

# Tactics of an Ace in the Congressional Air Wars

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The Reagan administration came to office determined to reduce government regulation of business, and in dollar terms, one of the most expensive forms of regulation is the Clean Air Act. It came up for renewal in September 1981, and the administration, the auto industry, the coal industry, the steel industry, and the utilities all looked forward to this deadline as an opportunity for what they like to call regulatory relief. In January 1981, it seemed likely they would prevail. The potential majority was there: most Republicans plus Democrats from auto, steel and coal constituencies. But the act wasn't revised, and the old provisions remain in effect.

One reason is that the administration and its allies made some mistakes. Another is Sen. Robert Stafford, chairman of the Senate committee that handles the issue; up for reelection in environment-conscious Vermont, he had strong environmentalist backing, and skillfully got his committee to approve a bill that in many ways increased rather than decreased regulation.

But much of the credit—or blame—for the failure to change the Clean Air Act must go to Rep. Henry Waxman (D-Calif.), the 43-year-old chairman of the House Energy and Commerce Committee's subcommittee on health. Chairing a subcommittee with a clear 12-8 majority for revision, and with a full committee chairman who dearly wants relief for the auto industry, Waxman maneuvered and delayed masterfully, preventing action until he had the votes to win. He proved himself to be one of the shrewdest legislators in Congress—and one of the most powerful. The story is worth pondering.

Henry Waxman doesn't look the part. He is 5-feet-5 and bald, with a mustache that could almost be called bushy. Though he represents central Los Angeles, he is not fashionable; he once practiced law in Beverly Hills, but he grew up in Watts, over his family's store, and the closest thing to a Mercedes he has driven is the Buick he was provided as a California assemblyman. He talks in a quiet voice, and, to hear him tell it, he gets along well with everyone he deals with.

Yet he is obviously not a political innocent. At 29, he beat an elderly assemblyman; in his second term, he was made chairman of the Redistricting Committee—not a position entrusted to the naive. He was elected to Congress in 1974; only four years later he got himself elected chairman of the health subcommittee—arguably the most important subcommittee, year in and year out, in the House. And he beat a popular and more senior member, Richardson Preyer, who had the support of the leadership.

In the fight for the subcommittee chairmanship, Waxman operated as they do in Sacramento, pushing hard and unapologetically for support: he emphasized his support of national health insurance, he argued that as a North Carolinian, Preyer would have to support the tobacco industry, and he suggested Preyer might have conflict-of-interest problems because of his family pharmaceutical stock holdings. Waxman also made campaign contributions to some committee Democrats—a common practice in Sacramento and one also engaged in by House Democratic leaders, who nonetheless criticized him for it.

He added another reason: "I know more about health issues than anyone else in the House." House committee and subcommittee chairmen have, since 1974, been elected rather than selected automatically by seniority, and so chairmen now tend to be more in line with the views of their party's members and are more likely to be qualified. In the case of the Clean Air Act, this has given the health subcommittee a chairman who opposed the revisions the administration sought and who had the legislative competence to make his views prevail. Here is how:

- **May 1981.** The administration agreed to a five-year extension for compliance deadlines for the steel industry. This was a deal reached by the Carter administration, the steel companies and the United Steelworkers; by going along, the Reaganites kept everyone happy but lost a key ally: the steel companies and union no longer had an urgent reason to seek changes.

- **June 1981.** Waxman got hold of and released a copy of the administration's draft proposals for revising the act. He called them "radical," and they sparked protest that threw the Environmental Protection Agency into consternation and kept it from ever submitting detailed legislation. When asked how he got the draft, Waxman just smiles; presumably it came from an EPA employee opposed to the administration's ideas.

- **September 1981.** Waxman assembled his subcommittee to hear testimony on the Clean Air Act and public opinion from pollster Lou Harris. The message was unequivocal. "Never in my career," said Harris, "have I seen such strong opinion on one side of an issue." Harris told the members it would be political suicide to change the Clean Air Act. Waxman and others believe his testimony had a deep impact, not just on the subcommittee but on congressmen generally.

