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A NEW VIEW OF DEATH
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Tuesday's landslide endorsement of physician aid-in-dying by Oregon voters gives death-with-dignity advocates a dramatic political boost that will be felt all across America.

Indeed, the great irony of their victory lies in how it occurred. Assisted suicide opponents forced Oregon voters to revisit an issue they already had addressed in 1994.

By compelling a second vote, opponents allowed aid-in-dying proponents to recapture the momentum they lost in the United States Supreme Court. In June, the court rejected the argument that terminally ill patients should have a constitutional right to prescription-hastened deaths.

The difference between a 60-40 victory in 1997 and a 51-49 squeaker back in 1994 is a margin -- a huge margin -- that any interested American can readily appreciate.

What's more, it's stark evidence of the single most important fact about this country's rapidly burgeoning debate over who should control end-of-life decision-making: while ``elite'' opinion makers -- such as editorial writers and state legislators -- remain largely hostile to physician-hastened deaths, an overwhelming majority of ordinary Americans -- 68 per cent in the most recent nationwide Harris Poll -- say they support medical reforms like Oregon's Death With Dignity Act.

Seen from this perspective, Oregon's landslide is not a great surprise. It is an accurate reflection of where America is headed once elected officials and newspaper editors catch up to where the majority of their constituents and readers already are.

Right-to-die advocates owe their opponents a big ``thank you.'' Had Oregon voters not had the opportunity to speak, or had they not spoken as decisively, aid-in-dying activists would have kept licking their judicial wounds and pondering what their next court suit ought to be.

Now, however, they can lay claim to a powerful popular mandate that otherwise would not have come within their grasp. Oregon journalists know full well that right-to-die activists at present come in very modest numbers and, relative to their opponents, have very thin wallets. Repeal supporters -- ``Yes on 51'' -- had professional ``telemarketer'' phone banks and several million dollars' worth of television and radio ads; ``No on 51'' proponents had no phone banks and a broadcast-advertising budget that was only a fraction of their opponents'. Only a $250,000 contribution from the personal pocket of well-known philanthropist George Soros allowed them

to advertise even as much as they did; on voting day itself one top strategist was still preoccupied with how to pay off $6,000 in expenses left over from the Supreme Court litigation.

To a historian, the gift horse that the Oregon Catholic Conference and Oregon Right to Life have bestowed upon Oregon Right to Die is far from unprecedented.

Consider Roe v. Wade, the Supreme Court's 1973 decision giving constitutional protection to the novel claim that a woman's desire to terminate an unwanted pregnancy should be protected as a fundamental right. Roe was made possible only because of how opponents of birth control had refused to decriminalize the practice legislatively. That resulted in the Court's recognition of the ``privacy'' or ``liberty'' right. That opened a previously unimagined door to constitutional recognition of abortion.

If Roman Catholic forces in states like Connecticut had not fought an all-out war against legalizing contraceptives, abortion-law reformers would have been left cooling their heels in countless state legislatures rather than boarding a direct express to a constitutional breakthrough.

The momentous symbolism of Oregon's vote will outweigh its practical effects. Only a very small number of terminally ill patients with uncontrollable pain -- perhaps a dozen or two a year

-- will actually have to make use of the Death With Dignity Act's provisions, but hundreds more will draw tremendous private reassurance from the peace of mind that Oregon's new statute gives them.

How Oregon doctors and health care institutions implement the law will be scrutinized by journalists and physicians from across the country. Quiet, unhurried success in Oregon will give powerful encouragement to citizens and legislators in many other states.Oregon's voters have put Oregon's name and reputation on the line, and Oregon health care professionals are now entrusted with an internationally-significant challenge.

Only one possible roadblock stands in the way of Oregon's innovative new stride: U.S. District Court Judge Michael R. Hogan of Eugene.

Three years ago, in a ruling that a unanimous panel of the 9th Circuit Court of Appeals subsequently voided, Judge Hogan enjoined implementation of 1994's Measure 16 at the request of National Right to Life Committee lawyer James Bopp, Jr., of Terre Haute, Indiana. Hogan held then that the simple existence of Oregon's Death With Dignity Act might endanger ailing individuals who did not want physician aid in dying. Earlier this year the 9th Circuit reversed Hogan's decision in an opinion that directly criticized him for intervening based upon nothing more than a ``chain of speculative contingencies.''

Attorney Bopp now promises to put more possible contingencies -- ones he insists will be less speculative -- back in front of Judge Hogan soon. Some Oregon jurists already privately hold an outspokenly negative view of Hogan's earlier willingness to validate Bopp's claims. In a worst-case scenario, further intervention by Judge Hogan would put his own professional reputation at risk.

Three decades ago a few federal judges in Mississippi, Louisiana, and Georgia made bad names for themselves by refusing to follow the clear civil rights precedents of higher courts; Oregon judges heretofore have never risked unfavorable comparison with those of Mississippi.

Five months ago, in rejecting right-to-die advocates' constitutional claims, Chief Justice William H. Rehnquist -- whom no one thinks is a permissive liberal -- explicitly encouraged states to continue debating physician aid in dying. Oregon's voters have taken the Chief Justice, and his colleagues, at their word, and neither the 9th Circuit Court of Appeals, nor the High Court itself, would allow one single voice to interrupt that debate.

Oregon's voters have spoken decisively on an issue with which they are now well familiar. The nation and the world will be watching in the weeks and months ahead, for now America's future begins in Oregon.

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