

**Review  
of  
the  
Year**

UNITED STATES

# United States

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## National Affairs

**I**N 2002—THE YEAR AFTER 9/11—America’s agenda was largely defined by the war against terrorism. The Republican sweep in the November midterm election was only one indication of the profound implications for American policies and politics both at home and around the world. For American Jews, the response to terrorism had an additional dimension of fear and anger, as Palestinian militants and a complicit Palestinian leadership continued their campaign of terrorism against Israeli civilians, and as global anti-Semitism rose to levels not seen in many decades. The Jewish community’s sense of crisis was only somewhat alleviated by the knowledge that Israel still had strong friends in the White House and in Congress.

To be sure, domestic issues of relevance to Jews, such as church-state separation, remained relevant, and Jewish communal agencies grappled with the implications of tax cuts and the president’s faith-based initiative for providing social services to those in need. But the domestic agenda drew far less Jewish attention—and fewer advocacy resources—than had been the case in the past, and there was no indication that this priority shift would be reversed any time soon.

### THE POLITICAL ARENA

#### *Election 2002*

With razor-thin margins in both houses of Congress—Republicans controlling the House of Representatives and Democrats the Senate—political analysts focused for much of the year on the question of whether either or both house would “flip” in the November election. The answer would clearly hinge on the results in a few “swing” states and districts.

By Election Day, analysts were fairly certain that the Democrats would

not make the net gain of six seats they needed for a House majority. The decennial redistricting conducted earlier in the year protected incumbents of both parties and, by restricting the field of competitive races, benefited the GOP. But in one notable exception to the incumbency protection associated with redistricting, veteran Rep. Benjamin Gilman (R., N.Y.), the unofficial dean of the House's "Jewish caucus," was squeezed out of a chance for reelection since New York State had to drop two seats from its delegation. When it became clear that Gilman's district would be divided among those of other incumbents, he reportedly considered running for reelection as a Democrat, but in early July Gilman announced that he would be resigning "with great remorse." Leaders of the Jewish community expressed regret at this turn of events, pointing to the leadership role Gilman had played over the years on a range of foreign-policy issues such as support for Israel and the Soviet Jewry movement. Especially notable was his tenure as chairman of the House International Relations Committee from 1995 to 2001, and, after that, as chairman of the committee's Subcommittee on the Middle East and South Asia.

Control of the Senate remained uncertain until the very end, as the Republicans needed a net gain of only one seat to regain the majority. When the 107th Congress first convened, Democrats and Republicans were deadlocked at 50 seats apiece, with Republican control ensured by virtue of Vice President Cheney's tie-breaking vote. It tilted to a tenuous Democratic majority in June 2001 when Sen. Jim Jeffords of Vermont bolted the Republicans to identify as an Independent, and agreed to vote with the Democratic caucus.

By late evening on Election Day, it was evident that the Republicans had widened their majority in the House and taken control of the Senate in defiance of the historic norm that the party holding the White House loses ground in Congress during midterm elections. After run-off races and late-breaking results were tallied, Republicans held 229 seats in the incoming Congress, up from 223, and Democrats held 205 seats, down from 211. The number of Independents in the new House remained one—Vermont's Bernard Sanders, who generally voted Democratic. On the Senate side, once the results of a December 7 run-off in Louisiana were reported, Republicans held 51 seats, a gain of two, compared to the Democrats' 48 plus Jeffords, the Independent. Judging by the election returns, national-security issues invoked by Republicans had particular resonance at a time when the United States had recently suffered an egregious attack and faced the prospect of further threats.

The one bright note for Democrats on Election Day was a gain in the number Democratic governors, including victories in such big-state Re-

publican strongholds as Michigan, Illinois, and Pennsylvania. To be sure, Republicans had their share of gubernatorial victories in Democratic strongholds—Massachusetts and Maryland in particular—and thus retained control of a bare majority of state executive mansions (as of the beginning of 2003, the margin was 26 to 24).

Five Jewish candidates competed for seats in the U.S. Senate in 2002. Democratic Senator Paul Wellstone's campaign for reelection in Minnesota pitted him against a fellow Jew, Republican Norman Coleman, a former mayor of St. Paul. With the outcome in doubt as Election Day approached, both men were drawing support from Minnesota's Jewish community of about 45,000. But Wellstone was killed a few days before the election—together with his wife, a daughter, three campaign staffers, and two pilots—in the crash of a small plane. His sudden death drew expressions of grief from across the nation, within the Jewish community and without, from political allies as well as adversaries. The nation recalled Wellstone's willingness to be a lone voice in support of his liberal convictions, and his basic decency as a person (see the obituary below, p. 715). Wellstone's demise led to a remarkable one-week campaign in which Democrat Walter Mondale, a former vice president and former Minnesota senator, was drafted to run against Coleman. When Coleman defeated Mondale, he became the third Jew in a row to hold that Senate seat—after Wellstone and Rudy Boschwitz, the Republican Wellstone had unseated 12 years before.

Coleman's victory, that of returning Senate veteran Frank Lautenberg (D., N.J.), the reelection of Carl Levin (D., Mich.), and the defeat of Alan Blinken—a Jewish Democrat who ran an uphill battle in Idaho against the incumbent, Republican Larry Craig—meant there would be 11 Jewish senators, a net increase of one. Lautenberg was himself a late entry into the field, chosen by New Jersey Democrats to run after the incumbent, Robert Torricelli, dropped out of the race shortly before Election Day in the wake of ethical questions. Levin, the only incumbent Jewish senator running, opted not to retire at the end of the 107th Congress because of the threat he saw to Democratic control of the Senate. He was certainly correct in that assessment; Levin was handily reelected, but when the 108th Congress convened, he was a member of the minority. In addition to Levin, the eight other incumbent Jewish senators were Barbara Boxer (D., Cal.); Russell Feingold (D., Wis.); Dianne Feinstein (D., Cal.); Herb Kohl (D., Wis.); Joseph Lieberman (D., Conn.); Charles Schumer (D., N.Y.); Arlen Specter (R., Pa.); and Ron Wyden (D., Oreg.).

In a New Hampshire Senate race of great interest to the Jewish community, Rep. John Sununu, the Republican, defeated Democratic gover-

nor Jean Shaheen. Sununu's legislative record concerned pro-Israel advocates: among other things, he voted against a resolution criticizing the UN for passing an anti-Israel resolution, and against another that urged the State Department to demand information from Lebanon, Syria, and the Palestinian Authority about three Israelis missing in action. Because of this dubious record, pro-Israel political groups first supported Sununu's primary opponent, Sen. Bob Smith, the incumbent, and then Governor Shaheen in the general election. In a postelection analysis, the American Jewish Committee drew some solace, noting that though "Senator-elect Sununu's record in the House presents, as an understatement by an official of the Republican Jewish Coalition put it, a 'less than stellar record of support' for Israel. Nevertheless, in a campaign position paper, he affirmed his commitment to foreign aid and stressed the need to maintain Israel's military superiority in the Middle East and protect Israel's security."

In Georgia, Rep. Saxby Chambliss, a Republican who had served four terms in the House, unseated first-term incumbent Sen. Max Cleland, a Democrat. Cleland had come under fire from Chambliss's Jewish supporters, who claimed that Cleland did nothing when Democratic Representative Cynthia McKinney antagonized the Jewish community (see below). But others Jews in Georgia endorsed Cleland, noting his consistent pro-Israel stance.

On the other side of Capitol Hill, 35 Jewish candidates competed for congressional seats. With the victory of Democrat Rahm Emanuel, a former Clinton White House aide, in the fifth district of Illinois, and the retirement of Rep. Gilman, the number of Jews in the House remained at 26. Winning reelection, often with no or only token opposition, were California Democrats Howard Berman, Susan Davis, Bob Filner, Jane Harman, Tom Lantos, Adam Schiff, Brad Sherman, and Henry Waxman; Florida Democrats Peter Deutsch and Robert Wexler; Jan Schakowsky (D., Ill.); Ben Cardin (D., Md.); Barney Frank (D., Mass.); Sander Levin (D., Mich.); Shelley Berkley (D., Nev.); Steve Rothman (D., N.J.); New York Democrats Gary Ackerman, Eliot Engel, Steve Israel, Nita Lowey, Jerry Nadler, and Anthony Weiner; Martin Frost (D., Tex.); Eric Cantor (R., Va.); and Bernard Sanders (Ind., Vt.).

With the retirement of Ben Gilman, Rep. Cantor was the only Jewish member of the House's majority party. In December, the House leadership announced that Cantor, a staunch supporter of Israel, had been appointed chief deputy whip, a meteoric ascent for a congressman just concluding his freshman term. In contrast to Gilman, who was seen as a moderate on domestic social issues, Cantor's record was more in line

with the conservative mainstream of his party, and therefore not in consonance with many of the positions taken by the bulk of the organized Jewish community. Nevertheless, the Jewish Telegraphic Agency quoted Jewish leaders welcoming the appointment to a leadership position of someone whose “door is always open to us,” and reported on speculation that Cantor’s elevation was, in part, a reflection of a canny GOP effort at “making inroads into the Jewish community.”

In California’s 27th district, Democratic incumbent Brad Sherman defeated Republican challenger Robert Levy in the only House race pitting Jewish candidates against each other. In Florida’s new 13th district, Jan Schneider, a Jewish Democrat, lost to the Republican, Secretary of State Katherine Harris, who had received national attention for her role in the turmoil surrounding the 2000 election in that state. Two Jewish candidates, both Democrats—Harry Jacobs and Roger Kahn—lost bids for congressional seats in new districts in the South, Florida’s 24th and Georgia’s 11th, respectively. Democrat David Fink failed in his bid to unseat incumbent Republican Joe Knollenberg in Michigan’s ninth district.

Some of the most interesting congressional races played out in the primaries. Reps. Cynthia McKinney (D., Ga.) and Earl Hilliard (D., Ala.), African Americans who were widely regarded as anti-Israel, lost their seats in the Democratic primaries to challengers whose campaigns, while run on a variety of issues, attracted support from pro-Israel groups and individuals. Hilliard, and especially McKinney—she was drawn to conspiracy theories about U.S. foreign policy and even more hostile to Israel than Hilliard—received support from advocates of the Palestinian cause. McKinney was defeated for the Democratic nomination by Denise Majette, and Hilliard by Artur Davis, both of them also African Americans who went on to triumph in the general election. During and after these primary races, the heavy pro-Israel push for ousting the two incumbents raised considerable discussion about the implications for black-Jewish relations (see below, pp. 96–97).

