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US Supreme Court agrees to consider ruling on Satmar school district

By Steven Weiss
Washington

THE Supreme Court has agreed to decide the fate of a New York school district set up for disabled Orthodox Jewish children that has been called unconstitutional.

The high court said that it would review a July decision by the New York Court of Appeals. The appeals court had ruled that the state legislature's formation of the district was unconstitutional because it violates the separation between church and state.

"Now there is the chance that the Supreme Court will restore for the handicapped children the services that they are entitled to," said David Zwiebel, general counsel of Agudas Yisroel.

But the case may have broader significance than aid to a New York school district. It may provide an opportunity for the court to re-examine the legal standard it has used for over two decades to decide how far the government may go in accommodating religious needs without breaching the

constitutional divide between church and state.

Formed by the New York State Legislature in 1989, the school district provides services to emotionally and physically disabled children in the Orange County village of Kiryas Joel, where most of the residents are Satmar Chasidim. All of the 220 students attending the school, which opened in 1990, are religious.

The legislature acted in response to parents who could not send their disabled children to religious schools in the area

because of inadequate facilities, or to public schools because of religious and cultural differences. The lawsuit was originally brought by two taxpayers.

SECULAR

The appeals court ruled in July, in *Grumet vs. Board of Education of the Kiryas Joel School District*, that the formation of the school district "inescapably conveys a message of governmental endorsement of religion."

The school district argued

that no such message was sent because the subject matter taught at the school is entirely secular. New York state joined the school district in appealing the case to the Supreme Court.

Gov. Mario Cuomo said this week in New York that "when I signed the legislation in 1989 creating this special school district, I did so because I believed it was a good-faith effort to solve a unique problem of providing secular education for special needs children."

"I'm pleased that the Supreme Court has taken the

case," said Nathan Lewin, attorney for the school district. "State laws should not be invalidated because they in some indirect way assist in religious practice." He said the Supreme Court signalled in July it was interested in the matter when it allowed the district to continue operating during the appeal process.

Several secular Jewish organizations disagreed with the Orthodox community and had applauded the lower court's decision as strengthening the separation of church and state.

London eruv enquiry gets under way

By Brian Gordon

THE public enquiry in respect of the application to establish an eruv around Golders Green, Hendon, Hampstead Garden Suburb and Finchley, commenced on Tuesday at Barnet Town Hall in Hendon. The enquiry is to hear an appeal against Barnet Council's refusal last February to allow the erection of the poles and wires in various street locations which the eruv would require.

The enquiry, which is open to all members of the public, is due to continue until next Monday and is being conducted by a senior Planning Inspector. Both sides at the enquiry — namely the appellants (the United Synagogue Eruv Committee) and various objectors — are represented by Queen's Counsels. The witnesses in favour of the appeal are being led by Chief Rabbi Dr. Jonathan Sacks, who attended and gave evidence for two hours on Tuesday afternoon and former Chief Rabbi Lord Jakobovits, who is due to give evidence this morning (Thursday). Other evidence in favour is also being submitted by the Board of Deputies and Jewish Care. Witnesses against the appeal are being led by some prominent local Councillors, one of whom is Jewish, and also various residents' pressure groups. Those groups are arguing that the eruv would be "visually intrusive" and harmful to the local environment.

A spokesman for the Eruv Committee told me that the planning expert whom they have consulted have advised that it is highly unlikely that the appeal would fail on planning grounds.

Statement by the Union

A STATEMENT lodged yesterday (Wednesday) with the Enquiry by Dayan S. Friedman, on behalf of the Union of Orthodox Hebrew Congregations, states categorically that the Union Rabbinate is of the opinion that an eruv in London would be damaging to the sanctity of the Shabbos and should one be erected the Beis Din would declare it invalid.

Following is the relevant part of the statement.

The Union has been in existence for some sixty-seven years and represents several thousand Orthodox Jewish families living in the Greater London area and other parts of the country. It is comprised of over sixty synagogues and institutions, which retain their independence but accept the authority of the Rabbinate of the Union, and they have a total membership in excess of seven thousand. This and the extent of the Union's activities can be seen from the Union's current calendar herewith enclosed.

