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THE TOBACCO INDUSTRY'S POLITICAL TACTICS IN CALIFORNIA SINCE 1978

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The Tobacco Industry clearly recognizes the importance of maintaining its position through political action. The Industry has a highly organized, well funded arm -- the Tobacco Institute -- that aggressively protects the Industry's interests. This situation contrasts starkly with the situation among the anti-smoking forces, which are poorly funded, poorly organized, and rarely see problems of smoking and health in a political context. There are, however, several relatively small groups within the United States who have taken a more aggressive and political approach to problems of smoking. In California, we have (under a variety of names) conducted two statewide campaigns to enact legislation by popular vote at a general election to protect nonsmokers in public places and places of employment. The first of these campaigns took place in 1978 and the second in 1980; these citizen initiatives were called Proposition 5 and Proposition 10. These campaigns, the largest public debates on issues of smoking anywhere in the U.S., offer important lessons on how the Industry operates and how to most effectively deal with it.

The central principal in thinking about dealing with the Tobacco Industry is to recognize that the stakes are very high for them. Last year, U.S. cigarette sales were approximately \$25 billion, with about \$2.5 billion in California. If either of the initiatives we supported had passed, cigarette consumption would probably have dropped because there would be fewer opportunities to smoke and because it would create an environment that would make it easier for smokers who wished to quit to do so. If passage of one of these initiatives reduced cigarette consumption by only 10%, the Industry would lose \$250,000,000 in annual sales. It is, therefore, not surprising that they were willing to spend \$10 million to defeat us.

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Every two years, the Tobacco Institute commissions a national poll on attitudes towards smoking, smokers, and the Industry. The results of these polls are closely held within the Industry, but one, conducted in 1978 by the Roper Organization, was obtained by the Federal Trade Commission and subsequently made public. The 1978 Roper Poll disclosed that

[F]ears of nonsmokers about inhaling second-hand smoke have risen sharply in recent years - a fact that . . . represents the most dangerous development to the viability of the Tobacco Industry that has yet occurred. . . .

[T]here is already majority sentiment for providing separate facilities for smokers and nonsmokers . . .

[In the future] the pressure for segregated facilities will change from a ripple to a tide . . .

[F]avorable attitudes toward the Tobacco Industry are at their lowest ebb ( ).

This knowledge, together with that gained in later polls, guided the Industry in their campaigns against us and others throughout the U.S. in the past and doubtless will continue to guide them in the future.

During the 1978 campaign, 99.7% of the \$6,413,041 spent to defeat Proposition 5 came from the major cigarette companies in the same proportion as their shares of the California market (Table 1). This expenditure set a new record for spending in a California election that still has not been surpassed. The Tobacco Industry's spending exceeded the combined spending by both candidates for California Governor in the same election.

The Tobacco Institute hired Woodward, McDowell, and Larson, a campaign management firm, to manage the No on 5 campaign. Cognizant of the fact that widespread public knowledge of Tobacco Industry involvement would damage the

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credibility of the No on 5 campaign, the Tobacco Institute and its campaign manager took numerous steps to disguise and deny Tobacco Industry involvement. The most important step was the Tobacco Institute's creation of "Californians for Common Sense," a nonprofit California corporation through which the cigarette manufacturers funneled nearly 6-1/2 million dollars to defeat Proposition 5.

The attempt to disguise Tobacco Industry involvement was not wholly successful because of the record spending by the Industry. The Industry started running political commercials in the electronic media in July of 1978, four months before the November election. (By contrast, most campaigns begin in September or October.) The September 23, 1978, campaign financing disclosure statement required by the California Fair Political Practices Act showed that, at a time that most campaigns were just beginning their spending, more than \$3 million had already been transferred to Californians for Common Sense and that 99.6% of such money came from the five major cigarette companies.

Spending so much money so early in the campaign was nearly a major tactical mistake. Independent research by the respected California pollster Marvin Field after the 1978 election found that public knowledge of the Tobacco Industry's involvement and spending reduced the credibility of the No on 5 campaign and almost caused the Tobacco Industry to lose the election. Indeed, Marvin Field opined that "if the Tobacco Industry had spent a couple more million dollars, it might have lost the election" ( ).

Before the 1978 election the Tobacco Institute, the cigarette companies, and Californians for Common Sense vigorously denied that the Tobacco Industry controlled the No on 5 campaign. However, immediately after the 1978 election

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the Tobacco Industry not only admitted its control of the No on 5 campaign but boasted of its role.

