
Subject: Re: Still no coherent explanation of what legislating from the bench means
Posted by [Bob Brines](#) on Tue, 01 Nov 2005 21:52:28 GMT

[View Forum Message](#) <> [Reply to Message](#)

Here you have raised an issue where Constitutional liberals and conservatives will never find common. It is a moral issue and different segments of the population have different views. It is clear that the Founding Fathers desired that any issue be settled at the smallest possible political entity. In the case of right-to-die, you are correct that it was not possible to determine the break-point between life and death nor to do anything about it if it were possible three centuries ago and so, there is no mention of right-to-die in the Constitution. Therefore, this issue is assigned to the States by default. It is out of the purview of the Federal Government. The only way that the U.S. Supreme Court can get involved is if the laws of a given State were incorrectly applied, but not to rule on the merits of the issue itself. To rule on the merits of the case would be a clear example of judicial legislation: Creation of a law that did not exist. Now, you may argue (I'm not suggesting that you are) that some issues are so important that the Federal government has a duty to bring all people into compliance with correct and moral behavior, but was not this the cause of the War of Northern Aggression? I refer you back to my first sentence above. Bob