Two Jews competed for, and won, gubernatorial seats. Ed Rendell, the former Democratic mayor of Philadelphia, won in Pennsylvania, and Linda Lingle a Republican, triumphed in Hawaii. They became the first Jewish governors since 1994, when Bruce Sundlun was governor of Rhode Island. Lingle, an active member of the Republican Jewish Coalition, was the second Jewish woman to serve as a state governor. (Madeleine Kunin, the first, governed Vermont from 1985 to 1991.)

As the majority party, Republicans would assume control of every Senate committee when the new Congress convened in January 2003. Jewish Democrats stepping down from chairmanships of full committees

were Carl Levin of Michigan, who forfeited Armed Services, and Joseph Lieberman of Connecticut, who lost his post on Government Affairs. Similarly, Charles Schumer of New York would no longer serve as chairman of the Senate Judiciary Subcommittee on Administrative Oversight and the Courts. On the other hand, Republican Arlen Specter of Pennsylvania was slated to take the helm at Veterans Affairs.

The new Congress would see no such sweeping changes on the House side since the leadership remained in Republican hands, but one change in a House committee chairmanship was of particular note. With Gilman retiring, it was unclear at year's end who would chair the House International Relations Subcommittee on the Middle East and South Asia, a panel created when Gilman was forced—under House leadership term-limit rules—to step down from his position as chair of the full committee. It was also conceivable that the new Congress would dissolve the subcommittee.

Significant changes in the House leadership occurred in the week following the election. Rep. Tom DeLay (R., Tex.), formerly House majority whip, was elected majority leader for the 108th Congress, replacing fellow Texas Democrat Dick Armey, who was retiring. Rep. Nancy Pelosi (D., Cal.) became House minority leader following the decision of Rep. Richard Gephardt (D., Mo.) to step down from his leadership post in the wake of the election results. Both of these changes maintained leadership that was widely regarded as supportive of Israel. (Martin Frost, a Jewish Democrat from Texas, was originally in contention with Pelosi for the leadership position, but withdrew when it became clear that he did not have the votes.)

In addition to these shifts in leadership, the Republican gains also enhanced the authority of President Bush, coming as they did while popular support for the war on terrorism was at its height. This became evident very quickly when Sen. Trent Lott (R., Miss.), expected to be the incoming Senate majority leader, asserted that he did not like lame-duck sessions, preferring that unfinished business be left for the next Congress. But Lott had to change his mind when the president, two days after the election, publicly insisted that Congress vote to create a Homeland Security Department and pass bills on terrorism insurance before it adjourned for the year. Congress did exactly what the president wanted. It did not, however, complete work on appropriations for the fiscal year that had already begun on October 1, meaning that the federal government would operate in the interim largely on the basis of continuing resolutions that maintained funding at the levels of fiscal year 2002.

How Jews voted in the 2002 elections was of great interest to the can-

didates, the parties, and observers of the American Jewish community. Since Jewish turnout at the polls is often disproportionately high, the Jewish vote could prove pivotal, especially in close races, and wealthy Jews were prominent contributors to political campaigns. Analysts speculated before Election Day that Jewish support could be highly significant for the reelection hopes of three governors—George Pataki (R., N.Y.), Jeb Bush (R., Fla.), and Gray Davis (D., Cal.). Some believed that the Jewish vote would show a swing toward the Republican column because of the administration's generally pro-Israel stance, the president's handling of the war on terrorism, and what was widely perceived as a trend toward conservatism among younger Jews. In fact the Republican Jewish Coalition launched a massive issue-advocacy campaign in South Florida, including television, radio, mail, phone, and newspaper advertising, to inform the Jewish community of Governor Bush's pro-Israel views.

After the elections, claims were made about the Jewish vote in specific races. One report had it that more than 80 percent of the Jewish vote in New Jersey went to Frank Lautenberg, the Democratic candidate for senator. A staffer for George Pataki, citing an analysis of the vote in heavily Jewish New York neighborhoods, told the *New York Jewish Week* that the Republican governor had garnered more than 50 percent of the state's Jewish vote, and, in the staffer's words, that "has to be a record for a statewide Republican."

The Voter News Service—an organization created by a consortium of ABC, CBS, NBC, CNN, Fox, and the Associated Press, that, among other things, did exit polling to determine how voters viewed the issues and how certain groups voted—declined, at first, to release exit polling data for 2002, declaring it unreliable. Months later the service announced that 35 percent of Jewish voters had supported Republican candidates in 2002, a substantial increase over the 21–26 percent that had voted Republican in midterm and presidential elections since 1992.

In an unexpected turn of events, Senator Lott, the Republican minority leader who had been expected to regain his former position as majority leader when the new Congress convened, announced in late December that he would step down from his leadership role. The decision came in the wake of a firestorm over statements he had made at a dinner earlier that month feting outgoing Senator Strom Thurmond (R., S.C.). In his remarks, Lott seemed to endorse the segregationist platform on which Thurmond had campaigned when he ran for president as a minor-party candidate in 1948. Several Jewish groups condemned the remarks.

Following Lott's announcement, Senate Republicans named Bill Frist of Tennessee majority leader. Jewish groups were unfamiliar with this



physician-turned-politician, but, based on his past votes and history, they noted that Frist could be expected to support Israel. At a speech before a 2001 conference of the American Israel Public Affairs Committee (AIPAC), Frist had reflected on an earlier visit to the Jewish state, and said: "If every American could only go to Israel and have these experiences, the very few challenges to U.S. commitments that we have today, I think they would go away." On the domestic front, however, the incoming leader's positions on such issues as vouchers, charitable choice, and hate-crimes legislation were expected to run counter to those of much of the organized Jewish community.

### *President Bush and the Jewish Community*

For the second year in a row—and just the second time in history—leaders of the American Jewish community came to the White House on December 4, 2002, for a Hanukkah celebration, complete with the lighting of a menorah, and kosher-catered latkes and jelly doughnuts. The event, coming even as the administration prepared to unveil the "road map" for Middle East peace developed together with the European Union, Russia, and the UN (see below, pp. 229–30), followed meetings that same day between a number of Jewish leaders and high-ranking administration officials.

At the party, President Bush said that the spirit of the Maccabees continued "in the lives of the State of Israel and throughout the Jewish community, and among all people who fight violence and terror," and he reaffirmed his commitment to end the threat of terrorism against the United States and Israel. All in all, the Jewish leaders in attendance saw the celebration—"not just a party, but a very powerful, symbolic event," in the words of American Jewish Committee executive director David Harris—as reflecting a steadily warming relationship between the Jewish community and the president. Rooted in a common ground of support for Israel and the war against terrorism, it flourished notwithstanding some significant differences that much of the community had with the administration on certain domestic issues.

Earlier in the year American Jews were not quite so certain that the administration was unequivocally on Israel's side. The massive national pro-Israel rally in Washington on April 15 (see below, p. 115) was largely motivated by fears that the president, under State Department influence, might have the U.S. join with the European powers in pressuring Israel to make territorial concessions without any real Palestinian renunciation

of violence. It was that sense of Jewish unease that induced a small number of the demonstrators to boo Secretary of Defense Paul Wolfowitz when, after saying that “President Bush wants you to know that he stands in solidarity with you,” he alluded to the suffering of the Palestinians and the contemplated establishment of a Palestinian state.

What largely assuaged Jewish fears was the president’s speech of June 24 (for the full text see below, pp. 212–16). Rather than call on Israel to adhere to a firm timetable of actions to ease the condition of the Palestinians—as the State Department had reportedly advised—Bush made any such Israeli moves contingent on the Palestinians holding new parliamentary elections, choosing new leaders “not compromised by terror,” conducting comprehensive governmental reform, and taking effective steps to stop terrorism. The broad mainstream of the organized Jewish community applauded the speech, and its perceived pro-Israel message served the administration well in the American Jewish community through the remainder of the year.

### *Preparing for Election 2004*

As the year ended, it seemed certain that Senator Joseph Lieberman (D., Conn.)—the man who made history in 2000 as the first Jewish major-party nominee for vice president—would soon make history once again by announcing his candidacy for the Democratic presidential nomination in 2004. After the bitterly disputed 2000 election, Lieberman had pledged not to run for the presidential nomination against former vice president Albert Gore, his 2000 running mate, were Gore to seek it. But in a surprise announcement on December 15, Gore said that he would sit out the upcoming election, thus opening the door for Lieberman, who had already been preparing for this eventuality. Had he sought the nomination, Gore would have been the clear front-runner, but his withdrawal threw the race wide open.

## THE POLICY ARENA

### *Terrorism*

In the wake of September 11, 2001, the nation had quickly closed ranks behind President Bush as he took quick and vigorous action to pursue Al Qaeda forces into their Afghanistan redoubt, and brought down

the Taliban regime that had given them sanctuary (see AJYB 2002, pp. 159–61). But divisive domestic issues related to the terrorist threat that had begun to play out in the last months of 2001 became themes that resonated in 2002 for the American Jewish community and for the rest of the nation. As the Bush administration adopted measures intended to forestall another terrorist attack, was it fighting terrorism “smart,” or simply taking action for the sake of taking action? And, did some of the administration measures designed to protect national security go too far in infringing on civil liberties and due process?

These questions were brought to the fore first in October 2001, when Congress passed the sweeping USA-PATRIOT Act, which led civil-liberties groups to raise a host of concerns (see AJYB 2002, pp. 162–63). Then, reports emerged that approximately 1,200 aliens—mostly of Middle Eastern or South Asian origin (including some 60 Israelis)—had been taken into custody by police and immigration officials on visa violations, many of whom were subsequently deported. Immigrant-rights groups and other advocacy organizations raised questions about these detentions—including the government’s apparent reluctance to release information as to the number of detainees and their identities, violations of due process, and racial profiling.

Many more such issues arose as 2001 ended and 2002 wore on. In November 2001, for example, President Bush issued a directive to the Department of Defense to establish procedures for military tribunals to try noncitizen detainees held at Guantanamo Bay. Most of these people, captured in Afghanistan, were considered “unlawful combatants” in the eyes of the U.S., and thus not subject to the procedural safeguards normally available to prisoners of war. That same month, Attorney General John Ashcroft issued a directive authorizing law enforcement officials to listen in on conversations between detainees and their attorneys under certain circumstances. Another Ashcroft directive, in May 2002, revised and loosened the standards under which federal officials might conduct surveillance of activities otherwise protected under the First Amendment. During 2002, the administration had two American citizens arrested on U.S. soil and held them incommunicado, maintaining that since the men were illegal enemy combatants, they could therefore be held without charges and prevented from seeing their lawyers.