At a meeting in Washington, D.C. of the American Association of Political Consultants, Ed Grefe, Vice President for Public Affairs of Philip Morris, disclosed the techniques the Industry used to defeat Proposition 5. Richard Woodward and Hal Larson of Woodward, McDowell and Larson appeared at the side of Philip Morris' Vice President. Hal Larson, the person who wrote the No on 5 advertising copy, was introduced as a "campaign strategist for the Industry."

Ed Grefe's comments made it very clear whose campaign it was. The Philip Morris Vice-President said: "When we shifted the battleground from smoking to government involvement, we were able to use the Prop. 13 [property tax cutting initiative] advantage" ( ). Within a few days of the defeat of Proposition 5 in 1978 by a 54% to 46% vote, the United States Tobacco Journal, the official organ of the Tobacco Industry, ran an editorial which discussed the reasons why the Industry should participate in future ballot proposition campaigns on the issue of nonsmokers' rights.

The cigarette industry can breathe a sigh of relief

now that the vote is in on California's Proposition 5. ...

But while the Industry can breathe its sigh of relief,

it is very much aware that it cannot relax its guard. A

very important battle has been won, but the war is still

on.

The entire Tobacco Industry...has an important

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stake in what happens in California. What happens in the nation's most populous state--a state which incidentally accounts for more than 9% of the nation's cigarette consumption--impacts nationally. The nation, as was so impressively demonstrated by the aftermath of [property tax cutting initiative] Proposition 13, follows California's lead....if the anti-backs are successful with their next initiative in California, it will be a defeat for everyone in the Tobacco business.

It would not be inappropriate in the least if everyone in the Industry took a participatory interest in the defeat of California's future Proposition 5 ( ).

Given the high stakes, it is not surprising that the Industry went to put expedience above the truth in their advertising campaign to defeat the initiatives. Here are two examples of the kind of activities we commonly encountered.

In December, 1977, four months before Proposition 5 qualified for the ballot, the Industry conducted an extensive statewide poll to plan the upcoming campaign. This poll showed that more than two-thirds of the voters favored the initiative and that there was only one issue that could turn a majority against the initiative: cost to government. The poll contained three questions on this subject:

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	<u>Favor</u>	<u>Not Sure</u>	<u>Oppose</u>
If the law cost government \$.5 million, how would you vote?	71%	5%	24%
If the law cost government \$5 million, how would you vote?	54%	10%	36%
If the law cost government \$20 million, how would you vote?	41%	18%	40%

The initiative qualified for the ballot in March, 1978; in April, the Tobacco Industry's campaign paid Economic Research Associates, a San Francisco consulting firm, \$75,000 for a report estimating that the initiative would require California governments to spend \$20 million on "no-smoking" signs. The same consulting firm produced a second report estimating that enforcement would cost another \$23 million. The \$43 million cost became the central theme of the Industry's saturation advertising campaign against Proposition 5.

In September, 1978, I've obtained a copy of the Economic Research Associates reports ( ) and discovered an arithmetic error that, when corrected, indicated that the initiative would cost \$20,000, not \$20 million, for signs. (The authors computed a square root incorrectly.) The Industry campaign responded by:

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1. Denying the existence of the error, then
2. Admitting an arithmetic error but saying that it did not affect the final cost estimate, then
3. Claiming that we had only obtained a "draft" of the Economics Research Associates report and that the "real" report -- using an entirely different methodology -- came up with precisely the same \$20 million estimate of sign costs as the "draft" with the arithmetic error.

We were able to verify that there was no such draft and that we had the real report. Nevertheless, the political commercials continued to air claiming that Proposition 5 would cost \$43 million; and, much as the Industry's pre-election poll predicted, we only obtained 46% of the vote and were defeated.

The Industry also continued its long-standing practice of misrepresenting the views of leaders in the biomedical community. Shortly before the election, every California voter receives a booklet containing arguments for and against all the ballot propositions. In their argument against Proposition 5, Woodward and McDowell, the campaign managers for the Tobacco Industry, wrote:

Claims that nonsmokers' health is endangered by other people's smoke are contradicted by many physicians who speak for the anti-smoking organizations. Dr. Jonathan Rhoads, past president of the American Cancer Society, said: "I do not have any hard evidence [that there is a harmful effect from smoke on the nonsmoker]. To my knowledge, it is not, in fact, actually harmful." ( )

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When Dr. Rhoads (who is a Professor of Surgery at the University of Pennsylvania) learned of this claim, he wrote Jack McDowell that

...you quote my words out of context in such a way as to make it appear that I believe that second-hand smoke is harmless to nonsmokers.

The truth is that medical evidence shows:

1. Second-hand smoke from the burning ends of cigarettes can cause respiratory disease in nonsmokers.
2. Second-hand smoke can worsen the condition of numerous Californians with heart and lung disorders.
3. While there is as yet no epidemiological evidence that second-hand smoke causes cancer in nonsmokers, neither is there proof to the contrary.

