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# **JEWS LAMENT BRENNAN RESIGNATION, SEEK INFORMATION ON BUSH NOMINEE**

**By David Friedman**

WASHINGTON, June 23 (JTA) -- Jewish organizations are scurrying to find out all they can about U.S. Appeals Court Judge David Souter, whom President Bush nominated late Monday afternoon to replace Justice William Brennan on the U.S. Supreme Court.

Even before Bush had announced his choice, Brennan's sudden resignation from the high court last Friday evening had touched off a sense of foreboding within the American Jewish community that the constitutional wall of separation between church and state would be eroded by the court that takes shape after his replacement is confirmed.

Several Jewish organizations, especially the women's groups, are also concerned that the new court may overturn *Roe vs. Wade*, the 1973 landmark case that said women have a constitutional right to have an abortion.

And there is concern that nearly half a century of gains in civil liberties and civil rights, including such controversial remedies as affirmative action measures, could be weakened.

The 84-year-old Brennan, who resigned after a mild stroke, has been in the forefront of all these issues during his 34 years on the court and is credited with keeping the increasingly conservative court from going further to the right than it has.

The 50-year-old Souter, who was confirmed unanimously by the Senate earlier this year for a seat on the 1st U.S. Circuit Court of Appeals in Boston, is largely an unknown quantity, at least to Jewish groups that follow the Supreme Court closely.

Souter is believed to have been recommended by White House Chief of Staff John Sununu, who as governor of New Hampshire had named him to the New Hampshire Supreme Court. Souter had earlier served as the state's attorney general.

## **'Something To Worry About'**

"If all we know is that Sununu thinks he's terrific, we have something to worry about," Harvard Law School Professor Alan Dershowitz said in a telephone interview Monday evening.

Bush, urging the Senate to confirm the nomination before the Supreme Court's new term starts in October, denied having quizzed Souter on any of his views, including abortion or affirmative action.

Speaking at a 5 p.m. White House news conference, the president said his only criteria was that the new justice "interpret the Constitution and not legislate from the federal bench."

That is what conservatives have accused Brennan and other liberals of doing since the 1950s.

Nevertheless, Bush praised Brennan for his "powerful intellect, winning personality and commitment to civil discourse on emotional issues."

Brennan's resignation was greeted with "deep regret and enormous gratitude for what he has done in the past" by the American Jewish Committee.

Samuel Rabinove, AJCommittee's legal director, said Brennan has been a "good friend of the Jewish community and a stalwart champion of religious freedom and separation of church and state."

Brennan's "departure from the bench is a great loss to the Jewish community," Rabinove said.

The American Jewish Congress, too, was "very saddened" by Brennan's departure. He was a "devoted friend" of civil liberties and the separation of church and state, said Mark Stern, the group's legal director.

But while Jewish groups are clearly worried about the consequences of Brennan's departure, few of them were willing to make a forecast without knowing more about Bush's proposed replacement.

"I don't want to predict gloom and doom," Stern said. But he noted that the court has been closely divided with many 5-4 and 6-3 decisions that could go the other way if Brennan's replacement turns out to be more conservative.

"Whoever replaces Justice Brennan is not going to have same view," Stern said.

## **Conservative Not Necessarily Bad**

But Rabinove and others pointed out that a conservative justice would not necessarily vote to weaken the constitutional separation of church and state.

He pointed to Justice Sandra Day O'Connor, who has frequently sided with what could be called the Jewish point of view in this issue. She was in the minority that supported the right of an Orthodox Jew in the Air Force to wear a yarmulke, Rabinove said.

The AJCommittee official observed, too, that there is always a great deal of unpredictability in appointments.

Brennan was appointed by Dwight Eisenhower, who hoped for a conservative justice and wound up with a liberal. Justice Harry Blackmun, who frequently has sided with Brennan, was named by Richard Nixon. And Byron White, who has often sided with the conservatives, was named by John Kennedy.

William Rapfogel, executive director of the Institute for Public Affairs of the Union of Orthodox Jewish Congregations of America, does not believe that religious freedom will suffer under a conservative.

