

Fetal Research Ban on Shaky Ground?

The Bush Administration may have been on shaky legal ground when it decided to extend indefinitely a ban on the use of federal funds for research involving fetal tissue transplants, according to a memorandum written last fall by a lawyer in the Department of Health and Human Services (HHS).

The memo, obtained by Representative Ted Weiss (D-NY), warns that making the moratorium permanent could be construed legally as a "rule," and should therefore be published in the *Federal Register* and be made subject to a formal rule-making process. "To the extent any of these steps are not taken," wrote Richard Riseberg of the HHS general council's office, "it opens a window of potential legal vulnerability in the event of litigation." The Administration did not take these steps. Instead, it simply announced the ban in a National Institutes of Health grants manual.

Jim Brown, a spokesman for the Public Health Service, says the department remains convinced it has the legal right to extend the moratorium.

Weiss has been a vocal opponent of the moratorium and is trying to build pressure on HHS Secretary Louis Sullivan to change his mind about it. He is challenging Sullivan on both ethical as well as legal grounds.

Sullivan extended the moratorium last year because he was convinced that lifting it would lead to an increase in the number of women seeking an abortion. But Weiss, in a letter to Sullivan dated 26 January, points out that this concept was explicitly rejected by a special panel convened at HHS's request to address ethical issues surrounding fetal tissue transplantation research. He adds that Sullivan has offered no evidence for his belief to the contrary.

"The Department's decision that the possibility that federally funded research on fetal tissue transplantation could in any way motivate a woman to have an abortion is completely unscientific and unsubstantiated," writes Weiss.

Weiss' fervor for seeing an end to the moratorium is fueled in part by an article appearing in last week's *Science* (2 February, p. 574) describing work by Swedish researchers using fetal tissue to treat a patient suffering from Parkinson's disease.

"Foreign research involving fetal tissue transplants is beginning to provide exciting results, and hope, for those who suffer from Parkinson's and other diseases," says Weiss. "There should be no place for abortion politics in the quest for medical break-

throughs, especially when people's lives are at stake."

Internal HHS documents correctly anticipated that extending the moratorium would be roundly criticized by a majority of biomedical researchers. Support for the moratorium has come primarily from groups opposed to abortion which would like to see it extended to all fetal tissue research using intentionally aborted fetuses.

According to LeRoy Walters of the Kennedy Institute of Ethics at Georgetown University, the decision has set the United States apart from other countries on the issue. Walters says that ten different reviews from six countries and the Council of Europe have all concluded that using fetal tissue is acceptable so long as the decision to have an abortion is separated from the decision to donate the tissue. "I find that a remarkable consensus on such a complex



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"Unscientific." Representative Weiss says the ban has no legal or ethical basis.

ethical issue," says Walters.

Weiss is not the only congressman interested in investigating how Sullivan reached his decision. Representative Henry Waxman (D-CA), chairman of the health and environment subcommittee of the House committee on energy and commerce, has said he plans to hold hearings on this topic later this month.

■ JOSEPH PALCA

Bush Names Science Committee

For the first time in almost two decades, a scientific advisory committee has been formed to channel advice directly to the President. Last week, President Bush named 12 scientists and engineers to the President's Council of Advisers on Science and Technology, a body he promised to establish in a campaign speech in September 1988. The new committee will be chaired by D. Allan Bromley, Bush's science adviser. The other members, who were sworn in on 2 February, are:

Norman E. Borlaug, professor of international agriculture at Texas A&M University, a plant scientist; **Solomon J. Buchsbaum**, senior vice president, technology systems, AT&T Bell Laboratories, a physicist; **Charles L. Drake**, professor of earth sciences at Dartmouth College, a geophysicist; **Ralph E. Gomery**, president of the Sloan Foundation and former senior vice president for science and technology at IBM Corporation, a mathematician; **Bernadine Healy** (vice chairman), chairman of the research institute of the Cleveland Clinic Foundation, a cardiologist; **Peter W. Likins**, president of Lehigh University, a mechanical engineer; **Thomas E. Lovejoy**, assistant secretary for external affairs at the Smithsonian Institution, a population biologist; **Walter E. Massey**, vice president of the University of Chicago for research and for Argonne Laboratory, a physicist; **John P. McTague**, vice president for research at Ford Motor Company, a physical chemist; **Daniel Nathans**, professor of molecular biology and genetics at Johns Hopkins University, a geneticist; **David Packard**, chairman of the board of Hewlett-Packard, an electrical engineer; and **Harold T. Shapiro**, president of Princeton University, an economist.

The committee is the first since the old President's Science Advisory Committee (PSAC) to report directly to the President. PSAC was dismantled in 1973, when President Nixon banished the science advisory apparatus from the White House after members of PSAC had publicly stated their disagreements with the Administration's plans to push ahead with an antiballistic missile system and a supersonic aircraft.

An advisory committee was reestablished during the Reagan Administration as the White House Science Council, but it reported to the President's science adviser rather than to the President himself. Presidential candidate George Bush pledged to elevate science advice by appointing a science adviser who would be at the same rank as his national security adviser, and a science advisory committee at the same level as the former PSAC. He has now made good on both those 16-month-old promises.

■ COLIN NORMAN