I made the statement which you quoted out of context in response to a television moderator's question dealing with cancer. My words in their proper context only indicate there was no evidence that second-hand smoke causes cancer in nonsmokers. I was not talking about nonmalignant respiratory disease or heart disease.

This important distinction has been on public record since 1977 when I learned my words were being quoted out of context ( ).

(Ironically, since Dr. Rhoads made his statement in 1977, evidence has appeared suggesting a link between involuntary smoking and lung cancer.) Dr. Rhoads demanded that the Tobacco Industry's campaign run advertisements correcting the record. Needless to say, the Industry ignored this demand.

The Industry also followed the recommendation in the 1978 Roper Poll in other ways. The Roper Organization suggested to the Tobacco Institute that, whenever meaningful nonsmokers' rights legislation is proposed and seems likely to be enacted, the Tobacco Institute should lobby for watered down legislation that appears to protect nonsmokers but in reality does not ( ).

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During the Proposition 10 campaign, in March, 1980, the Industry caused California State Senator Bill Greene (to whom \$20,000 had been transferred by the No on 5 campaign in 1978 ( )) to introduce a bill in the California State Senate with language almost identical to Proposition 10, providing for smoking and no-smoking sections in indoor public places and indoor public places of employment, but also permitting any place to be designated in its entirety by its owner or manager as a smoking area. Since the bill also proposed to preempt local ordinances, it was actually a step backward. The Sacramento, California, Bee editorial page correctly pointed out that the Greene Bill was:

an attempt at a pre-emptive strike, a diversionary measure which, though worded in part precisely like the proposed initiative, is so full of exemptions and loopholes that its net effect would be worse than no new legislation at all ( ).

The Tobacco Industry followed identical tactics in 1980 in Dade County, Florida, when they opposed a ballot proposition modeled after Proposition 5. Like in California, they caused a "look-alike" bill to be introduced before the Board of County Commissioners which, if passed, would have caused many Dade County citizens to vote against the 1960 initiative because they would have falsely thought the bill had already accomplished the same objective.

Since the Industry knew that public awareness of their sponsorship of the No on Proposition 5 campaign in 1978 made it more difficult for them to win at the polls, the Tobacco Industry implemented a far more sophisticated scheme to conceal from California voters both the fact and the extent of Tobacco Industry

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involvement in the No on 10 campaign in 1980. For example, in a Los Angeles Times interview published September 7, 1980, Eileen Padberg, the No on 10 co-campaign manager, stated that the tobacco companies had made no commitment to make any contributions to the No on 10 campaign and then responded to the following question from the Los Angeles Times:

Times: Do you need the cigarette companies to fight this measure?

Padberg: We could do it without them. It certainly would be a lot easier with them. But we could do it without them ( ).

Later that month, on September 23 (the cutoff date under the California Fair Political Practices Act for campaign finance disclosure for the first reporting period), the No on 10 campaign reported receipts of only \$389,000, reported that most of that money had already been spent, and reported no expenditures as of September 23, 1980, for radio and television advertising. Shortly after the filing of the September 23 disclosure statement, the No on 10 Press Secretary was asked by an Associated Press reporter whether the Tobacco Industry would contribute substantial amounts to No on 10 in addition to the \$389,000 already contributed to No on 10. The No on 10 Press Secretary responded that further Tobacco Industry contributions "would be very limited" ( ). On September 24, 1980, the day after the cutoff date for disclosing campaign expenditures as required by the California Fair Political Practices Act, R.J. Reynolds Tobacco transferred substantial funds to the No on 10 campaign. The other three cigarette manufacturers made their contributions on September 26, September 29, and October 7. After the September 23 cutoff date for the first financial reporting period, the cigarette manufacturers channeled money through Excess at

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the rate of almost \$100,000 per day until shortly before election day.

In total, the Tobacco Industry spent \$3.2 million successfully opposing Proposition 10; the vote was again 54% no, 46% yes.

These campaigns, while failing to enact the proposed legislation, made smoking (both involuntary and primary) a major public issue in California. Supporters of the initiatives raised and spent approximately \$1 million and, as already noted, the Industry spent \$10 million. This public exposure and debate has helped speed the process described in the 1978 Roper Poll; smoking is less socially acceptable in California than in many other parts of the United States.

Equally important, the campaigns laid the groundwork for current successful efforts to protect nonsmokers in California. The fact that virtually the entire budget for the "No" campaigns came from the Tobacco Industry demonstrated that there was no true constituency to support their efforts. Moreover, we learned that a statewide initiative campaign in California is essentially an advertising contest, and no one knows how to advertise better than the cigarette companies.

