

Waxman's Quest to Clean the Air

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By Scott Harris

Henry Waxman minds if you smoke. More than anybody else on Capitol Hill, Waxman minds. That is old news, famous news.

But not so long ago, Waxman tolerated smoking even in the one place he ruled absolutely. Today, the decor of Waxman's offices here features framed copies of Doonesbury's Mr. Butts series, autographed by Garry Trudeau. But until the mid-1980s, the office atmosphere was routinely polluted by three staff members who smoked. Waxman, a former three-pack-a-day man himself, never said they couldn't. That would have seemed presumptuous, even to Waxman, the man who in 1994 would bring seven tobacco industry executives before Congress in televised hearings and grill them like the slippery drug lords he believes them to be.

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So much has changed so fast, especially after studies started confirming the naivete of the notion that what people did to their own lungs was their own business.

Now it's accepted that secondhand smoke leads to cancer and other health problems; that nicotine is addictive; that the tobacco executives have lied about what they knew and when they knew it.

Now the front lines of the battle have shifted from Congress to the courts, where a federal judge has ruled that the Food and Drug Administration has authority to regulate tobacco as a drug and not an agricultural product, and where more than 20 states are suing to recoup billions of dollars worth of tobacco-related health costs. Now the industry seems eager to cut its losses, eager to negotiate a kind of conditional surrender.

But if the tobacco industry already seems to be reeling, it's worth wondering what might have been if Henry Waxman hadn't lost his chairmanship of the health subcommittee when Republicans won a majority in Congress in 1994. His successor hails from tobacco country, and the hearings came to a halt.

Certainly the inquiries would have continued.

"Certainly," he says, "we would have had the CEOs come back and explain why they said the things they did." Certainly they would be asked to explain more recent documentation about the industry's manipulation of nicotine. And certainly, "as an institution," Waxman says, Congress would "care more about being lied to."

His chairmanship gone, Waxman now devotes more time to his post as ranking Democrat on the House Government Reform and Oversight Committee, directing a counter-attack into Republican calls for investigations of dubious fund-raising by the Clinton White House. Waxman has joined Republicans in urging that Atty. Gen. Janet Reno appoint a special prosecutor, but he insists that any investigations should be bipartisan, addressing abuses by both parties.

But as he has for his entire 23-year congressional career, Waxman still dogs the tobacco industry. "We're at a moment right now, for the first time in my congressional career, that the industry is going to need legislation," he says.

The legislation the industry wants would limit the FDA's regulatory power and limit the industry's liability in lawsuits related to nicotine addiction. In exchange, Waxman says, the industry would offer various

concessions, including acceptance of Waxman's own Environmental Tobacco Smoke Bill, which would greatly extend prohibitions of smoking in public places nationwide. (Two years ago, this same bill prompted the industry to buy full-page ads portraying a kind of smoking police with guns drawn: "Come out slowly, sir, with your cigarette above your head.")

Waxman says he's amazed at the "chutzpah" of tobacco firms. If a settlement severely limits liability, he says, tobacco stocks would soar, enriching the executives who authorize billions in advertising to hook young people on nicotine. The proposed deal, he has written, would "pass on their costs to their future victims. . . . We could end up with an emboldened tobacco industry that preys on our children free from all threat of liability."

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Smoking ended in Waxman's Washington office in about 1984 when two staffers managed to quit their habit and one quit her job. Today smoking is banned in hallways and meeting rooms and other public areas of congressional buildings. The proverbial smoke-filled back rooms still exist, but now more are smoke-free.

What does Waxman ultimately want? Certainly not outright prohibition, he says; nobody thinks that's wise. What he wants "first of all," he says, "is that the whole truth come out. There are documents being withheld from the public. We just ought to know the full truth of how the tobacco industry works."

That, he says after 23 years, would be a good start. Only then, he says, could people talk knowledgeably about a deal.