Beginning with the proposal of the USA-PATRIOT Act in late 2001, Reform Judaism’s Religious Action Center (RAC) staked out a role as the Jewish community’s most outspoken critic of many of the administration’s measures; other national Jewish organizations generally supported the war against terrorism while raising questions about specific actions.

This split in the Jewish community came to the fore at the annual conference of the Jewish Council for Public Affairs (JCPA) in February 2002, where the RAC offered a resolution criticizing the administration for drawing the wrong balance between civil liberties and national security in three specific ways—subjecting attorney-client communications to eavesdropping even on a limited basis; creating military tribunals; and detaining aliens suspected of involvement in terrorism for an indefinite period. A number of the major national Jewish organizations—including the American Jewish Committee, the Anti-Defamation League, B'nai B'rith, and Hadassah—opposed the resolution as premature and as sending the wrong message at a time of great national peril. But the RAC resolution carried, supported overwhelmingly by the Jewish community-relations councils, joined by the National Council of Jewish Women and several other national organizations. Balancing its critique of the administration, the JCPA passed an additional resolution noting that so long as “basic constitutional rights” were safeguarded, it favored “strengthening domestic antiterrorism measures that enhance law enforcement capabilities.”

Some of the groups voting against the JCPA resolution did find other venues for voicing their concerns within the context of overall support for the administration. Thus on January 8, 2002, President Harold Tanner and Executive Director David A. Harris of the American Jewish Committee wrote Secretary of Defense Donald Rumsfeld urging inclusion of a set of due-process safeguards as part of the procedures to be established pursuant to the president's directive on military tribunals. AJC recommended specific assurances that the accused would be informed of the charges against them, have the right to choose counsel, be judged according to a specified burden of proof, have a right to appeal to the federal courts, and be subject to the death penalty only when the judges' verdict was unanimous. These procedures were largely included in the Department of Defense's implementing order of March 21, with one significant exception—appeals would be taken to a three-member review panel appointed by the secretary of defense, not to the federal courts.

On the legislative front in 2002, Congress's attention focused first on a proposal to create a new cabinet-level Department of Homeland Security into which would be folded various security-related functions, including immigration control. The first to suggest such a department was Sen. Joseph Lieberman (D., Conn.), who introduced the idea in May; it was endorsed by the Democratic-controlled Governmental Affairs Committee of the Senate that same month. At the time, the administration did

not express support, but it soon changed course. In a speech to the nation on June 6, President Bush called on Congress to upgrade the Office of Homeland Security to a federal cabinet-level body, consolidating 22 different agencies and 170,000 employees in what would be the most significant reorganization of the federal government in many decades.

Responding to the president's request, both Democrats and Republicans vowed to pass legislation creating the new department before the first anniversary of the terrorist attacks. However, homeland-security legislation was stalled prior to the November elections by a dispute over civil-service protections for the new department's employees. In the aftermath of the Republican electoral victories, the dynamic changed markedly. On November 13, a new "compromise" version of H.R. 5710, the Homeland Security Act of 2002, was introduced in Congress, largely hewing to President Bush's demands. The House passed it by 299 to 121, and the Senate subsequently approved by 90 to 9. The bill was signed into law on November 25. Not only did the legislation consolidate the many federal agencies into the new department, but it also created new resources for the battle against terrorism, such as a National Bio-weapons Defense and Analysis Center within the Defense Department to develop countermeasures against potential terrorist attacks that used weapons of mass destruction. Implementation of the act was to take place through much of 2003.

H.R. 5710 included provisions pertinent to the civil liberties concerns of a number of Jewish organizations. First, the act included a provision specifically stating that it was not intended to authorize the development of a national identification system or card. Second, it prohibited implementation of the TIPS (Terrorism Information Prevention System) plan announced by Attorney General Ashcroft earlier in the year. TIPS, which would have encouraged bus and truck drivers, meter readers, port workers, letter carriers, and other persons without law-enforcement training to report "suspicious activities," aroused opposition from conservative Republicans such as Dick Armey (R., Tex.), the retiring House majority leader, and Rep. Bob Barr (R., Ga.), as well as from liberal Democrats such as Rep. John Conyers (D., Mich.). The critics charged that TIPS would "promote citizens spying on one another"—a concern echoed by the Religious Action Center of Reform Judaism and the American Jewish Committee. In the end, Armey and Barr succeeded in including a ban on implementation of TIPS in the final version of the legislation.

Some civil libertarians were unhappy about inclusion in the Homeland Security Act of a provision for the creation of a Directorate for Information Analysis and Infrastructure Protection. This body was accorded

extensive and unprecedented surveillance powers “to access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the federal government, state and local government agencies (including law-enforcement agencies), and private sector entities.” The act also called for the appointment of a privacy officer to address privacy issues and complaints, and assure compliance with fair-information practices as set out in the Privacy Act of 1974.

In a related development, H.R.3210, the Terrorism Risk Protection Act, passed both houses of Congress in November 2002 during the lame-duck session. The president subsequently signed it into law, singling this bill out as a priority for action in a postelection press conference. It addressed two issues of substantial interest to the Jewish community. First, the measure’s major thrust was to assure the insurance industry of a federal backstop in the event of a future terrorist attack, and thus enabled coverage against such attack to be included in newly written policies at reasonable rates. Notwithstanding an FBI alert in June that Jewish organizations were potential targets for terrorist attack, it was not clear that they were facing any greater increases in insurance costs than others. Nonetheless, the legislation would serve to contain the prospect of spiraling insurance costs for all public facilities.

A second key provision of H.R.3210 was often referred to as the Justice for Victims of Terrorism Act. Introduced in various forms by Sens. Christopher Dodd (D., Conn.) and Tom Harkin (D., Iowa), and Reps. Peter Hoekstra (R., Mich.) and Vito Fossella (R., N.Y.), it provided for payments to terror victims from the nondiplomatic frozen assets of terrorists, terrorist organizations, and state sponsors of terrorism. Guidelines for a presidential waiver were included, requiring determination, on an asset-by-asset basis, that a waiver was necessary on national-security grounds. Previous legislation had secured such relief for certain victims of terrorism, but failed to cover all such victims, and potentially left American taxpayers, rather than the state sponsors of terrorism, paying the bills for such judgments.

Speaking at the American Jewish Committee’s 2002 annual meeting, Sen. Arlen Specter (R., Pa.) indicated that, due to the unprecedented speed with which the USA-PATRIOT antiterrorism law was enacted, Congress would have to reexamine some of the bill’s provisions to address civil-liberties concerns, particularly as those impacted on immigration procedures. Both AJC and the ADL indicated support for Sen. Specter’s initiative and worked closely with his office to craft a new bill that maintained the law’s core provisions while ameliorating the problematic civil-liberties issues.

*Refugees and Immigration*

It was hardly surprising that the need for intensified scrutiny of immigrants following the events of September 11, 2001, brought a virtual freeze on admissions to the United States at the end of that year, and, in 2002, a dramatic drop in admissions as compared to prior years. As of the close of fiscal year 2002 on September 30, refugee admissions were at a record low, only some 27,000 admissions out of an authorized level of 70,000.

Several hundred Iranian Jewish refugees, caught by this slowdown, were stranded for months in Vienna, some living in squalid conditions. In their case, the delay was due to the FBI's post-9/11 enhanced security reviews of Middle Eastern nationals bound for the United States. These refugees—141 men traveling along with another 191 family members—awaited the FBI's "security advisory opinions," required for all males between the ages of 16 and 50 seeking to enter the United States from countries known to harbor or sponsor terrorists (the changes in procedure also affected Iranian Christians, Zoroastrians, and Bahais). The plight of the Iranian Jewish refugees was the subject of a White House meeting late in 2001, as representatives of the State Department, National Security Council, Domestic Policy Council, and refugee agencies sought to ameliorate what had become a vexing humanitarian problem. Jewish and immigrant groups urged the Department of State and the FBI to expedite the security examination of these individuals and of other refugees fleeing religious and ethnic persecution in their home countries. In early December, the Immigration and Naturalization Service (INS) announced it would send specially trained agents abroad to interview applicants for refugee status and to resolve asylum claims. This was hailed by the Hebrew Immigrant Aid Society (HIAS) as an important contribution to refugee processing, although Mark Hetfield, HIAS director of international operations, termed it "a silver lining in a very dark cloud," given the growing tendency to view refugees—and immigrants in general—within a security context, as reflected by the impending inclusion of the INS in the new Department of Homeland Security.

Another indication that immigration and border control had become identified with the security agenda was President Bush's signature, on May 14, to H.R.3525, the Enhanced Border Security and Visa Entry Reform Act of 2001. First introduced in the Senate in November 2001 by Sens. Edward Kennedy (D., Mass.), Sam Brownback (R., Kans.), Dianne Feinstein (D., Cal.), and Jon Kyl (R., Ariz.), and in the House that De-

ember by Rep. James Sensenbrenner (R., Wis.), chair of the House Judiciary Committee, the act required the attorney general to monitor electronically foreign visitors and students in the U.S. The measure built, as well, on immigration provisions in the USA-PATRIOT law of October 2001 by requiring tighter monitoring of foreign students and the use of tamper-resistant travel documents with biometric identifiers, such as retina scans and fingerprints. The bill also authorized another 200 inspectors for the INS immediately and 200 more annually through fiscal year 2006. Since, unlike the controversial USA-PATRIOT Act, pro-immigration groups viewed this proposal as a consensus measure, it was endorsed not only by Jewish groups, but also by the National Immigration Forum, an immigration-advocacy umbrella organization to which the American Jewish Committee, Anti-Defamation League, and HIAS, among other Jewish groups, belong.

With passage of the Homeland Security Act soon after the November election, the INS was slated to go out of existence in 2003. Long criticized as bloated and inefficient, it was to be replaced by two separate immigration agencies within the new Department of Homeland Security. One, the Bureau of Border Security (BBS), was to handle enforcement of the immigration laws, including border patrol, detention and removal, intelligence, investigations, inspections, and the establishment and administration of rules governing the granting of visas. The other, the Bureau of Citizenship and Immigration Services (BCIS), would assist immigrants in their transition to life in the U.S., and would have jurisdiction over immigrant visas, naturalization, asylum and refugee applications, service-center functions, and all other adjudication previously performed by the INS. Within the BCIS, an Office of Citizenship was to promote instruction and training on citizenship.