The question of the eruv in North West London has been extensively discussed by our Rabbinate during the past year or so, and Rabbi Padwa and we are firmly of

The Inspector has already made it clear that it is principally the planning aspect of the issue with which he is concerned, but social and religious matters have



Rav Padwa

the opinion that the eruv envisaged will be damaging to the sanctity of the Jewish Sabbath, and should such an eruv be erected we would declare it invalid and inform the Jewish community accordingly.

Moreover, in addition to the Halachic considerations, we would deeply regret if the eruv plan would be implemented as it would cause a deep split amongst the Jewish Communities, wherein unity has always been one of its most cherished hallmarks.

nevertheless figured prominently in the submissions on both sides.

The Inspector's decision is not likely to be announced until next February.

Archaeologists' Jericho sweep brings protest over desecration

By Hugh Orgel
and J. Weil
Tel Aviv

AN intense sweep by Israeli archaeologists in the region of Jericho has prompted strong accusations by Palestinians and some Israeli archaeologists that the Jewish state is trying to deplete the Dead Sea area of all remains before the Palestine Liberation Organization establishes self-rule in the area.

The Israel Antiquities Authority, claiming the massive digs were previously planned, has fanned out over a score of sites in the area where the Dead Sea Scrolls were found 46 years ago.

However, the massive archaeological sweep appears to be clearly linked with the approaching time when at least part of the area will pass into the

hands of Palestinian authorities. Opponents of the activity have accused the Antiquities Authority of organizing the more than 20 archaeological teams to prevent any possible indications of early Holy Land Jewish settlement from falling into non-Jewish hands.

Hundreds of Israeli archaeologists equipped with metal detectors, aluminum ladders and rappelling equipment for scaling cliffs have already unearthed a treasure trove of important material, including papyrus documents in Hebrew dating back to the time of the Bar-Kochba revolt, between 132 and 135 C.E.

There has been widespread anger, however at the desecration of the Avior burial caves near Jericho where 36 sarcophagi and

their human remains contents were removed by archaeologists. Knesset members of the Yahadus HaTorah Hameuchedes faction have urged that the full weight of the law be brought to bear on those guilty of breaking the law by desecrating the burial caves.

In reply to a question by Rabbi Menachem Porush MK, Amir Drori, the head of the Antiquities Authority declared that "no excavations or other activities are in progress" in the Avior caves. He claimed that during excavations carried out in 1986, thirty-eight human skeletons were unearthed, but they were reburied shortly afterwards in the same spot. This claim is in conflict with reports from other sources.

According to a statement by
Continued page 2 col 1

Government keeps meat monopoly to hold Shas

MEAT moved back on the front burner in Israel as Prime Minister Yitzhak Rabin cooked up a plan to keep his government's majority.

To shore up Rabin's coalition, on Sunday the Cabinet approved legislation that will give the government a monopoly on Israel's meat production. Rabin viewed the measure as a means of bringing the Shas party back into the coalition — a step that would significantly strengthen the government's majority.

The Cabinet had previously

sought to privatize the country's meat production, but the High Court of Justice recently ruled that once the importation of meat was private, an earlier ban on the import of non-kosher meat could no longer stand. By retaining the government monopoly on meat production, the ban on non-kosher meat can be maintained.

Rabin and his Labour party lieutenants are hoping that this measure will persuade the Shas party to return to the coalition fold. Shas recently withdrew from the coalition.

Payments cut back

By H Boas
Amsterdam

THE Dutch Parliament has passed a measure that will prevent the children of those who suffered persecution during World War II from seeking monthly payments from the government.

The measure, which was passed last week, was enacted at the urging of Culture and Welfare Minister Hedy D'Ancona, who stressed the need to cut back on government expenditures.

Under the terms of the Law for Payments to Victims of Persecution, Jews who suffered under the Nazis in Holland and those who suffered at the hands of the Japanese in the occupied Dutch East Indies were eligible for the government payments.

