

Congressional Closeup by Carl Osgood

Senate Committee Reports Out Pain Relief Bill

On April 27, the Senate Judiciary Committee reported out a bill, by a vote of 10-8, intended to prevent the use of Federally controlled drugs for use in assisted suicides. The bill is not only a response to Oregon's assisted suicide referendum of 1996, but also overturns a June 1998 decision by Attorney General Janet Reno that exempts Oregon from the Controlled Substances Act with respect to so-called physician-assisted suicide.

The bill is similar to one passed by the House last October, except a new provision has been added by Senate Judiciary Committee Chairman Orrin Hatch (R-Utah), that is intended to assuage those who fear that the bill would result in the Drug Enforcement Administration injecting itself into pain-relief issues.

The debate in the hearing that took place two days before the committee's action boiled down to one of states' rights versus enforcement of Federal laws, however, rather than whether such Nazi practices as euthanasia should even be allowed. Don Nickles (R-Okla.), the lead sponsor of the bill, and Ron Wyden (D-Ore.), testifying against it, both allowed that Oregon had the right to approve physician-assisted suicide by referendum. Wyden, however, told the committee, "I firmly believe that my election certificate does not give me the authority to substitute my personal and religious beliefs for the judgment" made by the voters of Oregon, as if such practices should be subject to popular votes.

Wyden argued that the bill would authorize law enforcement officials "to dissect a physician's intent with respect to prescribing pain relief medications," and would allow the Federal government to "intrude in the doctor-patient relationship." He concluded that the effect of the bill, despite Hatch's amendment, would be that

"physicians' fear of being investigated by law enforcement and losing their ability to practice medicine will result in less aggressive pain management for countless patients."

Victims Rights Bill Pulled from Senate Floor

Another proposed constitutional amendment fell victim to the oratorical skills of Robert Byrd (D-W.V.) on April 27, when supporters of a victims rights amendment decided it was better to pull it off the Senate floor rather than face the possibility of defeat on a cloture vote. Among the alleged rights the proposed amendment was to guarantee, included that of the victim to be present at all public proceedings relating to the crime, including sentencing; to be present at a non-public parole proceeding; and to consideration of the safety of the victim in determining any conditional release relating to the original crime.

Jon Kyl (R-Ariz.), who with Diane Feinstein (D-Calif.) led the effort for the resolution, explained that the need for amending the Constitution arose out of the conduct of the Oklahoma City bombing trial, when Congress passed a bill requiring the presiding judge to allow families of victims of the bombing to be present at the trial and the sentencing phase. However, what happened instead, Kyl said, "was that the defendant's right to exclude them, based in the U.S. Federal Constitution, trumped the Federal statute which, of course, is subservient to the Federal Constitution."

Even though Pat Leahy (D-Vt.) and others spoke extensively against the proposed amendment, arguing that victims rights should be addressed by statute, it was Byrd who dominated the debate. He told the Senate he was concerned about the "cavalierness" with

which Constitutional amendments are offered. He delivered a lengthy discourse to demonstrate that the Constitution didn't originate among the 39 men who met in Constitution Hall in 1787, but rather was the culmination of a long process that began centuries before.

Democrats Block Marriage Penalty Tax Cut Bill

On April 27, the Senate failed to break the logjam on the so-called marriage penalty tax cut bill, when the second cloture vote in a month fell nine votes short of the 60 required to end debate. The bill became bogged down over disagreements between the GOP and Democrats over what kind and how many amendments should be allowed. Majority Leader Trent Lott (R-Miss.) wanted a very narrow limit to amendments, whereas Democrats wanted to address issues ranging from the minimum wage to Medicare prescription drug benefits.

Minority Leader Tom Daschle (D-S.D.) said that the vote was about the 60% of the \$248 billion package that goes to tax breaks for those who "arguably" need them the least. After the vote, he said that the Democrats "believe, as strongly as we want to resolve the marriage tax penalty, that having the opportunity to offer a better alternative is something that is so fundamental to the rights of every Democratic Senator." He vowed that there "will not be any diminution or any erosion in the strength of feeling we have about our right to offer amendments."

Lott told reporters after the vote, that the Democrats "don't really want marriage penalty tax relief. That is the unspoken truth." He added, "They can't say it because they know the marriage penalty infuriates people," and they don't want it "because it is a tax cut."