The legislation included a “sense of Congress” provision asserting that the missions of the BCIS and BBS were equally important and merited adequate funding, and that functions transferred from the old INS should not operate at levels below those in effect prior to the creation of the Department of Homeland Security. Another “sense of Congress” provision called for improving the quality and efficiency of immigration services. The law ordered, as well, a pilot initiative to eliminate backlog of immigration applications, and called for the appointment of an ombudsman to report on the impact of the new procedures on the government’s processing of immigration.

Earlier in the year, pro-immigration groups expressed several concerns about placing the functions of the old INS in the new department. First,



the move suggested that immigrants were a security threat. Second, creation of the new department would undermine efforts already underway to reform the INS so as to place equal emphasis on its two components, enforcement and services. And third, subsuming the Bureau of Citizenship and Immigration Services in a massive terrorism-fighting department would further hamper the effective delivery of immigrant services. Thus some pro-immigrant organizations had pushed for immigration services to remain under the jurisdiction of the Department of Justice even after the enforcement functions were transferred to the Department of Homeland Security. Others had hoped that if both enforcement and immigration functions were transferred to the new department, they would be coordinated by one "immigration czar," and expressed disappointment at the legislation's failure to provide for such a high-level official. These groups also criticized H.R.5710's failure to create the position of inspector general for civil rights, a high-level, Senate-confirmed post, with investigative authority over constitutional and related violations within the new Department of Homeland Security.

On February 13, 2002, the Senate passed S.1731, a comprehensive farm bill sponsored by Sen. Harkin, chairman of the Senate Agriculture, Nutrition and Forestry Committee, that included an amendment offered by Sens. Richard Durbin (D., Ill.) and Richard Lugar (R., Ind.) restoring food-stamp eligibility to many legal immigrants, including children and those who had resided in the U.S. for at least five years—a benefit eliminated in 1996. Earlier, the Bush administration had announced its support for this restoration of benefits, and the House-Senate conference committee ultimately incorporated the amendment into the final version of the farm bill. The president signed it into law on May 13.

### *Foreign Aid and U.S.-Israel Relations*

Since the onset of the Palestinian war of terror against Israel toward the end of 2000, Israel had faced a sizeable increase in security spending; in 2001 alone, its security budget rose by almost \$800 million. To assist Israel through this trying time, the White House's Office of Management and Budget (OMB) suggested additional aid to Israel in the amount of \$200 million, as part of a proposed overall increase in foreign aid commensurate with heightened demands on America's global leadership. But after pressure from the State Department, the administration omitted the money for Israel from the \$27-billion supplemental package it sent to Congress in January 2002.

Nevertheless, on May 24, by a vote of 280-138, the House passed a

\$29.4-billion supplemental measure that included the additional \$200 million for Israel. On June 7, the Senate passed its \$31.5-billion supplemental package by a vote of 71-22, and it also included the additional aid to Israel. House and Senate conferees reached agreement on July 18 to trim the supplemental measure to \$28.9 billion so as to avoid a likely presidential veto, but they retained the additional aid to the Jewish state. On July 23, the House adopted the conference report by 397-32, and the Senate cleared it the next day, 92-7. President Bush signed the measure into law on August 2. However, the language of the bill did not make the aid to Israel automatic; it was dependent on the president sending a special determination of "emergency need" within 30 days, and only then would the funds be released. Pro-Israel groups urged that such a determination be made, but it was not forthcoming.

In the meantime, work continued on legislation for foreign-operations appropriations for fiscal year 2003. The House bill, H.R.5410, reported out of that body's appropriations committee on September 17, 2002, provided for the \$600 million in economic support and \$2.1 billion in military aid requested by the president in his budget submission earlier in the year, and included as well the \$200 million in supplemental aid. The Senate appropriations bill reported out of that body's appropriations committee (S.2779) followed suit. Committee reports for both bills emphasized that the level of assistance for Israel—and for Egypt as well—was based in great measure upon their continued adherence to the Camp David Accords and the Egyptian-Israeli peace process. The reports also urged other Arab League members to end their boycott of Israel and normalize relations with it.

The House bill, but not the Senate's, conditioned U.S. support for Palestinian statehood on Palestinian adherence to the conditions laid out by President Bush in his speech of June 24, 2002, which had become the basis of U.S. policy in the region. They included the requirements that Palestinians elect a new leadership committed to peaceful coexistence with Israel, dismantle the terrorist infrastructure, and join in the creation of a new, cooperative security entity (for the full text of the speech, see below, pp. 212–16). The House version included provision for a presidential waiver to afford flexibility in case of extraordinary or unpredictable circumstances. The American Israel Public Affairs Committee (AIPAC), as well as a number of other pro-Israel organizations, supported this language as simply codifying President Bush's June 24 speech into law.

The language echoing the president's June 24 speech was widely seen as a successor to S.2194, the Arafat Accountability Act, introduced in the

spring by Sens. Dianne Feinstein (D., Cal.) and Mitch McConnell (R., Ky.) in the Senate, and the parallel measure, H.R.4693, introduced by Rep. Roy Blunt (R., Mo.) in the House. This initiative was designed to hold Palestinian leadership accountable for its failure to comply with the Oslo Accords and deter terrorism. It incorporated most of the sanction provisions directed against the Palestine Liberation Organization (PLO) and the Palestine Authority (PA) contained in the Middle East Peace Commitments Act (MEPCA), introduced in 2001 in both chambers. In addition, it sought to impose sanctions directly on Arafat himself, deny visas to PA and PLO officials, and “symbolically” lower the status of the Palestinian leadership’s Washington office. Finally, the bill would have frozen all PA and PLO assets, as well as Arafat’s assets, in the U.S.

Even with an extraordinary lame-duck session, neither the House nor the Senate acted on its foreign appropriations bill, or, indeed, on most other outstanding appropriations bills, even though fiscal year 2003 had already begun on October 1. Spending levels for operations covered by the pending appropriations bills were maintained past the commencement of the new fiscal year at 2002 levels by continuing resolution, an action that left open the question of when the contemplated supplemental funds for Israel would be forthcoming.

Also left unresolved was the disposition of a request made by Dov Weisglass, Israeli prime minister Sharon’s bureau chief, of National Security Adviser Condoleezza Rice at a meeting on November 11 for at least \$10 billion in loan guarantees, cash, additional military assistance, and a larger proportion of military aid that could be spent inside Israel. The timing of this new request created a complication, coming as it did just prior to the Likud Party’s primary elections, which would be followed by Israeli national elections in February 2003. The White House was reportedly wary of appearing to interfere in Israel’s internal politics.

## ANTI-SEMITISM AND DOMESTIC TERRORISM

### *Terrorism and the American Jewish Community*

On Friday, June 21, as many Jewish organizations prepared to close early for the oncoming Sabbath and synagogues made ready to receive worshipers, the FBI issued a warning to Jewish institutions, based on intelligence information that Al Qaeda operatives had discussed the possibility of attacking them with bomb-laden gasoline trucks. As news of the

warning spread throughout the country, the national Jewish agencies cautioned against overreaction even as they called for heightened wariness, noting that the FBI alert did not refer to specific targets or dates, and was uncorroborated. Nevertheless, concern was much in evidence, particularly after the following Sunday, when Al Qaeda announced that it took credit for the fatal April 11 truck bombing of a synagogue on the Tunisian island of Djerba. Jewish communal and religious organizations proceeded to adopt new security procedures and improved their lines of communication with law-enforcement authorities.

Within days of the FBI's warning, that agency and the Jewish community confronted an incident that seemed to place them on opposite sides over how to define an act of terrorism. On July 4, Hesham Mohamed Hadayet, an Egyptian-born resident of Irvine, California, went on a shooting spree at the El Al counter at Los Angeles International Airport, killing Yaakov Aminov, an Israeli-born American, and Victoria Hen, an El Al ticket agent. Hadayet's murderous rampage was stopped when El Al security guards tackled him; unable to subdue him, they shot him to death.

Israeli officials were quick to pronounce the event a terrorist attack, pointing to the fact that "the gunman skipped dozens of other foreign airline counters to target El Al." American Jewish organizations agreed, and noted that the definition of "terror" in the FBI guidelines was "unlawful use of force and violence" in furtherance of "social or political objectives." Their perspective seemed reinforced by news reports emerging soon after the attack that Hadayet had previously expressed virulently anti-Israel opinions, and by the FBI's acknowledgement the day after the attack that Hadayet evidently had gone to the airport intending to kill people. At least initially, however, FBI agents and local law-enforcement officials saw the crime as "an isolated incident," though they would not "rule out" that the attack might be a "hate crime" or even "terrorism."

As days became weeks and the FBI still declined to term the attack a terrorist act, Rabbi Avi Weiss, head of Amcha—The Coalition for Jewish Concerns, threatened to sue the FBI for its alleged failure to adhere to its own guidelines for determining what was a terrorist event. While the mainstream Jewish organizations distanced themselves from the idea of a lawsuit, they spoke of a troubling failure by authorities to confront the obvious, with important implications for the resources to be made available to the investigation. Among others, Daniel Pipes, director of the Middle East Forum, compared the FBI's hesitancy to term the attack an instance of terror to previous cases, such the 1994 Brooklyn Bridge attack on a van carrying Hassidic youngsters that resulted in the death of

one boy. The FBI initially classified that incident as “road rage,” only to reverse itself in 2000 and recognize it as terrorism.

In August, responding to a letter from Rep. Eliot Engel (D., N.Y.) expressing concern that the FBI had not called the El Al attack terrorism, an FBI spokesman indicated that “terrorism has certainly not been ruled out in this case, and we do not intend this interim period of information gathering to imply that it has been. It is, in fact, being investigated as such.” In an interview with the Jewish Telegraphic Agency, Engel termed the FBI’s new account of its investigation a “flip-flop.”

### *Unfinished Business*

On January 7, a federal court of appeals overturned the convictions of Lemrick Nelson, Jr., and Charles Price for civil-rights violations in connection with the killing of Yankel Rosenbaum, a Hassidic Jew, during the 1991 riots in Crown Heights, Brooklyn. The court found that the defendants had not received a fair trial because the trial judge had manipulated the jury selection process in an effort to create a racially and religiously balanced jury. The appellate court rejected, however, a challenge to the constitutionality of the federal hate-crimes law under which Nelson and Price had been charged. A new trial was ordered.