The law was originally intended to help first-generation victims only. But in recent years,
Continued page 2 col 2

Plan for new prisoner release

By C Mann
Jerusalem

ISRAELI negotiators have reportedly offered a plan for the phased release of 10,000 Palestinian prisoners as part of the agreement for implementing Palestinian self-rule in the territories. According to sources familiar with the progress of the Israeli-Palestinian negotiations, the plan calls for the first 3,000 prisoners to be released by December 13, when Israel is scheduled to begin withdrawing its troops from the Gaza Strip and West Bank town of Jericho.

Prime Minister Yitzhak Rabin said earlier this week that there would be no additional prisoner releases before an agreement is reached in the self-rule implementation talks, which entered their eighth round this week in Cairo. But he had indicated that there would be provisions for the release of prisoners within such an agreement. He added, however, that the prisoners would be

released only in exchange for information about Israeli soldiers who are missing in action.

Israel released more than 600 Palestinian prisoners in October in an effort to build confidence in the self-rule accord that Israel and the Palestine Liberation Organization signed in Washington more than two months ago. The continued escalation of violence in the Gaza Strip, however, has eroded public support for the accord among Israelis as well as Palestinians.

Thousands of Palestinians protested in Gaza against the continuing crackdown by Israeli security forces against terrorists. The Israeli army, attempting to quell the demonstrations, shot and wounded at least 10 protesters.

The protests followed the capture by Israeli troops in Gaza on Monday of Fatah Hawk commander Taisir Bordini, 26, and two other members of the group, which does not support the PLO's accord with Israel.

During the past few days, Israeli troops have killed several Palestinians belonging to Arab rejectionist groups. The ensuing unrest has been the most serious in the territories since the Israel-PLO accord was signed in September.

On Monday, the Fatah Hawks sent a message to PLO Chairman Yasser Arafat that read, "Now, if we see a soldier, we will kill him because the Israelis didn't keep the agreement and they still kill us." By Tuesday night, there were reports that the Israeli security officials were cooperating with PLO leaders in Tunis to find a way to ease the tensions.

There were additional reports that Israeli army commanders and Palestinian leaders met in Gaza and reached an agreement they hoped would reduce the violence there. According to reports, Israeli forces were to lessen their presence on the streets of Gaza starting this week and would also remove some
Continued page 2 col 1

Court rejects mother's "right-to-die" petition

By C Mann
Jerusalem

ISRAEL'S Supreme Court has ruled that it is sometimes justified to withhold "extraordinary" medical treatment from a terminally ill patient in order to prevent prolonged suffering.

But the court also ruled that deliberately hastening death is strictly prohibited by Jewish law. The decision, which was reached last week, was apparently the court's first on the issue, which has nettled jurists, ethicists and doctors in many countries.

The ruling came in the case of Yael Shaeffer, a baby born in 1986 with Tay-Sachs disease, a congenital Jewish genetic disorder that strikes down children.

Two years later, Shaeffer's mother petitioned the court to permit the hospital to withhold

artificial, life-sustaining treatment in the event it became necessary.

Justice Menachem Elon ruled that the Basic Law on Human Dignity and Freedom bars doing harm to an individual except as it fits within Israel's "values as a Jewish and democratic state."

Elon ruled that Jewish law permits withholding extraordinary treatment if the treatment would prolong suffering, but does not permit any action that would hasten death, such as withholding food.

The court rejected the petition of the infant's mother because the infant was not in pain and because it was not agreed to by both parents.

Elon also called for Israel to establish ethics committees to set guidelines for these sort of issues when they occur.

MR. YITZCHOK I. GOTTESFELD ז"ל

THE petira of Mr Yitzchok Izaak Gottesfeld occurred during the early hours of Wednesday morning. A well respected figure in the North London Jewish community and an elder of the Vishnitzer Beis Hamedrash, he was involved in numerous cases of *chesed* of various types. His *levayo* was attended by an exceptionally large crowd for mid-morning.

Hespedim were made by Rav Favisch Schneebalg, Rav Chaim Wosner and a son, Mr Dovid Gottesfeld.