

VOL. 71 - 76th YEAR

WEDNESDAY, AUGUST 4, 1993

NO. 145

**SENATE CONFIRMS JUDGE GINSBURG,
PUTTING JEWISH JUSTICE ON COURT**
By Deborah Kalb

WASHINGTON, Aug. 3 (JTA) -- For the first time in nearly a quarter century, the U.S. Supreme Court will again have a Jewish justice, in the wake of a vote by the Senate this week to confirm the nomination of Judge Ruth Bader Ginsburg.

Ginsburg, who was to be sworn in Tuesday, was confirmed Tuesday by a vote of 96-3. She will be the first Jewish woman ever to sit on the high court and the first Jewish justice to serve since Abe Fortas resigned in 1969.

President Clinton praised Ginsburg, who currently sits on the U.S. Court of Appeals here, as "an outstanding jurist who demonstrated in the confirmation process tremendous intellect, integrity, comprehension of the law and compassion for the concerns of all Americans."

"I am confident that she will be an outstanding addition to the court and will serve with distinction for many years," the president said in a statement following Tuesday's vote.

The overwhelming majority favoring Ginsburg was no surprise and provided a boost to the Clinton administration as it faced a series of other battles this week with Congress.

The only senators to oppose Ginsburg were Republicans Jesse Helms of North Carolina, Robert Smith of New Hampshire and Don Nickles of Oklahoma. Helms had said he was concerned about Ginsburg's support for abortion rights and opposition to discrimination against gay men and lesbians.

Testimony Impressed Many

Ginsburg had impressed the Senate Judiciary Committee, as well as the president and other court-watchers, during her confirmation hearings last month.

The committee unanimously approved her nomination last week.

Viewed as a moderate, Ginsburg was cautious in her remarks to the committee, not specifying what she thought about a variety of controversial topics.

However, in the course of her testimony, she did voice strong support for abortion rights and strong distaste for discrimination, thereby lining up with the majority of the organized Jewish community.

Ginsburg spoke of her own experiences with anti-Semitism and of her grandparents fleeing European pogroms to come to the United States.

Some Jewish organizational officials wished she had been more outspoken on church-state issues, but others felt her testimony indicated she would be strong on church-state separation, an issue of concern to the Jewish community.

Ginsburg said she would not tamper with the so-called Lemon Test, a legal doctrine advocating strict standards for church-state separation, unless she had something better with which to replace it.

The Lemon Test, supported by most Jewish groups with the exception of some Orthodox organizations, has been under attack by some Supreme Court justices.

**APPEALS COURT RULES DEMJANJUK
MUST BE ALLOWED BACK IN THE U.S.**
By Aaron London
The American Israelite

CINCINNATI, Aug. 3 (JTA) -- Jewish groups have reacted with shock and dismay to an appeals court decision here ordering the federal government to allow John Demjanjuk's return to the United States.

The U.S. Court of Appeals for the 6th Circuit ruled here Tuesday afternoon that Demjanjuk must be allowed to return to the United States in the wake of a decision last week by Israel's Supreme Court to overturn his 1988 conviction and death sentence for war crimes committed at the Treblinka death camp in Poland.

A three-judge panel of Chief Judge Gilbert Merritt, Judge Pierce Lively and Judge Damon Keith reached the decision after hearing arguments from lawyers representing the U.S. government and Demjanjuk's family, which had filed a petition seeking his re-entry to the country.

Following the Israeli Supreme Court's ruling last Thursday, the Justice Department had said it would bar Demjanjuk from returning to the United States, which extradited him to Israel in 1986.

Israel had planned to deport Demjanjuk to his native Ukraine. But on Sunday, the Israeli Supreme Court ordered that he be held in Israel for another 10 days while the court considered a petition from Holocaust survivors and others that Demjanjuk be tried in Israel on other war crimes charges.

While the Israeli court ruled there was "reasonable doubt" that Demjanjuk was the notorious Treblinka gas chamber operator known as "Ivan the Terrible," it said that there was persuasive evidence he served as a guard at the Sobibor death camp and two concentration camps.

Cited Danger In Israel

But the federal court here, which has been reviewing the legality of Demjanjuk's extradition, ruled Tuesday that the former Cleveland auto-worker could not be tried in Israel for any offense other than for crimes for which he was extradited.