But Rapfogel said he fears the nomination may turn into another "litmus test" search, resembling the "ugliness" of the Senate hearings that ultimately rejected Ronald Reagan's nomination of Robert Bork to the Supreme Court.

This means that the attention will focus on issues rather than qualifications, Rapfogel said.

If there is a litmus test, it is expected to center on the future of *Roe vs. Wade*, with both the pro-choice and anti-abortion groups already gearing up for a battle.

Joan Bronk, president of the National Council of Jewish Women, and Aileen Cooper, director of public affairs for B'nai B'rith Women, expressed concern about the future of choice for women on abortion.

Their organizations are likely to be in the forefront of opposing the new justice if he turns

out to oppose a woman's right to have an abortion.

Souter refused Monday to comment on any of his opinions before his Senate hearing.

### Erosion Of Religious Liberties?

But Theodore Mann, former president of the American Jewish Congress, said that as concerned as he is about how abortion rights, civil liberties and civil rights will be affected by whoever is ultimately confirmed, "my primary and dominant concern is the religious liberties clause."

Mann, a Philadelphia lawyer who has argued religious liberties cases before the Supreme Court, began expressing his concerns about the changing court more than a year ago.

In an Aug. 4, 1989, letter to selected Jewish leaders, including some Jewish Republicans and members of Congress, Mann warned that the Supreme Court decision declaring unconstitutional a creche in the Allegheny, Pa., courthouse was decided on a razor-thin 5-4 vote.

He pointed out that the dissent written by Justice Kennedy argued that the government may endorse religion as long as there is no coercion, direct financial aid or government proselytization.

"If the next Supreme Court appointee shares Justice Kennedy's views, we will have taken a long step backward on the struggle for the full freedom that Jews have gained in America -- only in America," Mann wrote.

Mann and the others pointed to a serious erosion of the First Amendment clause barring government establishment of religion in what has come to be called the peyote case.

In an April 17 decision, the court ruled that Oregon could pass a general law forbidding the use of peyote, even though doing so would infringe on the ritual practices of American Indians, who use the hallucinogenic drug in their religious worship.

Mann said that while Jews may feel they have more "clout" than the Indians, this could change.

There is always the possibility, he said, that religious or anti-religious fervor could "be let loose here in our own society, such that some rein on majoritarian rule will be utterly essential for our (Jewish) well-being."

### **CHANCES OF WAR IN MIDDLE EAST INCREASING, ARENS WARNS LEADERS** By Allison Kaplan

NEW YORK, July 23 (JTA) -- Israeli Defense Minister Moshe Arens compared Iraqi President Saddam Hussein to Adolf Hitler and told Jewish leaders here Sunday evening that his growing alliance with Jordan increased the prospects of war in the Middle East.

Arens met with a group of 15 or so Jewish leaders for an hour Sunday, primarily to brief them on his talks in Washington last Friday with U.S. Defense Secretary Dick Cheney, said Seymour Reich, chairman of the Conference of Presidents of Major American Jewish Organizations.

The three-hour Pentagon meeting, which Arens described as "warm, friendly and productive," resulted in the announcement that the United States will support the second phase of Israel's development of the Arrow missile.

The Israeli defense minister told the Jewish leaders that he believed the U.S.-Israeli strategic relationship was solid and that Israel would

continue to remain crucial to U.S. defense, particularly in view of U.S. arms and troop reductions taking place in Europe.

But Arens expressed concern over the continuing sale of weapons from the United States and Europe to hostile Arab states.

He told the Jewish leaders he was troubled that "the French and the British seem to be competing for military sales to the Arab nations," Reich reported.

As for U.S. arms deals with the Arabs, Arens said that such sales should be linked to whether or not the Arab country in question is willing to recognize Israel and pursue the peace process.

He also said that while Israel could be hurt by across-the-board cuts in the U.S. budget, he did not believe Israel would be "singled out" for aid reduction, Reich said.