As a result, we have turned our efforts to enacting legislation at the state and local levels through organized lobbying efforts. Since the current organization, Californians for Nonsmokers' Rights, was formed in 1980, we have seen the number of lobbyists for the Tobacco Industry in California's State Capitol, Sacramento, grow from 2 to 17. Nevertheless, by mobilizing the people we attracted during the initiative campaigns to contact their legislators, we have secured passage of two state bills in 1982, one to protect nonsmoking state employees and one restricting smoking in schools. The bills we are supporting

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this year are moving ahead in the State Legislature.

We also work with local groups seeking to pass city and county ordinances to protect nonsmokers. To date, all four of these efforts have been successful, despite heavy lobbying by the Tobacco Industry. Local constituent pressure is virtually always on the side of supporting protection of nonsmokers, and local politicians find it difficult to ignore this pressure in response to pressure from the Tobacco Institute in Washington, D.C.

Californians for Nonsmokers' Rights has achieved these accomplishments by committing its efforts to retaining a small but effective full-time staff committed to action related to smoking. While volunteers play a crucial role in the organization's activities, it is the staff that puts in the long hours necessary to carry out an effective program. The need to develop the financial resources to hire and maintain a high quality aggressive staff is the most important aspect of running a successful program. Our greatest frustration has been the lack of adequate funding to hire more than one or two professional people to cover the entire state and local legislative program. Nevertheless, we remain hopeful that the accomplishments and model we believe we are providing will ultimately attract the financial commitment from other, larger agencies as well as individuals necessary to keep our program going. This commitment is absolutely crucial to a successful program, since volunteers alone cannot hope to compete with the Tobacco Institute's large, well financed operation.

Ironically, the tables were turned recently in San Francisco after the City's Board of Supervisors enacted a strong ordinance protecting nonsmoking office workers. The Tobacco Institute immediately provided \$40,000 to pay people

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to circulate a petition to place a referendum on the ballot to repeal the ordinance. This time, however, the Industry's involvement has been apparent from the beginning. Nevertheless, an article in the San Francisco Examiner stated

"The Tobacco Industry's traditional way of working is not to take action unless local people are pushing something and there are local contributions," [David] Looman, [a spokesman for the Industry's effort to repeal the ordinance] contended. If the referendum qualifies, any later tobacco donations will be contingent upon such demonstration of local support, he said.

So why the early \$40,000 -- before strong local support was evident?

"We told them if we didn't get moving quickly, we would lose forever our right to conduct a petition drive." ( )

Whether the Tobacco Industry will successfully camouflage its role in the upcoming campaign remains to be seen. Whether the people and agencies who profess concern about smoking will act quickly and in a coordinated manner to meet the challenge also remains to be seen. The remarkable -- and encouraging -- thing about it is that passage of a local ordinance in a city like San Francisco worries the Industry so much that they feel compelled to take the initiative and publicly seek repeal of a law passed 10-1 by the Board of Supervisors with overwhelming public support. If the anti-smoking forces manage to exhibit even a fraction of the cooperation, political skill, and financial commitment that the Tobacco Industry routinely displays, San Francisco could be the site of the Industry's first major defeat. One thing is certain: We will know the answer

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in November.

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Table 1

1978 No on 5 Campaign

Company	Relative 1977 Market Share Among Contributing Companies	% of Cash Contributions Among Contributing Companies
Lorillard	10.0%	10.0%
R.J. Reynolds Tobacco	37.7%	39.9%
Liggett & Myers	4.0%	0.5%
Brown & Williamson Tobacco	18.0%	19.8%
Philip Morris	30.3%	29.8%

1980 No on 10 Campaign

Company	Relative 1979 Market Share Among Contributing Companies	% of Cash Contributions Among Contributing Companies
Brown & Williamson Tobacco Co.	16.8%	16.8%
Lorillard	11.4%	11.6%
R.J. Reynolds Tobacco	38.1%	37.9%
Philip Morris	33.6%	33.7%

The data on which the figures are based are contained in the market share report in the April 5, 1979, issue of the United States Tobacco Journal and in No on 5's final campaign financing disclosure statement filed with the California Secretary of State. The methodology for computing relative market share is as follows: in 1977 the five cigarette manufacturers which contributed to No on 5 accounted for 87.6% of the tobacco market. R.J. Reynolds accounted for 33.0% of the total market, so its relative market share among the contributing companies was 33.0% divided by 87.6% equaling 37.7%. The relative market shares of the other companies in 1977 and 1979 was computed in the same way.

The data on which the figures are based are contained in the March 1980 issue of the Tobacco Reporter and the No on 10 campaign financing disclosure statement as of October 20, 1980.

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