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COLUMNIST

Podcast: More Candid Talk about Money in Order

By Carl Golden | March 25, 2019, 1:47 pm | in **Columnist**
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In any effort to convince legislators to cast a difficult or controversial vote, the two most effective motivating factors are fear and loyalty.

The failure to secure a majority in the Senate and the subsequent forced **postponement** of consideration of the bill to remove criminal sanctions from possession of small amounts of marijuana for personal use was clear evidence that Gov. Phil Murphy was unable to inspire either emotion.

Legalization of marijuana and erasing criminal records of hundreds of thousands of individuals arrested or imprisoned for possession was a signature issue both in his campaign and in his legislative agenda and, despite a 26-14 party edge in the Senate, the governor came up short.

By positioning himself as the focal point of the effort toward legalization, Murphy also became the focal point for its defeat, temporary though it could be.

Senate President Steve Sweeney (D-Gloucester), a supporter of the legislation, made it clear weeks ago that its success or failure was the responsibility of the governor, that it was up to him to bring recalcitrant or wavering legislators over to his point of view.

In essence, Sweeney instructed his caucus to vote their individual consciences or to reflect the wishes of their constituencies, that it was not a matter on which he'd insist on rigid party discipline.

Sweeney laid the trap and Murphy walked into it. The governor became the public face of the legalization movement, posing for photos in his office holding a telephone and announcing he was "burning up the lines" to gather support.

In public appearance after public appearance, Murphy expressed optimism, disclosing the head count was close to the 21 votes necessary, that he was still working feverishly to secure the last few supporters, and somewhat bizarrely suggesting that "it takes a village" to save the day, although the relevance of the phrase to the ongoing effort remains a mystery.

Even Whoopi Goldberg weighed in, presumably at the behest of the governor's office, by telephoning legislators to urge their support.

Did anyone seriously believe that Goldberg could convince senators Dick Codey and Ron Rice, for instance, to change their minds? It was a strategic misstep and her public involvement — sincere though she is in her view — likely aroused more resentment than assistance.

The Administration's insistence that legalization is, at its core, a matter of social justice, a good faith and overdue effort to erase the arrest and incarceration disparity between minority and white offenders, never overcame the more powerful belief that the principal argument in its favor was the potential to produce millions of tax dollars for a fiscally-strapped Administration.

The broad, popular view was that since marijuana users numbered in the hundreds of thousands in any event and law enforcement resources were being wasted in pursuing offenders, why not legalize it, control its production and distribution, and tax it.

In fact, the debate was dominated by arguments over the level of taxation, which governmental entities would share the revenue pie and how big a slice they'd receive, who would control licensing of dispensaries and outlets, and would urban areas receive special consideration as a way to make up for the heavy toll they'd suffered in the decades-long war on drugs.

In the recent words of Minnesota Democratic Congresswoman Ilhan Omar: "It's all about the Benjamins, baby!"

The Administration effort might have been better served by a candid, forthright admission that money was the driving force behind the legalization effort and that the social justice component was a beneficial side effect. The data clearly support the argument that African Americans and Latinos are arrested and jailed in lopsided and out of proportion numbers, but legalization critics contend other remedies are available to address that disparity.

If, for example, reforms in the criminal justice system are needed, opponents argue such reforms should be taken up comprehensively and resolved on the merits, rather than as an add-on to marijuana legalization.

Despite polls showing majority support for legalization, it was never a sure thing in the Legislature or in many communities across the state. At last count, for example, upwards of 60 municipalities had adopted or threatened to adopt ordinances prohibiting the location of marijuana outlets in their towns.

For Murphy, the inability to secure a majority demonstrated his Administration was unable to hold its party together in a show of solidarity in behalf of a major public policy issue.

Sweeney along with Assembly Speaker Craig Coughlin (D-Middlesex) indicated they will regroup and, rather than pursue other options— a referendum on legalization or legislation to de-criminalize possession, for example — will undertake another attempt at legalization.

The fear or loyalty factors which play an outsized and decisive role in legislative successes were diminished in importance, a troubling sign for Murphy who will confront difficult and controversial issues in the future and who will do so in a weakened position.

It was an object lesson for Murphy that Senators were more concerned with maintaining a beneficial working relationship with Sweeney whose power to dole out committee assignments and call bills to the floor for consideration, for instance, is absolute. As Senate President Sweeney can exert a far greater and direct impact on his colleagues than can the governor. His reservoir of fear and loyalty is deeper than Murphy's.

The inherent tension between the two has become an enduring tale since Murphy took office and the final chapter has yet to be written.

Legislators who stood in opposition to the legalization movement understood that retribution was possible, that the governor could exercise the power of his office to exact punishment. It was a risk worth taking; they believed they could absorb and deal with it with little consequence.

They understood as well that loyalty to party was an important consideration, but if forced to choose between district sentiment and partisan fealty, electoral survival took precedence. It demonstrated a distinct lack of personal loyalty as well, another troubling sign for Murphy.

One need look back no farther than the Chris Christie years when the governor vetoed upwards of 50 bills and succeeded in all being upheld, even though a majority — if not all — Republicans had supported the legislation initially, such as the bill to reform the Port Authority of New York and New Jersey in the wake of the Bridgegate scandal.

It was fear at its finest, overcoming any embarrassment Republican legislators may have felt at the total reversal of their positions.

Murphy hasn't built a Christie-like level of power and authority in dealing with the Legislature and he may yet achieve it.

But, to do so will require considerably greater aptitude in dealing with Sweeney. The 15 months Murphy's been in office have been marked by the Senate President's outmaneuvering the governor, playing three-dimensional political chess while Murphy is pondering a one-dimensional checkerboard.

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