### Denies Arms Sales To Ethiopia

Arens generally avoided discussing details of the U.S.-Israel diplomatic relationship or the peace process, perhaps in deference to the upcoming visit of Foreign Minister David Levy to Washington. Levy is expected to meet with Secretary of State James Baker on Aug. 9 or 10.

Arens did say, however, that in his capacity as defense minister, he has "opened lines of communications to the Palestinians" in the administered territories, Reich recounted.

When asked about recent reports of Israeli arms deals with the Ethiopian government of Lt. Col. Mengistu Haile Mariam, Arens reiterated previous denials of Israeli involvement in Ethiopia's civil conflict.

Arens was "absolutely categorical" in his denial of cluster bomb sales or use of Israeli military experts by Mengistu's regime, said Howard Squadron, a former chairman of the Conference of Presidents who participated in the meeting with Arens.

Squadron, a former president of the American Jewish Congress, said that the feeling among the Jewish leaders attending the session was that while there is deep concern over the fate of Ethiopian Jews, the strong U.S. opposition to Israeli cooperation with Mengistu's government is "understandable," given the Ethiopian leader's "bloodthirsty" reputation.

### **BUSH SENDS GREETINGS TO MUBARAK** By Howard Rosenberg

WASHINGTON, July 23 (JTA) -- President Bush reaffirmed his support for peace in the Middle East in a greeting to Egyptian President Hosni Mubarak sent Monday on the occasion of his country's Independence Day.

"Working together, we can meet our common goals, chief of which is our desire for peace in the Middle East," Bush wrote Mubarak on the 38th anniversary of the overthrow of King Farouk.

State Department officials read nothing into the letter beyond its ceremonial nature.

The message comes more than a month after Egypt was dealt a blow when the United States suspended its dialogue with the Palestine Liberation Organization.

Little, if any, progress has been made on the peace process since then, but Egypt and other countries are anxiously awaiting a meeting Aug. 9 or 10 between Secretary of State James Baker and Israeli Foreign Minister David Levy.

**BEHIND THE HEADLINES:  
THE INTIFADA MAY NOT YET BE DEAD,  
BUT ITS OUTWARD SIGNS HAVE RECEDED**  
By Gil Sedan

HEBRON, West Bank, July 23 (JTA) -- The local wholesale market was bustling with people. It was business as usual, and the single border policeman posted at the entrance seemed visibly relaxed.

Was this the West Bank? What happened to the intifada?

During a full day of traveling around the territory, through the Judean mountains, past the Dehaishe and el-Aroub refugee camps, the towns of Halhoul and Hebron, not a single rock was thrown at a car with Israeli license plates.

It was as if the calendar had reversed itself, flipped back 31 months to before the intifada began.

But appearances can be deceiving. The restaurants and souvenir shops are still empty. The proprietors wait vainly for tour buses that do not come.

In the market, Arabs regard Israeli settlers, soldiers and an occasional journalist with suspicion, fear, indifference, hatred. There are few smiles. The intifada lives on in their hearts.

Otherwise, though, it seems to have run out of steam.

There has been less violence committed by Palestinians against Israelis in recent weeks, though internal Palestinian terrorism was responsible for at least five Arab deaths in the first two weeks of July.

Since the beginning of June, no Palestinian has been killed by Israelis in the Gaza Strip -- though 12 were wounded there, along with one Israeli soldier, in a violent clash last weekend.

East Jerusalem, which has known violence in recent weeks, also seems to have calmed down.

**Despair And Economic Hardships**

Security specialists have different explanations for the de-escalation, and probably no single one is correct.

A factor often cited is the feeling of despair among the local population in the absence of any progress toward a political solution. While despair can lead to revolt, it can also result in apathy, a feeling that no amount of protest is going to achieve substantive results.

Moreover, as universities are being reopened gradually in the West Bank, Palestinians do not want to give the authorities any excuse to close them down again.

There is also the ongoing economic hardship of the intifada, which makes life more difficult than ever for Palestinians in the territories.