Also in January, Irv Rubin, chairman of the Jewish Defense League, and Earl Krugel, a JDL member, were indicted in federal court and then arraigned. They had been arrested in December 2001 for conspiring to blow up the King Fahd Mosque in Los Angeles and the offices of an Arab American congressman, Darrell Issa (R., Cal.), in Orange County. A list of targets prepared by the alleged plotters originally included the offices of the Muslim Public Affairs Council in Los Angeles as well, but that site had been removed. The JDL, founded by the late Rabbi Meir Kahane in 1968, had a reputation for using violence and intimidation as a means of responding to anti-Semitism, although the organization had been inactive in recent years. Rubin’s lawyer denied the charges, terming the arrests an “overreaction” triggered by the events of September 11. Rubin never came to trial: he died in November in a Los Angeles jail, an apparent suicide.

### *Assessing Anti-Semitism*

On January 24, the American Jewish Committee released a study of the attitudes of Americans toward a wide variety of religious, racial, and ethnic groups. Conducted by Tom Smith, director of the General Social Survey at the University of Chicago’s National Opinion Research Cen-

ter (NORC), it showed that Jews were held in very high esteem by other Americans for being intelligent, hardworking, and strongly committed to their families. In fact, Jews were perceived in more positive terms than whites in general.

More good news for Jews followed in April, when the Anti-Defamation League's annual audit of anti-Semitism came out. It indicated that 1,432 anti-Semitic incidents had been reported in the U.S. during 2001, an 11-percent decline from the previous year. According to these figures, substantial drops in the number of incidents had occurred in both New York and California. Acts of anti-Semitic vandalism nationwide were down from 729 in 2000 to 555 in 2001, the lowest number reported in two decades. All of this stood in marked contrast to the sharp increase in attacks on Jews and Jewish institutions elsewhere in the world, and what the ADL report described as the "mainstreaming" of global anti-Semitism, including acceptance of outlandish theories of Jewish and Israeli conspiracies (see below, in the various articles about other countries). Reflecting on the contrast between the U.S. and Europe, ADL national director Abraham Foxman said: "There's always been a difference between the U.S. and the rest of the world. Political anti-Semitism has been a part of European tradition for hundreds of years."

Yet the ADL's hopeful portrayal of the U.S. had to be modified in June, when that organization released the results of a survey demonstrating an increase in anti-Semitic attitudes, if not incidents. Based on interviews conducted in late April and early May 2002, soon after Israel's incursion into the Jenin refugee camp (see below, p. 201), the survey found a jump in the number of people agreeing with such statements as "Jews have too much power in the U.S. today" and "Jews have too much power in the business world." Even though those endorsing these statements remained a minority (20 percent of respondents agreed with the former statement and 24 percent with the latter), these still amounted to increases of some 3–4 percent. Moreover, the survey concluded that 17 percent of respondents had agreed with enough anti-Semitic statements to be classified as "strongly" anti-Semitic, an increase of 5 percent from 1998. The ADL report also noted an 11-percent rise in the number of anti-Semitic incidents for May 2002 as compared to May 2001.

### *Hate-Crimes Legislation*

Introduced in 2001 by Sens. Edward Kennedy (D., Mass.) and Gordon Smith (R., Oreg.), and by Reps. Connie Morella (R., Md.) and John Conyers (D., Mich.), the Local Law Enforcement Enhancement Act

(LLEEA) extended the category of federal hate crimes beyond the existing criteria of crimes committed on the basis of race, color, religion and national origin to encompass also those motivated by sexual orientation, disabilities, and gender. The measure required that strict certification requirements be met before federal jurisdiction could be invoked, so that federal hate-crime jurisdiction would not intrude on local law enforcement, and provided federal grants for personnel, investigation, and prosecution of hate crimes at the local level.

The Senate began floor debate on the measure immediately after the 2002 Memorial Day break. On June 11, a cloture motion vote came up aimed at limiting debate, part of a Democratic effort to stave off anticipated Republican amendments that would have killed the bill. But Majority Leader Tom Daschle (D., S.D.) pulled the bill from the floor after the Senate voted 54-43 on cloture, failing to reach the 60 votes needed to wrap up debate and move the bill to a final vote. An effort by Rep. Conyers to move the bill forward in the House by filing a motion to discharge from the Rules Committee for consideration also fell short, as the discharge petition garnered only 178 of the requisite 218 signatures for further action. While other strategies were considered for moving the measure through the Senate, including attaching it to the defense-authorization bill, Congress adjourned with no further movement, even though the bill had 50 cosponsors in the Senate and 208 in the House. With continued stiff opposition expected from the House leadership in the new 108th Congress and an uphill battle awaiting in a Senate about to come under Republican control, supporters of hate-crimes legislation were left with a daunting scenario for 2003.

### *Campus Battles*

In a form of trench warfare that often placed the youngest adults in the Jewish community on the front lines, 2002 saw a variety of efforts on America's college campuses to place the policies of the State of Israel beyond the pale. Sometimes these efforts crossed the line from criticism of the Israeli government to denial of Israel's right to exist, and even to outright anti-Semitism.

Divestment campaigns at various universities calling on the school administrations to terminate all financial investments in Israel—modeled on the divestment measures directed at apartheid-era South Africa—received much coverage, at least in the Anglo-Jewish press, when classes resumed in the fall, but little traction. Although a divestment petition at

Harvard University garnered several hundred signatures, a counterpetition terming the divestment effort “a one-sided attempt to delegitimize Israel” was signed by nearly 6,000 Harvard faculty, students, and alumni. The Harvard campaign also received a sharp rebuff from university president Lawrence Summers who, in a speech in September 2002, characterized the effort as anti-Semitic in result if not intent, and linked it to an international movement in which “profoundly anti-Israel views are increasingly finding support in progressive intellectual communities.” Petition supporters at Harvard, however, responded that the divestment campaign was a legitimate tool against Israeli policies.

Although they did not express themselves as sharply as Summers, the presidents of Columbia University and Barnard College also opposed a faculty-sponsored divestment petition at their schools spearheaded by, among others, Columbia professor Edward Said. In a written statement also issued in September, Columbia president Lee Bollinger said: “The petition alleges human rights abuses and compares Israel to South Africa at the time of apartheid, an analogy I believe is both grotesque and offensive.” Barnard president Judith Shapiro issued a statement “to make clear her opposition to a divestment demand that singles out one country in an unsupportable way. The approach taken by the divestment petition does not begin to do justice to the historical complexity of the current crisis.”

In a related development in October, a consortium of pro-Palestinian organizations gathered for the Second National Student Conference on the Palestinian Solidarity Movement. Held on the campus of the University of Michigan at Ann Arbor, the event had the avowed purpose of condemning “the racism and discrimination inherent in Zionism” and demanding an end to American support for and investment in Israel, premised, again, on the allegation that Israeli policies were based in “apartheid and discrimination.” The inclusion of Sami Al-Arian as a panelist drew particular attention, since the former University of Florida professor had been fired earlier in the year after being linked to the terrorist Islamic Jihad organization. In the end, the conference refused to condemn Palestinian terrorism because “it is not our place to dictate the strategies or tactics adopted by the Palestinian people in their struggle for liberation.” Asked *Detroit News* editorial-page editor Nolan Finley, “How would the university react had the Klan or some other extremist group spouting racist, sexist or homophobic hate speech asked for a platform on campus? And when did anti-Semitism lose its seat on the bus of political correctness?”



In September, arguing that many putative Middle East scholars were utilizing American university resources to promote “disinformation, incitement and ignorance” about the Israeli-Palestinian conflict, Daniel Pipes, director of the Middle East Forum, announced the creation of Campus Watch. This was a national project to monitor and publicize unbalanced and ahistorical teaching about that conflict at institutions of higher education, often under the imprimatur of university departments of Middle East studies. Palestinian sympathizers immediately condemned the endeavor as a form of “McCarthyism” for ostensibly smearing and blacklisting those with “unacceptable” views. The American-Arab Anti-Discrimination Committee asserted: “The organizational campaign to silence academic criticism of Israel is incompatible with the cherished American values of free speech and inquiry.” Defenders of Campus Watch responded that it was Middle East studies departments that had routinely blacklisted pro-Israel scholars.

### *Confronting International Anti-Semitism: The Case of Egypt*

Americans in general, and the U.S. Congress in particular, were rare allies of the Jewish community in responding to the alarming resurgence of global anti-Semitism that continued through 2002. Egypt, the cultural capital of the Arab world and a Middle East peace partner, was among the worst offenders. Beginning on November 6, the first night of the Muslim holy month of Ramadan, Egyptian television began showing the virulently anti-Semitic “Horseman Without a Horse.” This 41-episode series was based on the insidious *Protocols of the Elders of Zion*, a fictitious conspiracy theory devised in Czarist Russia to scapegoat Jews for a variety of social problems and indoctrinate anti-Semitism.

Egypt’s Ministry of Information reviewed the scripts of all television shows and had the final say on what could and could not ultimately hit the airwaves. Despite numerous requests to cancel the series, including one from the U.S. embassy in Cairo, the Media and Culture Committee of Egypt’s parliament refused to call for the elimination of this so-called “comedy.” To protest the anti-Semitic series, Rep. Henry Waxman (D., Cal.) circulated a “Dear Colleague” letter to the entire House of Representatives for signatures. Cosponsored by Rep. Ben Gilman (R., N.Y.), the letter called on Egyptian president Hosni Mubarak to cancel the broadcast. Although many representatives said they agreed with the letter, some were unable to sign it by the tight deadline, set in order to deliver the letter before the series premier, because they were on the road

for last-minute campaigning before the elections. As a result, the letter to Mubarak had a respectable but hardly overwhelming 46 signatures.

Then, on November 4, 130 people gathered in front of the Egyptian embassy in Washington to protest the series. This rally featured a broad spectrum of speakers and demonstrators, including Rabbi Stuart Weinblatt of Congregation B'nai Tzedek, Dr. Paul Marshall of the Center for Religious Freedom, Reverend Roy Howard of St. Mark Presbyterian Church, and Ambassador Alfred H. Moses, who had served as ambassador to Romania and president of the American Jewish Committee, and a statement of support from the Lawyers Committee for Human Rights. Speakers expressed grave concern about the hate and violence that the television series might incite, as well as their hopes for peace and tolerance in the Middle East and throughout the world. The demonstrators concluded with a song for peace.