Arguing that Demjanjuk was extradited solely on the charges that he was "Ivan the Terrible" of Treblinka, the court said it would be "improper" for further prosecution of Demjanjuk. Such action, it said, "would violate basic precepts of international law."

Noting that Demjanjuk, who was stripped of his U.S. citizenship in 1981, is now "stateless and homeless," the court also ruled that "basic humanitarian considerations embodied in the U.S. Constitution require that steps be taken" to ensure that justice is carried out.

The court also justified its decision by saying that Demjanjuk may be in serious physical danger as long as he remains in Israel.

Citing death threats made in Israel to Demjanjuk and his family, the court said its pending case on the legality of his extradition "will not serve its purpose if Mr. Demjanjuk is killed or injured."

In doing so, the court accepted arguments

made by Demjanjuk's attorney, Michael Tigar, who made an emotional plea for his client's return.

Tigar described the Israeli jail where Demjanjuk is being held as a "death cell" where the daytime temperature climbs to "over 100 degrees."

Joseph Douglas Wilson, attorney for the government, argued that the 1981 judgment stripping Demjanjuk of his U.S. citizenship was still valid and that, as such, he was ineligible to re-enter this country.

But the court was not persuaded by that argument and questioned the grounds on which he was originally denaturalized. It also rejected the government's argument that the court had no jurisdiction to order Demjanjuk's re-entry.

The government can appeal Tuesday's ruling to the full U.S. Court of Appeals and then to the Supreme Court. But there was no immediate indication of whether it would do so.

In Washington, the Justice Department's Office of Special Investigations, which has pursued the case against Demjanjuk since its inception, had no immediate comment on the Cincinnati court's findings.

'Misplaced Compassion'

But Jewish groups did not conceal their disappointment.

"I'm flabbergasted," Abraham Foxman, national director of the Anti-Defamation League, said in New York. The court's ruling "throws aside the findings of a master appointed by the court to look into the law. I urge the Justice Department and hope they appeal it."

In Los Angeles, Rabbi Marvin Hier, dean of the Simon Wiesenthal Center, called the ruling "a very unfortunate decision" and "misplaced compassion for perpetrators."

"Unfortunately," he said, "this decision does not have the wisdom behind it that the Israeli decision had, because this decision operates on the assumption that John Demjanjuk has not had due process in the U.S. That is not the case."

"This sends the wrong message, at the wrong time, that the victim in this case is John Demjanjuk. It loses sight of the real victims, who are buried at Sobibor and the other camps" where he served, said Hier.

Elan Steinberg, executive director of the World Jewish Congress, criticized the court's ruling by taking a direct swipe at the chief judge.

"This is typical of the way that Judge Gilbert Merritt has handled cases involving Nazi persecutors," he said. He accused Merritt of trying to "gut" the law, sponsored by former U.S. Rep. Elizabeth Holtzman (D-N.Y.), that allows the government to denaturalize and deport war criminals who entered this country illegally.

In a related development, the WJC on Tuesday released what it contends is a "smoking gun" in the Demjanjuk case: a document from KGB files in Moscow found in 1991 that contains the original orders in German showing Demjanjuk's transfer to the Sobibor camp on March 26, 1943.

The WJC called the document "ironclad proof" of Demjanjuk's assignment as an SS guard at Sobibor.

The KGB document contains a list of 84 SS men trained at the Trawniki camp who were being transferred to Sobibor as replacements for men already serving there. Demjanjuk, identified by name and date of birth, is No. 30 on the list.

(Contributing to this report was JTA staff writer Susan Birnbaum in New York.)

OSI, UNDAUNTED BY DEMJANJUK VERDICT, SEEKS DEPORTATION OF FLORIDA RESIDENT **By Susan Birnbaum**

NEW YORK, Aug. 3 (JTA) -- The Justice Department's Office of Special Investigations, undaunted by setbacks in the John Demjanjuk case, is moving ahead with proceedings to deport alleged Nazi war criminals from the United States.

On Tuesday, OSI reported it had initiated deportation proceedings against Alexander Schweidler, a 71-year-old resident of Inverness, Fla., who allegedly shot and killed two prisoners while serving as an SS guard at the Mauthausen concentration camp during World War II.