And then there is the more visible Israeli military presence that has been deployed along the main highways to deter stone-throwers.

The policy, instituted by Israel's new defense minister, Moshe Arens, is aimed at using the military in the territories for defensive purposes, rather than operations that tend to provoke more violence.

Palestinians had expected the Likud-led government to try to stamp out the intifada by instituting tougher military tactics and more punitive measures.

But in the first weeks of Arens' tenure, mostly defensive measures have been taken. There are more roadblocks, more army posts and settlers are being reimbursed by the government for the

cost of making their cars more resistant to rocks and gasoline bombs.

Much to the disappointment of Jewish settlers, Arens has established a policy of smiles toward the Palestinian population.

Moreover, his is becoming a familiar face.

Last week he visited Dura, a town south of Hebron, where he promised farmers help in exporting their agricultural produce to Jordan. Israel refuses to buy West Bank crops to protect its own farmers.

The visit was Arens' fifth to the territories since he took office a month ago, an average of more than one visit a week. He makes it a point to meet with the local Arab leadership, apparently in search of a potential alternative to the Palestine Liberation Organization.

Arens does not thrust himself on the Arab population. He refrains from entering into political debates to avoid hearing the worn-out slogan that the PLO is their "sole legitimate representative."

Observers believe Arens views the intifada through the eyes of a foreign minister, which he was before he became defense minister.

The Knesset member who voted against the peace treaty with Egypt more than 10 years ago has since learned to appreciate the benefits of political dialogue.

Arens is now believed to share the view that the intifada cannot be ended by military means. More than anything else, he seems to want to prove to the world, especially the Americans, that a Likud-led government does not necessarily mean a harsher policy toward the Arab population.

Daoud Kuttab, a well-known Palestinian journalist, provided an interesting comparison of the policies of Arens and his Labor Party predecessor.

Labor, he said, believes the final settlement must involve territorial compromise. Therefore, when Yitzhak Rabin was defense minister, he felt Israel must approach that stage from a position of strength.

Likud, on the other hand, refuses to consider territorial concessions; so it can afford to be "nice" to the Palestinians on less important issues, Kuttab said.

**ISRAELIS HIT WITH PRICE HIKES**

By David Landau

JERUSALEM, July 23 (JTA) -- Israelis were hit by a nearly 30 percent hike in the price of bread Monday night as the Finance Ministry moved to abolish or reduce government subsidies that have kept the costs of basic foods and services relatively low.

The Treasury acted after the Cabinet voted to cut some \$250 million from the national budget.

Eggs, milk, dairy products and poultry -- all basics for the average Israeli family -- will also go up in price as of midnight.

But the steepest rise was for bread. The subsidies that had kept white and dark loaves relatively cheap have been abolished altogether.

The Finance Ministry said public transportation fares would also go up, causing a 1 percent rise in the consumer price index.

The trade union federation demanded that full cost-of-living allowances be paid with next month's salaries. But according to Histadrut's agreement with the government, the increments are not due until October.

**LAST CHANCE FOR ALLISON ATLAS:  
WILL TRY MOTHER'S BONE MARROW**  
By Elena Neuman

NEW YORK, July 23 (JTA) -- Leukemia victim Allison Atlas' eight-month search for a compatible bone marrow donor, a national campaign that has tested nearly 50,000 individuals, has proven unsuccessful, and so she is down to her last hope -- her mother, who is only a partially compatible donor.

Mother and daughter Atlas are currently in Seattle waiting to be admitted to the Fred Hutchinson Bone Marrow Transplant Center, where they will undergo a procedure in which Allison's cancerous cells will be removed and replaced by her mother's healthy bone marrow.

"We couldn't wait any longer," said Simon Atlas, Allison's first cousin, who is helping to coordinate the Friends of Allison campaign to find compatible marrow donors. "Allison has gotten weaker, but she's still strong enough to withstand the treatment."

The 21-year-old New York University student from Bethesda, Md., captured the heart of the American Jewish community last fall when her attempts to find a compatible donor within her immediate family failed and she was forced to bring her search public.