On November 15, 2002, Sen. Bill Nelson (D., Fla.) introduced S.Con.Res.158, a concurrent resolution urging the government of Egypt and other Arab regimes not to allow their government-controlled television stations to broadcast any program that lent legitimacy to the *Protocols of the Elders of Zion*. The measure, which had ten cosponsors, passed the Senate (as S.Res.366) by unanimous consent on November 20. "The broadcast of this series," stated the resolution, "takes place in the context of a sustained pattern of vitriolic anti-Semitic commentary and depictions in the Egyptian government-sponsored press, which has gone unanswered by the government of Egypt. The use of such heinous propaganda, especially in the Arab world, serves to incite popular sentiment against the Jewish people and the State of Israel rather than promoting religious tolerance and preparing Arab populations for the prospect of peace with Israel." On November 22, Rep. Steven Israel (D., N.Y.) introduced a parallel resolution in the House, H.Con.Res.521, which was referred to the International Relations Committee, but no further action was taken on it.

### *The Murder of Daniel Pearl*

On January 23, 2002, *Wall Street Journal* reporter Daniel Pearl, in Pakistan researching a story on Islamic extremists, was kidnapped and killed by some of those very people. They videotaping the act of slitting his throat, preceded by his "confession" that his parents were Jews and that he was a Jew. When the videotape was released toward the end of February, the press quoted Pearl's abductors as saying that he had been

kidnapped and killed because he was “anti-Islam and a Jew.” Leaders from around the world quickly condemned the killing.

It remained unclear, however, whether Pearl had been hunted down specifically because he was Jewish, or whether he was picked up because he was a Western journalist, and the Jewish angle was coincidental. Tim Weiner, a *New York Times* reporter and a friend of Pearl’s, told the Jewish Telegraphic Agency that he did not believe that Pearl had been singled out for his religion. The crime, Weiner felt, was “primarily an act of hatred against the United States and the West,” but the killers “found it useful for their own twisted propaganda purposes to make an issue or try and make headlines out of his religion.” Rabbi Marvin Hier, dean of the Simon Wiesenthal Center in California, disagreed, suggesting that Pearl had been targeted as “an American and a Jew.” Whatever the original motivation for the act, Yehudit Barsky, director of the American Jewish Committee’s division on international terrorism, termed the killing “a red alert for Jews” since “Islamic radicalism has now proclaimed very, very publicly that their goal is to kill Jews. All Jews and all Americans are now targets.”

It was subsequently learned that during the period between Pearl’s kidnapping and the time his murder became known—when the fate of Daniel Pearl was a worldwide story—international media were prevailed upon not to report details about Pearl’s religious background, in particular that his parents had dual American-Israeli citizenship.

## INTERGROUP RELATIONS

### *Black-Jewish Relations*

Out-of-state pro-Israel groups and individuals afforded strong support to candidates Denise Majette and Artur Davis in their primary challenges to, respectively, Reps. Cynthia McKinney (D., Ga.) and Earl Hilliard (D., Ala.), both of whom friends of Israel viewed as hostile to the Jewish state (see above, p. 75). But this support brought out, in turn, countervailing efforts on behalf of the incumbents from out-of-state Muslims and Arabs, and other sympathizers with the Palestinian cause. This was particularly true in the case of McKinney, after Davis defeated Hilliard 56 to 44 percent in a June 25 primary.

Throughout the two campaigns, the incumbents and their supporters were not shy in suggesting that there was something untoward about pro-Israel groups backing their opponents, and, after the results came, in

blaming Jewish money for their defeat. But others noted that there were clearly issues other than Israel that motivated voters in districts whose population included relatively few Jews. Thus the campaign against Hilliard was marked by a combination of long-simmering charges that he had been an ineffective congressman, a House Ethics Committee reprimand the previous year for mishandling campaign funds, and controversial positions he had taken on a range of issues unrelated to the Israel-Arab conflict, such as Libya and Cuba.

The campaign against McKinney, in a district with more Jewish constituents than Hilliard's, did invoke her long record of what were construed as anti-Israel remarks and votes—culminating in her May 2002 “no” vote, one of only 21 in the House, on a resolution expressing solidarity with Israel and condemnation of Palestinian terrorism. And yet that vote rankled not only pro-Israel activists, but also constituents sensitive, in the wake of September 11, to any softness on terrorism. Other actions raising similar concerns were McKinney's letter to a Saudi prince in October 2001 offering—ostensibly on behalf of the state of Georgia—to accept a \$10-million-dollar check for disaster relief that Rudy Giuliani, then mayor of New York, had rejected when it came to light that the prince was drawing a connection between the September 11 attacks and American support for Israel, and, more recently, McKinney's accusation that the Bush administration had knowingly failed to prevent the attacks. Just a week before her August 21 primary, a number of contributors to the McKinney campaign were named as defendants in a \$1-trillion lawsuit brought by victims of September 11. In the end, McKinney went down to defeat, Majette prevailing by some 18,000 votes.

During and after these races, concern was voiced about the implications for black-Jewish relations. Rep. Maxine Waters (D., Cal.), for example, charged that the campaign against Hilliard had singled out a member of the Congressional Black Caucus (even though challenger Davis was also an African American). “No one special interest group should be able to take us out,” Waters said. Other leaders of the caucus were quick to disclaim any long-lasting impact of these primaries on black-Jewish relations, a theme that was picked up by Jewish members of Congress and community leaders.

### *Latino-Jewish Relations*

It had become almost a commonplace in the Jewish community over the last several years that the rapid growth of America's Latino population—now the largest minority in the U.S.—and that community's con-

comitant growing political influence, made strengthening Latino-Jewish relationships a priority for American Jewry. 2002 saw some important movement in that direction.

Groundwork was laid for bringing into existence, in 2003, a Latino-Jewish Leadership Council, an umbrella organization of national Jewish and Latino groups. The concept had been agreed upon at the Latino-Jewish Summit convened by B'nai B'rith International in March 2001. The council was expected to include B'nai B'rith, the Anti-Defamation League, and the American Jewish Committee, along with the National Council of La Raza, LULAC, and the Congressional Hispanic Caucus Institute, along with several other groups on both the Latino and Jewish sides. It would focus on dialogue and the formulation, where feasible, of joint policy initiatives in the areas of education, economic development and philanthropy, foreign affairs and immigration, and media issues.

Also in 2002, the Foundation on Ethnic Understanding announced plans to focus more on Latino-Jewish relations, as well as to open an office in Washington, D.C., that would work with members of both the Congressional Black Caucus and the Congressional Hispanic Caucus.

### *Catholic-Jewish Relations*

In line with the prevalent trend in Catholic thinking, the U.S. Catholic Bishops' Committee for Ecumenical and Interreligious Affairs issued a statement in August denying the need to convert Jews since they "already dwell in a saving covenant with God." Strongly disagreeing was the well-known Catholic commentator William F. Buckley, who, in his syndicated column (Sept. 18), quoted the New Testament to show that all people, Jews emphatically included, could attain salvation only through Jesus. Jews active in Christian-Jewish relations expressed dismay at Buckley's words. Rabbi A. James Rudin, for example, senior interreligious affairs advisor for the American Jewish Committee, charged that "Buckley is still committed to the spiritual annihilation of Jews and Judaism."

Another Catholic intellectual, Father Richard John Neuhaus, editor of the influential conservative journal *First Things*, also ruffled Jewish feathers when, in the August-September issue of his magazine, he expressed annoyance that "so many Jews and Jewish publications" were "preoccupied" with "the fringe phenomenon of Holocaust denial, and with emphatically non-trivial pursuits such as attacks on Pius XII and the Catholic Church, and on serious Jewish-Christian theological dialogue." Neuhaus mentioned *Commentary* magazine—the well-known conserva-

tive monthly published by the American Jewish Committee—as particularly at fault. *Commentary* editor Neal Kozodoy commented that he was “a longtime admirer of Father Neuhaus and his work” and was “especially loath to be drawn into an exchange of this sort” (*Forward*, Oct. 11).

Resolving one of sore points in Jewish-Catholic relations to which Neuhaus alluded—the role of the papacy during the Holocaust—had come increasingly to center around opening the relevant Vatican archives. The continuing impasse over scholarly access to the Holocaust-era archives saw some progress early in 2002, albeit not enough to satisfy Jewish groups. In mid-February, the Vatican announced that, in the interest of bringing an end to “unjust and thankless speculation” about the wartime role of Pope Pius XII, it would make available to scholars during the coming year selected archives from the period 1922–39, when the future pontiff served as the papal representative in Germany and as Vatican secretary of state. Documents relating to Vatican-German relations during Pius XII’s papacy were to follow in approximately three years. Seymour Reich, chair of the International Jewish Committee for Interreligious Consultations (IJCIC), welcomed the announcement as “an important development.” Cautioning that the Vatican statement left unclear whether some documents might be held back, he urged that “all documents be released and made available to scholars.” By year’s end, the Vatican indicated that the promised first release of documents would take place in February 2003.

### *Evangelical Christian-Jewish Relations*

On October 11, the surge of evangelical Christian support for Israel in its time of trouble was strongly evident when thousands of participants in a Christian Coalition conference in Washington, D.C., held a rally to “tell the world that Christians stand firmly behind the Jewish state and are unalterably opposed to trading land for a paper peace.” The Anti-Defamation League, which had run an ad in May in the *New York Times* and other outlets reprinting a letter of support for Israel from former Christian Coalition head Ralph Reed, expressed appreciation for the rally, even as ADL national director Abraham Foxman noted that there was no alliance of the two Jewish communities, but a “relationship based on this one, specific issue.”

The meaning of even this one-issue relationship and whether or not it was “good for the Jews” showed every sign of snowballing into yet another tumultuous issue within the American Jewish community. Some

agreed with Foxman, and were bolstered in this position by Israeli prime minister Ariel Sharon and other Israeli officials, who were quick to term evangelical Christians “friends” and to suggest that Jews had sufficient “self-confidence in their own identity not to fear or be intimidated by Christian groups that are supportive of Israel.” Others were less sanguine, as exemplified by a new advocacy group, Jewish Women Watching, which sent out a mailing with a condom enclosed, warning Jewish leaders not to get “in bed” with conservative Christians. The group feared that Jewish voters might be swayed to back the domestic agenda of the Christian Coalition and similar organizations in exchange for their support of Israel. There were also voices in the Jewish community warning that the evangelical agenda still included conversion efforts directed at Jews, as well as a theological perspective that required Jews to be gathered in the Holy Land at the end of days for a final, apocalyptic scenario.

