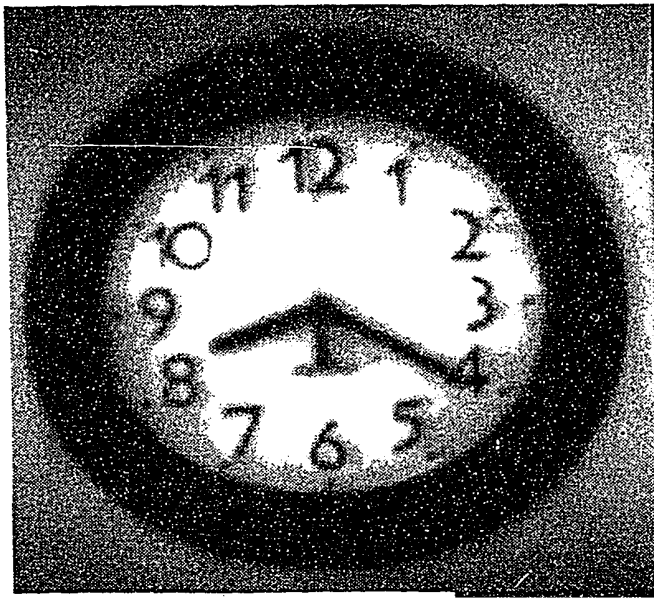


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By David J. Garrow

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By David J. Garrow

A PORTLAND, Ore. — Advocates of physician-aid in dying won an overwhelming victory in Oregon on Tuesday, and that victory may well represent the first step down a road that all of America could travel.

Oregon voters, by 60 to 40 percent, chose not to repeal a law that permits physician-assisted suicide. Much as the crusade for abortion rights first attained significant momentum in 1970 when New York became the first big state to legalize abortion, Oregon voters' reaffirmation of an initiative they first approved narrowly in 1994 gives assisted suicide proponents an unexpected boost.

For the last few years, physician-assisted suicide has had a checkered political career. Voters in Washington State and in California had rejected "right-to-die" initiatives in 1991 and 1992. And in 1994 when Oregon voters approved such a measure by a margin of 51 to 49, a Federal district judge halted its implementation.

Just five months ago, the Supreme Court ruled that there was no constitutional right to physician-assisted suicide.

But, the High Court said states were free to pursue "the earnest and profound debate about the morality, legality and practicality" of the issue.

Earlier this year a Federal appeals court vacated the injunction that had blocked enforcement of the Oregon measure, but right-to-die opponents appealed. Meanwhile those opponents also succeeded in persuading Oregon's Legislature to put the aid-in-dying law back on the ballot for an unprecedented second popular vote.

Right-to-die backers had little money for a big statewide campaign, while their well-heeled opponents — the Oregon Catholic Conference and Oregon Right to Life —

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drew on major contributions from a national network of special interest groups.

Even though one September poll gave aid-in-dying advocates an impressive lead of 64 to 32 percent among Oregon voters, hardly anyone expected such a margin could hold up in the face of the multi-million-dollar media onslaught mounted by supporters of repeal. In addition, the state's dominant newspaper, The Oregonian, vociferously championed repeal.

One state's vote on assisted death may start a trend.

Only a \$250,000 donation from George Soros, the well-known philanthropist, and another \$100,000 from Donald Pels, a New York businessman, allowed right-to-die proponents to mount their own television advertisements during the campaign's final three weeks.

In Oregon's 1994 campaign, assisted suicide opponents focused on spiritual and ethical issues involved in hastening death; their 1997 campaign, however, focused on claims that lethal doses of pills sometimes leave the terminally ill choking on their own vomit rather than inducing a quick and peaceful death.

In contrast, supporters of assisted suicide featured heart-rending stories of terminally ill patients who had suffered "bad deaths."

But the most important factor in determining Oregon's outcome was neither money nor advertising strategies.

Rather it was a factor that applies not just to Oregon, but to all of America: this fall's most recent national Harris Poll showed 68 percent of respondents answering "yes" when asked if terminally ill people should be allowed to obtain a doctor's prescription for a lethal dose of drugs at the end of life.

The big Oregon win notwithstanding, assisted suicide proponents will also seek to buttress their popular support with new litigation in both

state and Federal courts.

Kathryn Tucker, the Seattle litigator who instigated the unsuccessful Supreme Court challenge and now serves as legal director of the nascent Compassion in Dying Federation of America, hopes to bring two new types of claims in the months ahead. One will argue that the "privacy" or "liberty" provisions in some state constitutions should open the way to guaranteeing a right to assisted suicide.

The second will contend that the Supreme Court's opinions in June all but expressly mandate Federal recognition of a new right to adequate access to pain medication at the end of life. Some current state statutes significantly hinder that access.

Some right-to-life activists see America's burgeoning debate over choice at the end of life as a new companion to our country's 30-year-old war over abortion.

But Oregon's vote and the forthcoming court cases suggest that the issue may not be so divisive after all. Two-thirds of Americans believe in personal choice at the end of life; Oregon's landslide vote is a good indicator of where America may be headed. □