OSI alleges that Schweidler joined the SS in 1938 and served at Mauthausen from 1942 to 1945 as a member of the SS Death's Head Battalion.

Schweidler, a native of Bratislava, Slovakia (then Czechoslovakia), was captured by U.S. forces in 1945 and immigrated to Britain in 1948 and to the United States in 1965.

OSI makes no mention of his whereabouts between 1945 and 1948.

The Justice Department filed an order to show cause requiring Schweidler, who is a citizen of the United Kingdom, to demonstrate why he should not be deported for assisting in the persecution of civilians on the basis of race, religion, national origin or political opinion, and for concealing his wartime activities when he immigrated to the United States in 1965.

In the order to show cause, the Justice Department alleges that Schweidler signed a statement in 1942 admitting that on April 28, 1942, while serving as a Mauthausen armed guard on a construction detail, he shot and killed two prisoners.

The information comes from what appears to be a German report found in captured Nazi files.

More than 67,000 Jews and others perished at the Mauthausen death camp in Austria.

'Busier Than We Have Ever Been'

OSI continues to file new actions against alleged Nazi war criminals in the United States, despite its disappointment over the Israeli Supreme Court's acquittal last week of Demjanjuk.

OSI currently has more than 400 cases under investigation. With the action against Schweidler, the Nazi prosecuting unit now has an additional 17 cases already in litigation.

Much new evidence has been unearthed in recently opened archives of the former Soviet Union, said Eli Rosenbaum, OSI's principal deputy director.

"In individual cases, it is providing us with evidence of complicity in heinous Nazi crimes, crimes that were in some instances actually recorded by the Nazi forces," said Rosenbaum.

"We just filed a case now and we will file another in the next couple of days and we are moving," he said. "We are busier than we have ever been, both in litigation and in investigation."

Of the setback in the Demjanjuk case, which the Justice Department worked on since the late 1970s, he said, "The result was obviously in part a disappointment.

"But I would say also that it was at least a consolation in the fact that two of the three charges that we originally brought against Demjanjuk were sustained by the Israeli Supreme Court, namely his criminal involvement at Trawniki and Sobibor," he added, referring to an SS training camp and a concentration camp.

CHRISTOPHER MEETS WITH RABIN, VOICES HOPE ON TALKS WITH SYRIA

By David Landau

JERUSALEM, Aug. 3 (JTA) -- After meeting here this week with Prime Minister Yitzhak Rabin, U.S. Secretary of State Warren Christopher expressed optimism about the possibility for progress in negotiations between Israel and Syria.

Arriving here Tuesday from Cairo, Christopher said the U.S.-brokered understanding between Israel and Syria that ended last week's fighting in Lebanon may in turn serve as a useful springboard for progress between the two countries in the peace process.

"The fighting in Lebanon was an urgent reminder as to how urgent our task is and how real are the enemies of peace," the secretary said.

"But it is also an indication of the fact that Israel, Lebanon and Syria are able to work together on a problem" and that similar steps must be taken "to ensure that the peace process is not derailed."

Christopher held an hour-long private meeting with Rabin here Tuesday, in what observers see as the possible start of a shuttling effort by the secretary between Jerusalem and Damascus.

After a long day of talks in Jerusalem and an evening spent monitoring the situation in the former Yugoslav republic of Bosnia-Herzegovina, Christopher was scheduled to fly to Damascus on Wednesday morning. He was due back in Israel for further talks Thursday.

After the meeting with Christopher, Rabin underscored Israel's readiness to take calculated risks for peace and to work toward compromise.

"We, for our part, are ready to make compromises, to take calculated risks to advance the cause of peace," Rabin told reporters after his meeting with Christopher.

Israel and Syria have been in a virtual holding pattern in their direct negotiations. Damascus has been demanding full Israeli withdrawal from the Golan Heights. Jerusalem, in turn, has been seeking clarification of the "full peace" Damascus is offering in return for the Golan.

But the Rabin government's recently declared readiness to apply U.N. Security Council Resolution 242 -- the basis of the land-for-peace formula -- to the Golan Heights has fueled optimism on both sides that a deal is possible.