In advance of the October 11 rally, a Christian Coalition spokesman denied the notion of a quid pro quo. Rabbi Yechiel Eckstein, president of the International Fellowship of Christians and Jews, an organization dedicated to furthering Jewish-evangelical relations, noted a marked shift in Jewish attitudes toward evangelicals in just the last several months. He suggested that “the Jewish community is starting to get it. Our friends are these Christians.” Days before the rally, his organization issued a poll of evangelical Christians indicating that more than half of them supported Israel because it was a democracy and a U.S. ally in the battle against terrorism, not out of theological motivations. The poll did indicate, however, that some 35 percent of evangelical Christians supported Israel for theological reasons.

Whether or not hopes for conversion were at the root of evangelical support for Israel, commitment to proselytization remained at the core of that Christian community’s mission. Thus, following a statement in August by U.S. Catholic bishops that they would no longer target Jews for conversion (see p. 98), the World Evangelical Association reaffirmed the legitimacy of such efforts, adding that no person “can enjoy God’s favor apart from the mediation of Jesus Christ.” At the same time, the statement condemned anti-Semitism and acknowledged the historic role of the Christian churches in fomenting it.

In February 2002, the National Archives released a 30-year-old tape of a conversation between the Rev. Billy Graham, the legendary evangelical preacher, and Richard Nixon, president at that time, in which Graham spoke of the need to do something about alleged Jewish domination of the American media. Graham, now 83 years old, quickly issued

an apology, saying on March 1: "Although I have no memory of the occasion, I deeply regret comments I apparently made in an Oval Office conversation with President Nixon." Rabbi Arnold Resnicoff, interreligious-affairs director for the American Jewish Committee, accepted the apology, noting that Graham's "words and actions since have shown him to be a friend and someone who is working for good across religious lines." But ADL national director Abraham Foxman pronounced the apology "mealy-mouthed," noting that the 1972 remarks reflected a "classic anti-Semitic canard" of Jewish control over the media.

### *Muslim-Jewish Relations*

Relations between the American Jewish community and its Arab and Muslim counterparts remained tenuous, even bitter, as national Jewish organizations refused to work with certain Muslim and Arab groups that they viewed as apologists for terrorism even on matters of common interest. For example, spokespersons for both the Anti-Defamation League's Midwest office and the Council on American Islamic Relations (CAIR) protested when the Cook County sheriff's office in Chicago barred a Muslim woman and a Jewish man from wearing head coverings at work. Yet the ADL refused to collaborate with CAIR on this issue, maintaining that the latter condoned terrorism. CAIR, in turn, denied the charge and called on the ADL to join it in denouncing all terrorism, including "Israeli terrorism." (The sheriff's office eventually agreed to allow the employees in question to wear their respective head coverings while on duty.)

The contention that certain Muslim leaders supported terrorism also came up early in the year when Jewish groups protested a State Department invitation to Salam Al-Marayati, executive director of the Los Angeles-based Muslim Public Affairs Council, to participate in a session of the department's ongoing Open Forum lecture series. Soon after September 11, 2001, Al-Marayati gained notoriety for suggesting that Israel should be a suspect for the day's events because the attacks served to divert attention from its "apartheid activities" (see AJYB 2002, p. 181). The session went ahead as scheduled, and one of Al-Marayati's most outspoken Jewish critics, Morton Klein, president of the Zionist Organization of America, was invited to speak at a later session.

Jewish-Muslim contacts did not cease entirely. For one thing, there remained some national Muslim organizations with which the Jewish groups maintained relations, and for another, some of the national Jew-



ish bodies—the Religious Action Center of Reform Judaism was one—continued to cooperate with some of the Muslim groups that other Jewish organizations shunned. By and large, however, instances of contact were more likely to be found on the local level. In February, for example, members of Valley Beth Shalom, a Los Angeles-area Conservative synagogue, visited the neighboring King Fahd Mosque for services marking the beginning of the three-day Eid al-Adha festival commemorating Abraham’s willingness to sacrifice his son on God’s command. Rabbi Harold Schulweis termed the visit “a celebration of the common humanity underlying different theologies.”

## CHURCH AND STATE

### *Charitable Choice*

“Charitable choice,” an approach to government funding of social services that seeks to expand funding for, and loosen restrictions on, the social-service work of faith-based institutions, remained a priority of the Bush administration and of the Republican leadership in Congress.

The courts continued to wrestle with the constitutional questions posed by charitable choice, mostly in the context of state, not federal, funding of faith-based social-service providers. On January 8, a federal district court held that Wisconsin’s “unrestricted, direct” funding of an initiative called Faith Works was unconstitutional because Christianity was such an integral part of the substance-abuse and job-training program. Notably, the program’s employee handbook stated: “The addict learns that he has a deep ‘soul sickness,’ and it is only by connecting to God through profession, confession, prayer, and involvement in a worshiping community that he has any hope of sustaining a life in recovery.” During his presidential campaign, George W. Bush had cited Faith Works as the type of program that his faith-based initiative was intended to support. But the “as applied” nature of the court’s ruling (that is, the court struck down only the funding of the particular agency, not the underlying state program) meant that the decision had only limited implication for the federal faith-based concept. Thus, Nathan Diament, director of the Institute for Public Affairs of the Union of Orthodox Jewish Congregations of American (Orthodox Union, or OU), a supporter of “charitable choice,” noted that the court ruling underlined the need “to very carefully structure legislation.”

On the national legislative front, Democratic control of the Senate ensured that a full-blown charitable choice bill would have no chance of passage. Sen. Rick Santorum (R., Pa.) joined with Sen. Joseph Lieberman (D., Conn.) to finalize and introduce the Charity Aid, Recovery, and Empowerment (CARE) Act of 2002, a “compromise” bill intended to implement those aspects of the president’s faith-based initiative deemed uncontroversial. Thus the bill omitted provisions found in H.R.7, approved by the House in 2001 and found in earlier “charitable choice” initiatives passed by Congress, that had allowed government funds to flow to pervasively religious organizations such as houses of worship, and had explicitly extended the right of certain religious organizations to make employment decisions on the basis of religion to cover people such organizations hired to provide the government-funded services (see AJYB 2002, pp. 184–85).

Recognizing that H.R.7 was not going to make it through the Senate, President Bush threw his support behind the CARE bill. It included provisions, widely supported in the Jewish community, for tax incentives for charitable donations and substantial increases in social-service funding. Nevertheless, provisions of CARE’s Title III, intended to assure “equal treatment” of religious organizations, continued to raise church-state concerns among “separationist” Jewish groups and their coalition partners, concerns that became more vocal in the course of the year.

For months, the CARE bill was stalled in the Senate Finance Committee since it was unclear from where its funding would come. On June 18 the committee finally reported CARE favorably, but, for jurisdictional reasons, it only weighed in on CARE’s tax provisions, leaving consideration of Title III for the Senate floor. Majority Leader Daschle promised to bring the CARE bill up for a vote in a form that included Title III after Congress returned from its August recess. In a boon for the bill, United Jewish Communities (UJC), the umbrella body of the local Jewish federations that had opposed H.R.7, came out in support of CARE. UJC concluded that the most problematic church-state aspects of the former initiative had been removed, and that the positive features of CARE, including the substantial infusion of additional funds, outweighed whatever problematic elements remained.

Key Democrats, led by Jack Reed (D., R.I.) and Dick Durbin (D., Ill.), still objected to the bill, arguing that it would blur the line between church and state by providing federal funding for programs run by private religious groups without adequate safeguards for church-state separation. These Democrats wanted the opportunity to offer amendments that

would, among other things, bar discrimination in hiring for projects that received federal grants and preclude funding of pervasively religious organizations. The bill's sponsors, however, insisted that CARE was already a "compromise" measure, and therefore should come up for consideration under unanimous consent, precluding amendments. Meanwhile, complaints from the Republican side about paying for the bill's tax incentives also militated against passage. In the end, the CARE bill died as the 107th Congress closed.

On December 12, with the CARE bill—much less full-blown "charitable choice"—stalled for the year in Congress, President Bush implemented key elements of his faith-based initiative by executive order, including some elements of H.R.7 and the CARE bill. Citing the need to treat all charities equally regardless of their religious affiliations, the president signed an order opening additional Centers for Faith-Based and Community Initiatives at the Department of Agriculture and the Agency for International Development, and announced the publication of *Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government*, a short handbook to help organizations apply for federal grants. In a separate order, Bush modified a long-standing earlier executive order so as to remove restrictions on the right of faith-based organizations to discriminate in hiring based on a candidate's religion for jobs with programs covered by a government contract. That same month, the Department of Health and Human Services issued proposed rules intended to implement charitable choice provisions enacted by Congress during the Clinton Administration in connection with three specific programs—the Temporary Assistance for Needy Families (TANF) welfare reform program, a major substance abuse program, and block grants for community services.

Jewish organizations largely objected to the president's unilateral actions, the American Jewish Committee, for example, issuing a statement expressing alarm over a policy that "bypasses congressional action, and advances the use of taxpayer dollars to fund social services provided by religious institutions without adequate church-state safeguards and anti-discrimination provisions." The OU, however, hailed the president's moves, which, said Nathan Diament, reflected an endorsement of "the principle of government neutrality towards religion as opposed to government hostility toward religion." He praised, in particular, the portion of one of the executive orders providing that the Federal Emergency Management Agency (FEMA) would revise its policy on emergency relief so that religious nonprofit groups might qualify for assistance after

natural disasters. This was a particular grievance of the OU following FEMA's determination, two years earlier, to deny the Seattle Hebrew Academy emergency funds following a severe earthquake, because of the school's religious character. Indeed, that specific directive to FEMA was probably the least controversial part of the president's actions, drawing no comment, pro or con, from the Jewish organizations that protested its other aspects.

### *Vouchers and Zelman*

The issue of "school choice" had been placed on the back burner in 2001 as President Bush worked together with Democrats to produce landmark legislation for educational reform, the No Child Left Behind Act (see AJYB 2002, p. 188). But the issue returned front and center in the administration's proposed budget for fiscal year 2003, sent to Capitol Hill on February 4, 2002. It included a proposal for tax credits of up to \$2,500 per year for parents with children in schools determined to be failing under the standards set out in the 2001 law.

The Jewish community responded with its accustomed split on such funding issues. The OU lauded the proposal and called for the tax credit to be made available to low-income families generally, not only to parents with children in public schools. Much of the rest of the organized Jewish community, however, sensed that even if tax credits and vouchers might pass muster as a matter of constitutional analysis, there were strong public-policy grounds to oppose them. Mark Pelavin, for example, associate director of the Religious Action Center of Reform Judaism, asked, "What is this going to do to public schools? Tax credits are a danger." The budget also included a request for \$50 million to fund research and a demonstration project on school choice.