- **December 1981.** Waxman got the ranking Republican on

the health subcommittee, Edward Madigan of Illinois, plus the chairman and ranking Republican on the full Energy and Commerce Committee, John Dingell (D-Mich.) and James Broyhill (R-N.C.), to sign a letter requesting additional technical information from EPA.

Getting those signatures could not have been easy. Madigan, though not necessarily a Reagan ally on the Clean Air Act, was not an ally of Waxman by any means. Dingell, one of the most aggressive chairmen in the House, represents a suburban Detroit district that includes most of the Ford Motor Company's Michigan plants; he was fighting desperately for relief for the auto industry. He lost a major Clean Air Act fight against Waxman's predecessor, Paul Rogers, in 1977, and he is one of the most aggressive members of the House. Broyhill is from a family of furniture manufacturers and has often carried the ball for business groups. Their agreeing to sign Waxman's letter is testimony to his detailed knowledge of Clean Air Act issues.

- **March 1982.** The health subcommittee passed a revision of the Clean Air Act backed by the administration. Waxman lost votes on important provisions by identical 12-8 margins.

- **April 1982.** The full Energy and Commerce Committee voted 25 to 12 against relaxing air standards in national parks and wilderness areas. Two days later, Chairman Dingell suspended the committee's markup sessions. The western utilities lost their key provision, and the administration's coalition was in danger of unraveling; relief for the auto industry—the No. 1 issue for Dingell—was imperiled. Apparently unable to rally a committee majority, Dingell suspended action for three months.

- **August 1982.** Dingell opened hearings, apparently with a majority. But Waxman beat him 21-20 on airborne hazardous pollutants, scuttling a provision of key importance to the chemical industry. With two weeks to go until Congress recessed, Dingell and Broyhill refused to negotiate with Waxman, and Waxman resorted to delaying tactics, objecting to the absence of a quorum at committee sessions and objecting on the floor of the House to committee meetings while the House was in session. Stafford's committee in the Senate passed a bill largely extending the current Clean Air Act and adding tough acid rain provisions.

"I'd clearly won a victory," Waxman says. "Now the question is whether we can look at the changed realities and see where we can compromise." "We" includes, he says, Dingell and the various industries; but he and his environmental allies have some new items they want, too: tougher prohibitions on airborne hazardous pollutants and on acid rain.

The Reagan administration's main leverage is a threat by EPA to enforce strictly some Dec. 31, 1982, deadlines that everyone agrees should be extended. But in the first two weeks of the lame-duck session, the bill has gone nowhere, and it seems unlikely to move farther in 1982. In the next Congress, the fulcrum point of compromise will surely be in a much different place than it was in January 1981. The big industries will not get what they want without major concessions to such legislators as Waxman and Stafford.

So in this important area the Reagan administration has failed to dismantle or make less expensive a regulatory system it strongly opposes. The Democrats, who were the architects of so many of these laws, are concentrating on keeping their edifices intact, and they have the skill and, ultimately, the popular support, to do so.

The Republicans are now the party of change and the Democrats the party of the status quo. Legislators like Waxman are practical men of affairs who understand instinctively the way the system works and keep it going; their opponents seem to have a tin ear for politics and make numerous mistakes. The legislative skill of men like Waxman enables them to fight the battle, ultimately, on the most favorable ground, and to maneuver fights until they have the voters behind them on a given issue. For on the big-dollar regulation issues, it is not so much the public as it is businessmen who want change.

Businessmen look at men like Waxman and see them almost as radicals; it's hard for them to understand that, in the House and in major state legislatures, at high levels of state and local government, people like Waxman decide things and get things done. There is a historical analogy here: during the 30 years after Roosevelt's New Deal, Congress and state legislatures were run mostly by men who strongly opposed the New Deal. Now, while Reaganites staff the top levels of the federal government, people who support the welfare state and the regulatory status quo wield most of the power in legislatures and administrative branches of government. So, while the Reaganites prevail on a few highly visible issues like tax cuts, they are losing most of the quieter but certainly very important fights like the one over the Clean Air Act.

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