's information guide for voters that not only is this an unfair tax, but it's not even legally "earmarked".

Once again, we are being asked to pay an unfair tax which takes money from the pockets of middle class

²⁵ Ibidem

²⁶ Ibidem

²⁷ The Boston Globe, October 23, 1992, Cigarette Tax Increase is Hailed, Hit at Debate

families and gives it to the legislature to increase the state bureaucracy.

This proposal is about taxes and choice. It's about giving your tax dollars to the legislature to spend any way it chooses.²⁸

WHO WON

The voters of Massachusetts approved Question 1 on election day November 3rd, 1992. The vote for Question 1 came in at an estimated 684,495 votes, or approximately 55 percent, with the vote against at 569,832 votes, or 45 percent.²⁹

The voter turnout for elections across the country was at a three decade high.³⁰ Voter turnout in the state of Massachusetts was equal to 82 percent of those registered to vote. This worked out to be the highest voter turnout in the state since the 1968 elections when 86 percent of the registered voters voted.³¹

WHY

Upon defeat, Mary Ann Preskul-Ricca, a member of the Committee Against Unfair Taxes, argued that "There is clearly no mandate

²⁸ The Official Massachusetts '92 Information for Voters, Arguments Against

²⁹ The Boston Globe, November 5, 1992, Voters OK Cigarette-Tax Hike

³⁰ The Boston Globe, November 11, 1992, Apathy was Cast Aside: Anew Record for Voters

³¹ Ibidem

for this increase [assumedly referring to the close spread in the percent of the vote]".³² On the other hand, she also probes the root of their defeat. She implies that the committee was unable to effectively get out their message and make it stick. "We tried to tell voters that it is just another tax".

Dr. Blake Cady, of the Massachusetts Coalition for a Healthy Future, argues that the question passed because the voters "have seen the light".

The voters of Massachusetts are tired of the tobacco industry's tactics aimed at addicting kids for profit. Their only interest is profit. And the voters have seen through their attempt to buy the vote.³³

In the final analysis, the vote was won by Dr. Cady and his coalition's ability to define the question on terms favorable to his cause. He was able to define it as a public health issue, as a "protect our kids" issue, as an issue that was concerned with reducing smoking and saving lives.

Complementing his ability to define the issue were his abilities to garnish the support of many charitable organizations, nearly all the large health care organizations in the state, and many of the state's institutions of higher education. His committee was also masterful at the grassroots level; getting out the vote,

³² The Boston Globe, November 5, 1992, Mass. Voters OK Cigarette Tax-Hike

³³ Ibidem

disseminating information, and raising sufficient funds to combat the wealthy tobacco industry.

THE CONSEQUENCES

Upon the passage of Proposition 99 In the state of California there was a 10-fold increase in tobacco company contributions to California legislators.³⁴ The Group Against Smoking Pollution of Massachusetts (GASP) expects that there will be a similar tobacco lobby assault on Beacon Hill.

With tax revenues generated from this new excise tax expected to reach \$130 million in the first year, and no legislated mandates to spend the money as the initiative intended, the stakes will be very high, and Massachusetts politicians seem to know this.

State Senator Lucille Hicks (R-Wayland) acknowledges that "the American Cancer Society will watch this like hawks, and will be all over legislators who decide to spend it another way". "The spirit of the thing will be respected", argues State Senate President William Bulger. Even the Governor, William Weld, who opposed the question on the basis that it was a new tax, agreed with the public policy goal and said that the "spirit of the

³⁴ The Boston Globe, November 8, 1992, Tobacco Industry Assault Expected

question" should be upheld.³⁵

While it is too early to tell, it seems that the implementation of Question 1, as intended by the spirit of the initiative, will be a contentious battle between a well funded tobacco industry and state politicians who are charged with upholding and enforcing the public will.

³⁵ The Boston Globe, November 5, 1992, Question 1 Backers Set to Hustle 'Yes' Vote into Antismoking Action

PROPOSAL FOR A CASE STUDY

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