In the most anticipated church-state development of the year, the U.S. Supreme Court rendered a decision in *Zelman v. Simmons-Harris* in June 2002, just before leaving for summer recess, on the constitutionality of the city of Cleveland's voucher program. Already in comments made to the Jewish Telegraphic Agency at the time of oral argument in February, Marc Stern, assistant national director and counsel for the American Jewish Congress—who, together with Judge Marvin Frankel, represented parties on the anti-vouchers side of the case before the Supreme Court—observed that the court had shifted its church-state jurisprudence. Rather than relying on precedents strictly prohibiting government aid for religious schools, he suggested, the judges were now prepared to evaluate

these cases on the basis of whether funds were being made available to schools based on individual choice and government neutrality with respect to religion. Stern proved correct. The court's 5-4 ruling, in an opinion written by Chief Justice William Rehnquist, declared the program constitutional because it was neutral with respect to religion and provided assistance to students attending any school.

Heralding the decision, House Majority Leader Dick Armey (R., Tex.) lost no time introducing, that same day, the District of Columbia Student Opportunity Scholarship Act of 2002 (H.R.5033). This would provide education "scholarships" of up to \$5,000 to children from families with incomes below the poverty line living in the District of Columbia. On August 1, Sen. Judd Gregg (R., N.H.) introduced a companion measure, S.2866. (In 1997, Rep. Armey had introduced a similar bill that passed both houses but was vetoed by President Clinton.) Neither bill moved to passage before the end of the year.

### *Other Church-State Matters*

Proponents of charitable choice pointed to the *Zelman* decision as reinforcement for the constitutionality of their approach to government funding of faith-based social services. But opponents countered that the vouchers decision was distinguishable: charitable choice entailed direct government funding of houses of worship and similar pervasively religious organizations, while vouchers provided only indirect funding. In addition, they noted, there was no universally available system of social-service provision comparable to the system of public education that afforded parents in Cleveland a "true and voluntary" alternative to religious schools. Against this background, it was unlikely that *Zelman* would eliminate pending lawsuits challenging charitable choice programs; indeed, they were likely to multiply as the administration and local jurisdictions implemented them.

One federal lawsuit, brought by the American Jewish Congress and the Texas Civil Rights Project, challenged funding by Texas of an evangelical Christian program for job training and placement. The plaintiffs claimed that such state funding violated the constitutional principle of separation of church and state because it included religious proselytizing (participants were told that "change can only be accomplished through a relationship with Jesus Christ"). A U.S. Court of Appeals decision in May allowed the litigation to go forward.

In contrast to the debate over government funding, another conserv-

ative priority, the Houses of Worship Political Speech Protection Act of 2002, found little backing in the Jewish community, evoking only vocal opposition (from “separationist” groups) or statements of concern (from the OU). This bill, H.R.2357, introduced in the House in 2001 by Reps. Walter Jones (R., N.C.) and John Hostettler (R., Ind.) with over 125 cosponsors, would amend the Internal Revenue Code of 1986 to permit churches and other houses of worship, unlike other nonprofit institutions, to endorse or oppose candidates for political office without forfeiting their tax-exempt status. H.R.2357 went down to defeat, however, failing to garner even a majority of votes in its favor, when it was brought up on the House floor on October 2 under suspension of the rules, a parliamentary procedure requiring a two-thirds vote for passage. Proponents promised to push the initiative again in 2003. (A parallel Senate bill saw no movement in 2002.)

Jewish groups and others opposing this bill argued that exempting churches and other houses of worship from the provision barring nonprofits from engaging in partisan political campaigns would undermine a valuable safeguard for the integrity of both the religious institutions and the political process.

Even those in the Jewish community most supportive of a stringent reading of the First Amendment’s prohibition of an establishment of religion had mixed feelings when, in May 2002, a federal appeals court upheld an earlier federal trial court ruling that New York State’s kosher law was unconstitutional. While the OU and Agudath Israel, not surprisingly, had filed briefs in support of the law’s constitutionality, most of the “separationist” camp stayed out of the case, with the notable exception of the American Jewish Congress, which weighed in to argue that the law breached the separation of church and state. The U.S. Court of Appeals for the Second Circuit found that the law, which outlawed the sale of products labeled kosher if they did not conform to the Orthodox definition of the Jewish dietary laws, unconstitutionally established the Orthodox form of Judaism, to the exclusion of Conservative or other Jewish standards.

In October 2002, the American Jewish Committee and the Religious Action Center of Reform Judaism joined with the Baptist Joint Committee, the Interfaith Alliance, and the National Council of Churches in issuing a revised version of *A Shared Vision: Religious Liberty in the 21st Century*, a statement reaffirming the commitment of these organizations to “maintaining church-state separation as the best means of assuring robust religious liberty and creating a climate of mutual respect in a reli-

giously diverse culture.” As did the original statement issued in 1994, the new version documented issues of constitutional history and interpretation relating to religion and politics, religion and public institutions, and government aid to religious institutions, all from the “separationist” standpoint.

### *“Free-Exercise” Developments*

On May 23, 2002, Sens. John Kerry (D., Mass.) and Rick Santorum (R., Pa.) reintroduced the Workplace Religious Freedom Act (S.2572), intended to assure that employers have a meaningful obligation to reasonably accommodate their employees’ religious practices. While the bill had the backing of a bipartisan group of 15 additional sponsors and incorporated changes reflecting organized labor’s position on the issue, it was not passed in either house before the adjournment of Congress.

Soon, however, advocates could point to an important success at the state level. On October 13, 2002, New York governor George Pataki signed a state Workplace Religious Freedom Act into law. It expanded on existing New York law requiring employers to accommodate employees’ Sabbath and holiday observances, absent undue hardship, by protecting employees required by their faith to wear distinctive garb. The law also effectively overrode a series of state court cases that had interpreted the existing law in a fashion that made it unduly difficult for employees to prevail against their employers.

## **HOLOCAUST-RELATED MATTERS**

### *Restitution*

On June 4, the House of Representatives passed H.R.4823, the Holocaust Restitution Tax Fairness Act of 2002, sponsored by Rep. Clay E. Shaw (R., Fla.), by 392-1, with the Senate following suit on November 20, with passage by voice vote. The act, signed into law by President Bush on December 17, made permanent a provision enacted in 2001 categorizing restitution payments received by Holocaust victims as nontaxable income. The original measure had not been permanent because, when originally enacted, it was part of President Bush’s \$1.35-trillion tax cut, written so as to expire in ten years. The new law applied not only to Jewish Holocaust victims, but also to others who were persecuted on the

basis of race, religion, physical or mental disability, or sexual orientation.

In October, the International Commission on Holocaust Era Insurance Claims (ICHEIC)—an umbrella organization of Jewish groups, Israeli officials, several large European insurers, and American and European insurance regulators—signed a final agreement with the German insurance industry. This marked a turning point in the long and tedious effort of Holocaust survivors and their heirs to recover on unpaid Holocaust-era insurance claims. The signing opened the door to the release of some \$100 million to pay valid insurance claims against German companies, with another \$50 million in reserve if needed, plus approximately \$175 million to be used for humanitarian purposes. The agreement set up a procedure whereby claims would be reviewed under less stringent standards than the norm, and also provided that Jewish former residents of Germany and their heirs would have access to a comprehensive listing of insurance policies issued to Jews before and during the Nazi era.

Achievement of this agreement came as something of a surprise, given the heavy criticism that had been directed at ICHEIC. At a hearing of the House Government Reform Committee in 2001, members of Congress and Holocaust survivors had joined in calling ICHEIC a failure, and in early 2002 the ICHEIC chairman, former U.S. secretary of state Lawrence Eagleburger, threatened to resign his post over frustration with the stalled negotiations. Now, Eagleburger hailed the agreement as a “major achievement,” and Ambassador Randolph Bell, the State Department’s special envoy for Holocaust affairs, pronounced the settlement one that “should be given the opportunity to succeed.” Several other, non-German insurance companies were expected to continue negotiating with ICHEIC toward a settlement of Holocaust-era claims, but there remained many companies in Eastern Europe that, even at this late date, were not participating.

### *Nazi War Criminals*

The Justice Department’s Office of Special Investigations (OSI) continued its efforts to deport Nazi war criminals living in the U.S. before death could take these elderly men out of its jurisdiction. On January 14, OSI began proceedings for denaturalization and deportation of Illinois resident Peter John Bernes, formerly Petras Bernotavicius of Lithuania, on the charge of collaboration in removing Jewish prisoners from a town jail to a site where they were shot to death. In May, Nikolaus Schiffer, a former concentration camp guard, was deported to Romania following



court proceedings in which an immigration judge found that he had lied about his wartime activities when he entered the U.S.

In the meantime, OSI's decades-long effort to deport John Demjanjuk, alleged to be the infamous Nazi war criminal known as Ivan the Terrible, reached a significant milestone on February 21, when U.S. District Judge Paul Matia revoked Demjanjuk's American citizenship, the second time that had happened. The first time was in 1981, but in February 1998 Judge Matia had Demjanjuk's citizenship restored. That followed an appellate decision that the Justice Department had knowingly withheld information that Demjanjuk could have used in his 1981 defense, and a determination by the Israeli Supreme Court in 1993 that the identification of Demjanjuk as Ivan the Terrible had not been proven beyond a reasonable doubt—that identification being the basis on which he was deported to Israel and tried there.

In restoring Demjanjuk's citizenship, Judge Matia had left the door open for the Justice Department to file new denaturalization and deportation proceedings, an invitation that the OSI took up in filing a new complaint in 1999. This alleged, in effect, that even if Demjanjuk was not Ivan the Terrible, he was still a war criminal. In his February ruling, Matia found that Demjanjuk, now 81, had fraudulently acquired U.S. citizenship, failing to disclose that he had been a guard at several Nazi concentration camps where he had "willingly" been part of "the process by which thousands of Jews were murdered by asphyxiation with carbon monoxide." Although, in OSI director Eli Rosenbaum's words, the decision was a victory for "this government's determination to serve a measure of justice on behalf of those who perished," it was far from the final word. Demjanjuk's son-in-law indicated that the ruling would be appealed, and Demjanjuk could not be deported until the appeal was heard. In addition, even if a deportation was in order, there remained the question of where he would be sent, with both France and Demjanjuk's native Ukraine among the possibilities.

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