Palestinian Negotiator Stays Away

Following the Lebanon flare-up, some Middle East observers suggested that a pacification of Israel's entire northern front, including the Golan Heights and the border with Lebanon, is now possible.

It was reported this week that Syrian President Hafez Assad turned down the idea of a face-to-face meeting with Rabin recently. Instead, he encouraged Christopher to come to the region and shuttle between Syria and Israel.

Christopher was less sanguine about the Israeli-Palestinian negotiations. But he said Tuesday that his first two-hour session with the Palestinian negotiators, held at the U.S. Consulate in Jerusalem, had been good.

Observers noted that the chairman of the Palestinian negotiating delegation, Haider Abdel-Shafi, had deliberately stayed away from the meeting. This was seen as a clear expression of his dissatisfaction with the American role.

Christopher, in brief comments after his

meeting with the Palestinians, acknowledged that it is "a difficult time" for the Palestinian talks. They and the Israelis are deadlocked over the extent of Palestinian autonomy.

But Christopher said there are "opportunities now" and pledged to do his best to make progress. He was scheduled to meet with the Palestinians again Thursday.

Israel's ambassador to Washington, Itamar Rabinovich, who is here for the Christopher visit, said the ball is now clearly in the Arab court.

There is no specific preference for the Israel-Syria track, said Rabinovich, who heads the Israeli team negotiating with the Syrians. If the Palestinians respond to the opportunities now available, progress could come there first, he said.

JEWISH GROUPS BACK SENATE VERSION OF CLINTON'S NATIONAL SERVICE PLAN

By Deborah Kalb

WASHINGTON, Aug. 3 (JTA) -- The Senate has adopted its version of President Clinton's national service program, including provisions that have drawn special attention from Jewish groups.

The program, which was adopted Tuesday by a vote of 58-41, is designed to give tuition assistance to college students in exchange for their participation in two years of community service.

The American Jewish Committee has been among the groups pushing for the amendments, voted into the Senate version, that would ensure greater separation of church and state in the program's implementation.

The amendments, which are not in the version passed by the House of Representatives last week, bar participants in the program from constructing facilities used for religious worship or from participating in aspects of an overall religious education program.

Both the House and Senate versions contain three other provisions relating to church-state separation.

Participants in the program would not be allowed in the course of their work to conduct religious worship, engage in religious instruction or proselytize.

AJCommittee is hoping the House-Senate conference committee will produce a bill closer to the Senate version. A vote could come as soon as this week, before the August congressional recess.

Agudath Israel of America, an Orthodox group, has also been active in trying to shape the bill. The group led a successful effort to include religious institutions among the community groups eligible to participate in the program.

Among other Jewish groups supporting the national service plan are the National Jewish Community Relations Advisory Council and B'nai B'rith.

MR. SMITH GOES TO JAIL

WASHINGTON, Aug. 3 (JTA) -- Former U.S. Rep. Larry Smith (D-Fla.), known as a strong supporter of Israel during his years in Congress, was sentenced this week to three months in federal prison for tax evasion and campaign reporting violations.

Smith, who served six terms in Congress representing a Miami-Fort Lauderdale district, pleaded guilty in May to charges of filing a false campaign report and evading taxes.

He was sentenced Tuesday, and ordered to begin his prison term Nov. 1.

**JEWISH AGENCY RESCUING JEWS
OF EX-SOVIET GEORGIAN REGION****By Cynthia Mann**

JERUSALEM, Aug. 3 (JTA) -- Sixty-five Jews from Abkhazia, a breakaway region of Georgia, in the former Soviet Union, arrived in Israel this week in a rescue operation organized by the Jewish Agency.

They arrived here late Tuesday night with 140 other Jews from Georgia.

The rescue operation began with the group traveling in buses from Sukhumi, the capital of Abkhazia, 12 hours through the mountainous area "in which battles were still raging," according to the Jewish Agency.

It was the first group taken out of Sukhumi by the Jewish Agency since Russia orchestrated a cease-fire last week between the Abkhazian breakaway regime and the Georgian government.

Evidently, however, the cease-fire has not succeeding in stopping the fighting completely.

The operation was coordinated with the new Abkhazian regime and the Georgian government. Georgian soldiers escorted the group part of the way, while the Georgian government provided the necessary travel documents.