"I was given three to six months to find a donor," said Allison in February, then in her sixth month. "I know time is running out."

She was told by experts to focus her search within her own ethnic group, Jews of Eastern European origin, who were thought to have a better likelihood of sharing her bone marrow composition.

Since November, the Atlas family has set up a sophisticated campaign that has tested approximately 50,000 volunteers throughout the United States and Israel.

**Joint Communal Effort**

Jewish organizations including synagogues, UJA Federations, B'nai B'rith lodges, Hadassah chapters and Jewish community centers have joined the effort.

The unprecedented campaign has added thousands of new names to the National Bone Marrow Registry and found potential donors for 15 other leukemia victims.

"I guess the nicest thing is that people don't have to look at me and feel sorry. They can do something. And if they can't help me specifically, well, maybe they will end up helping someone else," said Atlas.

Funding permitting, the Atlas family has decided to continue its blood-testing campaign, whether Allison's transplant is successful or not. "Assuming that funds are available, we will continue to try to test people for the National Marrow Registry," said Simon Atlas.

Meanwhile, an additional 2,000 blood samples taken at Friends of Allison drives last week in Raleigh, N.C., Miami, Fla. and Brighton Beach, N.Y. are being hastily tested in case a perfect marrow sample can be found.

Bone marrow transplants require compatibility for six different antigens. The odds are said to be one in 20,000 of finding an individual compatible on all of the six counts.

"It's a big lottery and everybody knows it," said Simon Atlas. "It's like looking for a needle in a haystack."

Allison's mother has tested compatible for

only four out of the six antigens, but as time runs out, the family has decided to take their chances.

The treatment involves eight to 10 days of doses of chemotherapy and radiation therapy to kill the diseased marrow, followed by the intravenous transmission of healthy bone marrow.

The operation is extremely risky as there is always the possibility of infection and there is no guarantee that the bone marrow will be accepted by the body.

The results of the procedure will not be known for at least two weeks, when a white blood cell count can be taken.

But Allison is optimistic, as she has been throughout the last eight months, that the operation will be successful.

"Her attitude is absolutely super. She's convinced its going to work and that she'll be able to get through it," said Simon Atlas.

"If the will to live means anything, she's got it. She's got what it takes to lick this thing," he said.

**RABBIS OF THREE BRANCHES OF JUDAISM  
ASK THATCHER'S HELP ON POLLARD AFFAIR**  
London Jewish Chronicle

LONDON, July 23 (JTA) -- Rabbis representing three branches of Judaism in Britain are asking Prime Minister Margaret Thatcher to intervene with President Bush on behalf of convicted spy Jonathan Pollard.

The rabbis, all residents of Finchley, northern London, plan to hand the prime minister a letter shortly asking that she convey to Bush the "deep concern" felt by "Jewish people everywhere" about the life sentence imposed on Pollard in 1985 and the way he has been treated ever since.

Pollard has been imprisoned in solitary confinement and strictly limited in who may visit him and in corresponding with people outside the prison.

Four of the eight signatories are Orthodox rabbis, three are Reform and one is from the Progressive branch.

They charge that Pollard, a former civilian intelligence analyst employed by the U.S. Navy, was the victim of harsh and vindictive treatment when he was sentenced to life imprisonment for spying for Israel.

Their letter states, "We appreciate that the United Kingdom government cannot intervene in the United States' internal affairs, but human rights are an international matter," and "we therefore respectfully ask you" to raise with the U.S. administration "the concern which is felt by your constituents about the plight of Jonathan Pollard."

The rabbis acknowledge that Pollard was convicted for passing classified information to Israel, but "at no time was it alleged, or was he convicted, of passing United States' secrets," they wrote.

They claim that "all the information was specifically about the Arab front line states" and was intended to help Israel defend itself against chemical weapons such as are manufactured by Syria and Iraq.

The rabbis note that after more than five years in prison, Pollard is still in solitary confinement and, they say, suffers "mistreatment more befitting the KGB Gulags of pre-Gorbachev Russia."