

the nation

Court refuses to reconsider laetrile case

United Press International
WASHINGTON — Laetrile supporters lost another round in the Supreme Court Tuesday in their battle to give cancer patients access to the controversial substance.
The justices let stand a California Supreme Court decision upholding the conviction of a doctor for prescribing and conspiring to sell laetrile, derived from the pits of apricots and peaches.
Last June, the high court ruled

that terminally ill cancer patients are not exempt from the government's ban on interstate shipment of laetrile.
The case the court acted on Tuesday involved the December 1975 conviction of Dr. James Privitera Jr. for prescribing and selling laetrile, which is not an approved drug under the California health and safety code.
Privitera, 39, who practices in West Covina, Calif., prescribed laetrile to cancer patients, then

referred them to his associates who imported and supplied the substance.
Privitera, who faces a six month jail sentence and five years' probation, appealed to the U.S. Supreme Court.
His lawyers argued there is a "fundamental right of privacy or personal liberty" involved in "an informed individual's right to choose a particular course of medical treatment."

Says Carter must win Iowa

Kennedy tries underdog role

United Press International
DES MOINES, Iowa — Sen. Edward Kennedy, D-Mass., determined to sound like an underdog during his first day of campaigning in Iowa, said President Carter cannot afford to lose the state's Jan. 21 party caucuses.
Politicking with union workers

and college students, Kennedy tore into the president at every stop Monday, with his 89-year-old mother, Rose, his sister, Eunice; his son, Teddy Jr., and nephew, Joe Kennedy, there to offer encouragement.
A motercade to Cedar Rapids and more speeches before college stu-

dents were on the schedule Tuesday, Kennedy was to leave for Minnesota today.
"We know that the incumbent cannot afford to lose Iowa," Kennedy told a jammed union hall audience Monday night in Newton. "We know they've got an effective organization that's off the ground and off and moving and they've got people in place."
"We know they're going to use the full range of power and influence of the presidency," he said. "But I think we've got some friends here in Iowa, and we hope they're going to give us a hand on those caucuses in January."

The idea that the Iowa contest is more crucial to the president than to him is a new one for Kennedy. A month ago in Louisville, Ky., Kennedy dismissed results from preliminary party caucuses in Florida, saying Iowa would provide "the first real test" of his and Carter's strength.
Now, Kennedy aides are quick to say the battle in Iowa is uphill — that it apparently is not a fair test. Public opinion polls show Kennedy ahead in the state, but among the party regulars — the ones most apt to be involved in the caucuses — a straw poll at a Democratic Party dinner earlier this month gave Carter a 2-1 edge.

At various times Monday, events of the day overtook Kennedy's campaign. Carter's decision to terminate oil imports from Iran moved Kennedy to quickly support the president.
"I would support the president in steps he has taken today with the hope that it will speed up the release date of the hostages."

It was Carter's reluctance to exercise presidential leverage that framed much of Kennedy's criticism.

Court rules Carter can end treaty

United Press International
WASHINGTON — A high Justice Department official told a federal appeals court Tuesday Congress has no power to prolong the defense treaty with Taiwan without President Carter's approval, and so Carter can unilaterally end the treaty.

Assistant Attorney General John Harmon told eight members of the U.S. Circuit Court of Appeals for the District of Columbia that Carter's decision last year to end the treaty was part of "one ball of wax" involving opening of relations with Peking.
"It would be anomalous if the treaty, which was in fact directed against the People's Republic, would continue to exist," Harmon said.

The appeals court, with all but two members sitting, held a rare expedited hearing on the government's request that it quickly overturn a ruling that Carter violated the Constitution by terminating the treaty without approval from Congress.

U.S. District Judge Oliver Gasch, acting in a lawsuit by Sen. Barry Goldwater, R-Ariz., and 25 other conservatives, ruled Oct. 17 that Carter needs approval of two-thirds of the Senate or a majority of both houses to end the 1954 pact.

But Harmon told the court, "The U.S. government cannot be bound in a treaty by either the president or the Congress acting alone."

The Constitution, he noted, gave the president power to make treaties with consent of two-thirds of the Senate, but did not address the question of who has power to terminate treaties.

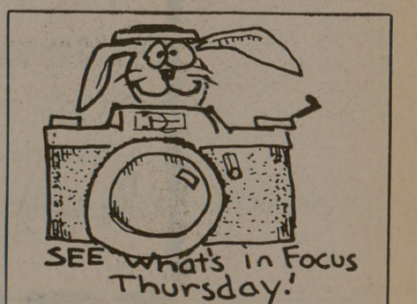
Harmon called that omission "evidence that there is intent that there be no limitation" on the president's ability to terminate a treaty.

He argued that under international law, the treaty became "inoperable" on Jan. 1, 1979, when the United States formally recognized the People's Republic of China as the sole government of China.

Under the Constitution, he contended, Carter has "power to terminate that treaty" effective Jan. 1, 1980, because of his sole authority to recognize foreign governments and his powers as commander in chief of U.S. armed forces.

He also argued that Goldwater and his colleagues had no standing to file the suit because Carter's action did not nullify a previous vote they had made, but only allowed the treaty to expire.

Harmon also said the courts have no jurisdiction in the treaty-making issue because it is a political question. He cited "nearly 200 years of accommodation and compromise between the branches on the question that is before this court."




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