In July 1992, there were 2,000 Jews in Abkhazia, while only 100 remain today.

Roughly 18,000 Jews now live in Georgia, 20 percent of whom are expected to immigrate to Israel by the end of this year.

Two thousand of them have come to Israel since the beginning of this year, while a total of 7,000 have come in the last four years.

**VIOLENCE AMONG NEW YEMENITE OLIM
PROMPTS BID FOR ABSORPTION CHANGE****By Cynthia Mann**

JERUSALEM, Aug. 3 (JTA) -- A few violent incidents among new Yemenite immigrants at an absorption center have prompted a call by a Jewish Agency official for a change in the way these newcomers are settled.

Uri Gordon, the agency's head of immigration and absorption, said the incidents showed that problems arise when immigrants are concentrated at centers and that the recent spate of publicity about the Yemenites' arrival has added to the tension there.

He suggested in news reports that the next group of arrivals be absorbed directly in Israeli neighborhoods with the help of so-called benefits baskets.

Last Friday night, Yemenite immigrants living in the Oshiyot Absorption Center in Rehovot blocked traffic near the center and attacked a reporter and photographer who apparently had come to record their actions.

A policeman arrived on the scene to investigate and had his hand broken while trying to intervene in the attack.

Two immigrants taken into police custody later explained they were merely trying to prevent the desecration of the Sabbath and did not know they were violating the law.

On Sunday, a journalist visiting the center reportedly was attacked by some immigrants and had his tape recorder broken.

The center's director, Akiva Barel, said that the attacks on reporters are prompted by fears that the publicity could harm the immigrants and their families who remain in Yemen.

He said the Shabbat violence came as a

result of tension that had built up the Sabbath before, when Israeli teens rode provocatively around the center on motorcycles.

Jewish Agency spokesman Yehudah Weinraub said that the immigrants, who are deeply religious and have little or no prior experience with secular Jews, said that "when they were in Yemen, the Arabs knew it was their Sabbath and did not disrupt it, and they didn't see why it should be disrupted in a Jewish country."

Weinraub said that Barel and the police explained to the Yemenites they could not take the law into their own hands and that Barel urged that the newcomers be educated about Israeli law.

**RESPECTED ISRAELI SCIENTIST
DOING TIME FOR SOVIET SPYING****By Hugh Orgel**

TEL AVIV, Aug. 3 (JTA) -- Israelis learned this week that a man they had last heard about a decade ago has been serving time in prison since then for espionage on behalf of the Soviet Union.

Before his closed-door trial and conviction, Professor Marcus Klingberg had worked as the deputy director of the private, non-governmental Biological Institute in Ness Ziona.

But for the last decade, he has been held in solitary confinement, serving an 18-year jail sentence for espionage.

As often happens in such cases, the story first broke in a foreign publication -- as a footnote in a book written about a former East German lawyer active in East-West spy exchanges.

Learning that the Klingberg case had been mentioned in a biography of Wolfgang Vogel, Israeli reporters informed the chief censor recently that they were applying to the Supreme Court for an injunction giving them the right to publish the story.

Many of these journalists had known about the case but were denied permission to print the story by the Israel military censor.

This time, the censor gave his personal permission to run the story rather than wait for a court order.

Klingberg, now 75, immigrated to Palestine in 1947.

He came from Poland and the Soviet Union, where he had studied chemistry.

He subsequently became a world-renowned expert on chemical warfare and epidemiology.

At the Biological Institute, Klingberg was appointed head of the department of epidemiology. He was also in charge of Tel Aviv University Medical School's department of preventive medicine.

But Klingberg's distinguished career was cut short in 1983, when he suddenly disappeared.

It was later learned, without official confirmation, that Klingberg had been a Soviet "mole" planted before his arrival in Palestine.

He was detected by the Israeli Secret Service in the early 1980s and subsequently tried under the strictest secrecy and sentenced to 18 years in prison.

The Klingberg affair has revived the controversy here about the legality and morality of secret trials.

In a similar case, Israel revealed in June that a former member of its army intelligence corps, Maj. Yossi Amit, was serving a prison sentence for spying on behalf of an unnamed country, widely believed to be the United States.