

Lansing next stop for assisted suicide issue

By Pat Murphy
staff writer

The Oakland County Prosecutor's decision not to appeal the dismissal of murder charges against Dr. Jack Kevorkian is an acknowledgment that Michigan law does not support his position, according to a West Bloomfield lawyer who helped defend the inventor of the so-called suicide machine.

"To put it bluntly," said Michael

A. Schwartz, "it's improper for him (Prosecutor Richard Thompson) to prosecute a law that's not on the books."

"He knows he's suffered a defeat. To appeal the judge's decision would be foolish."

Geoffrey N. Fieger, another West Bloomfield lawyer on the defense team, said Thompson should also drop his civil suit against the 62-year-old Kevorkian.

Thompson has been told there's no criminal law to justify his position and it's incumbent upon him to drop civil action, Fieger said. To pursue civil charges — and waste hundreds of thousands of dollars — is "outrageous."

SCHWARTZ AND FIEGER made their comments Friday, within hours after Thompson held a press conference to say he would not appeal the decision by Clarkston District Judge

Gerald E. McNally.

However, the prosecutor emphasized he will continue to press his civil action against Kevorkian. That suit — scheduled to be begun Jan. 4 before Oakland Circuit Judge Alice L. Gilbert — includes an injunction prohibiting Kevorkian from using his suicide machine on any other patients.

"McNally was wrong" in dismissing first-degree murder charges

against Kevorkian, the prosecutor asserted. But the issue of assisted suicides is an issue that should be addressed by the state Legislature.

McNally also said the Legislature should debate and act on assisting suicides. After two days of testimony he dismissed charges Thursday against Kevorkian, saying existing law is vague and inadequate.

"Assisting suicides is simply not illegal under existing Michigan law," McNally ruled. "Although the Legislature may want to address that issue."

Thompson said he has been advised that State Rep. Nick Caramitro, D-Roseville, is already drafting legislation to introduce after the first of the year to outlaw assisted suicides.

Such legislation could become law within six months, Thompson said. "I implore" the Legislature to quickly move to clarify the law for prosecutors and the people. This state has an interest in preserving life.

"NOW IS THE TIME for responsible physicians and others to dispassionately discuss these profound issues."

In the meantime, Thompson said he will continue to view assisted suicides as murder and investigate each one on an individual basis.

"There's no law against suicide in Michigan," he emphasized. "But it's different for the person who assists. Just because the murder charges were dismissed by a district judge does not make it legal."

Thompson said he favors law to make assisted suicides illegal, rather than legislation to regulate their administration.

"There will be debate by right-to-life groups and the Hemlock Society (a national organization advocating so-called 'death with dignity')," said Thompson. "The case raises many profound moral, medical, ethical and religious issues."

"But there's a tremendous potential for abuse," he said. "Furthermore, I have deep reservations about whether these profound issues should even be decided by the judicial branch of government."

"These issues should be decided by the legislative branch, which is preeminently suited to consider the consensus of society," Thompson said.

Comp commission head defends salary raises for Lansing officials

By Pat Murphy
staff writer

Farmington Hills lawyer Burton H. Schwartz is definitely in a minority.

He's one of the heavily outnumbered people in Michigan — according to newspaper accounts — who believes the governor and other state officials are underpaid.

Schwartz, who has a law office in Farmington Hills and a home in West Bloomfield, is chairman of the State Officers Compensation Commission which Tuesday gave a 13 percent pay increase to the governor and a 16 percent hike to legislators over the next two years.

The outcry isn't expected to die down until February, the deadline by which legislators must act to reject the pay hikes.

Both houses of the Legislature must vote by a two-thirds majority to reject the proposed pay hike. If the Legislature doesn't act, the increases go into effect automatically.

"We got a lot of feedback about the raises," Schwartz said Friday. People — including personal acquaintances and law clients as well as people calling talk radio shows — seem outraged.

Even governor-elect John Engler, who gets a \$13,810 pay hike before taking office, called the increases "inappropriate" in light of the state's pending economic difficulties that may require state layoffs.

STATE REP. Lyn Bankes, R-Livonia, says she'll give her raise to charity, and Rep. Gordon Sparks, R-Troy, says he'd vote against the raises if given the chance.

Salaries for representatives and

senators will go from the current \$45,450 to \$52,800 in 1992.

Legislators also get a more bountiful mileage allowance. Instead of being able to get mileage for one round-trip to Lansing per week, they will get mileage for every trip actually taken, providing they keep an accurate log.

Lawmakers will also get mileage for miles driven within their districts, something previously not allowed.

Even with the pay hikes and more liberal expense allowances, state officials are underpaid, insists Schwartz, whose background includes about three years with the Internal Revenue Service and years of experience as a tax lawyer.

"I base that assessment on the information we compiled comparing state officials with comparable jobs in private industry," he said. The compensation commission looked to sources like the U.S. Department of Labor and the University of Michigan when comparing factors like the duties and responsibilities involved in the jobs as well as the education and time required to do it right.

"It's common for some law makers to put in 70 or 80 hours a week when the Legislature is in session," Schwartz said.

He didn't say if that included time in smoke-filled caucuses.

Most of the uproar over the pay hikes is rooted, Schwartz said, in the general belief that most state officials are inept or simply don't do anything constructive, because of absenteeism or indolence.

Schwartz doesn't buy any stereotype of state officials as dawdling n'er-do-wells who couldn't hold a job in the private sector.

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— Burton Schwartz

But even if they were, Schwartz said the job of the commission is to set compensation for the position, not the person holding it.

If Donald Duck were elected governor, the commission would still have to gear compensation for the chief executive of a high-tech industrial state with more than 10 million people.

If the electorate doesn't think supreme court justices (whose salary will jump from the current \$106,610 to \$120,000 in two years) deserve the pay, it should elect new people, Schwartz said.

The 7-member SOCC voted 5-1 in favor of the new compensation. Voting with the majority was Marvin C. Daitch, an attorney who practices in Southfield and lives in Birmingham.

Schwartz didn't know that much about the commission when he agreed to serve on it three years ago. He had never met Gov. James Bligh

and considered himself to be a nonpolitical, independent voter when he volunteered his services.

BUT AFTER GETTING into the job, Schwartz said that if asked, he would serve another term. That's highly unlikely, however, because the 1988 law establishing the commission limits the tenure to one four-year term.

Schwartz's term ends next year. Ironically, the commission was established because of the difficulty associated with pay hikes for state officials and the public outcry usually resulting from it.

Some people thought the Legislature — which then voted on its own pay hike — was too generous.

"Actually legislators were afraid to vote themselves the correct compensation," Schwartz said. "Whenever they OK'd pay hikes, they always voted on the low side because they were afraid people would throw them out of office."

Some sentiment against the large pay hikes still exists, according to some legislators, although the issue is wide open for "grandstanding."

"A lot of legislators say they will vote against pay hikes knowing full well they will never get the chance," said State Rep. Tom Scott, D-Filint.

State Sen. Jack Paxon, D-Farmington Hills, said the compensation established by the commission should be viewed in context. "SOCC was established because the Legislature wanted an objective analysis," he said.

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