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ALBANY, NEW YORK

December 17, 1998

9:22 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT KUHL: The
3 Senate will come to order. Ask the members to
4 find your places, staff to find their places.
5 Ask everybody to stand or to rise and join me
6 in saying the Pledge of Allegiance to the
7 Flag.

8 (The assemblage repeated the
9 Pledge of Allegiance to the Flag.)

10 In the absence of clergy, may
11 we bow our heads in a moment of silence.

12 (A moment of silence was
13 observed.)

14 THE PRESIDENT: Reading of the
15 Journal.

16 THE SECRETARY: In Senate,
17 Wednesday, December 16th. The Senate met
18 pursuant to adjournment. The Journal of
19 Monday, December 14th, was read and approved.
20 On motion, Senate adjourned.

21 ACTING PRESIDENT KUHL: Hearing
22 no objection, the Journal stands approved as
23 read.

24 Presentation of petitions.

25 Messages from the Assembly.

1 Messages from the Governor.

2 Reports of standing

3 committees. Secretary will read.

4 THE SECRETARY: Senator Lack,
5 from the Committee on Judiciary, reports the
6 following nomination: As Associate Judge of
7 the Court of Appeals, Albert M. Rosenblatt of
8 Pleasant Valley.

9 ACTING PRESIDENT KUHL: Chair
10 recognizes Senator Lack.

11 SENATOR LACK: Thank you, Mr.
12 President.

13 It is with great pleasure that
14 I rise to move the nomination of Albert M.
15 Rosenblatt of Poughkeepsie, New York,
16 nominated by the Governor to be a judge -
17 Associate Judge of the New York State Court of
18 Appeals, of course, our highest court.

19 Normally, I would immediately
20 yield for purposes of a second to the Senator
21 in whose district the nominated judge resides,
22 in this case Senator Steve Saland, but I will
23 take the privilege of my good intentions a
24 minute and say a few words myself if I may.
25 I'll try not to dwell or take any thunder from

1 my colleague, but say just a couple of
2 things.

3 First and foremost, he and I
4 are both graduates of the same university.
5 That, of course, makes him eminently qualified
6 to be Associate Judge of the Court of Appeals,
7 and our spouses are both psychologists. That
8 even more makes him eminently qualified to be
9 a judge of the Court of Appeals.

10 Thereafter, fortunately for
11 him, the differences between us are greatly
12 magnified. He is, among other things, a ski
13 instructor, particularly a ski instructor for
14 the handicapped. He is a widely known and
15 respected scholar of Sherlock Holmes. He has
16 and is probably as well known as any judge
17 currently sitting in the state of New York. I
18 will not recite the litany of his official
19 accomplishments, because Steve will. I'll
20 just simply say that, in the days since he has
21 been nominated by the Governor, the only -
22 the only comments my office has received
23 embedding this candidate for the Court of
24 Appeals has been one in which the word "E" -
25 "exemplary", "excellent" and the word "F" for

1 "fantastic" candidate; the Governor can do no
2 better has come across telephone lines to such
3 an extent that even the Chief Administrative
4 Judge of the state of New York today left what
5 he was doing in Westchester to immediately
6 come to Albany to be the lead-off witness on
7 behalf of Justice Rosenblatt as he appeared
8 before the Judiciary Committee with respect to
9 this nomination.

10 The Governor has made an
11 excellent, excellent appointment as Associate
12 Judge of the Court of Appeals, and I would now
13 respectfully yield to his longtime friend, and
14 for whom he is a constituent of, the Senator
15 from Poughkeepsie, Steve Saland.

16 ACTING PRESIDENT KUHL: The
17 chair recognizes Senator Saland on the
18 nomination.

19 SENATOR SALAND: Thank you, Mr.
20 President. I believe I am Senator Saland, not
21 to confuse me with the gentleman who just went
22 to my rear here.

23 Mr. President, I rise to second
24 the nomination of Judge Rosenblatt. For those
25 of you who didn't have the opportunity to

1 attend the Judiciary hearing earlier today,
2 you missed a succession of speakers speaking
3 on behalf of Judge Rosenblatt, all of whom, in
4 one manner or another, spoke of his
5 extraordinary abilities, whether it be his
6 intellect, his character, his commitment to
7 the justice system.

8 Speaking as one who has known
9 Al for a number of years -- and I see a number
10 of people who have joined him, not the least
11 of whom is his wife Julie, but a number of
12 longtime associates either in the district
13 attorney's office, or those who have come to
14 know him in other capacities as well -- his is
15 a career of just one extraordinary
16 accomplishment after another.

17 I learned a couple of things
18 during the course of the comments. I don't
19 recall who it was that said that Judge
20 Rosenblatt arrived in Dutchess County to
21 practice law in 1968. I arrived at the same
22 time, and obviously he succeeded far more than
23 I ever could have dreamt of succeeding; so the
24 judge, whether it be as a district attorney,
25 whether it be as a County Court judge, whether

1 it be as a Supreme Court judge or as a member
2 of the Appellate Division or as the
3 Administrative Judge of our state's system,
4 has received nothing but kudos wherever he has
5 served; and the Governor, with his appointment
6 of Judge Rosenblatt, certainly has not merely
7 added another extremely well qualified judge
8 to the list of the multitude of judges that he
9 has had the good fortune to be able to
10 appoint, but I would say one who even excels
11 the high standards that -- exceeds the high
12 standards that his prior appointments have
13 set.

14 Judge Rosenblatt has
15 effectively trained for this opportunity for
16 probably much of his life, whether he did it
17 consciously or subconsciously. I can think of
18 nobody who will do a finer job. I can think
19 of nobody who better embodies the qualities
20 that one expects when they come before the bar
21 of justice than those that really are the
22 personification of Al Rosenblatt.

23 I can wish him nothing but the
24 best. The people of the state of New York
25 will be well served. The people who come

1 before our courts and seek justice could not
2 ask for a finer, more capable and more decent
3 judge to sit and rule on the magnitude and
4 multitude of cases which our Court of Appeals
5 will be asked to do.

6 I wish him well. I
7 congratulate him. I certainly join with his
8 many friends who have taken this day, a rather
9 lengthy one, and I understand they dined only
10 in the finest of Albany cuisine tonight. I
11 join them all in congratulating Judge
12 Rosenblatt and wishing him the best and Julie
13 the best as well.

14 Congratulations, and I'm sure
15 we will hear many more good things of and from
16 Judge Al Rosenblatt, Justice Rosenblatt.

17 ACTING PRESIDENT KUHL: The
18 Chair recognizes Senator Leichter, on the
19 nomination.

20 SENATOR LEICHTER: Mr.
21 President, I'm very happy to rise to second
22 the confirmation of Judge Albert Rosenblatt.
23 Judge Rosenblatt really comes to this
24 appointment with a great deal of experience
25 and credentials on the bench.

1 As Senator Saland and Senator
2 Lack have stated, he has served on the
3 Appellate Division, was the Chief
4 Administrative Judge. All of these are
5 obviously very important attributes and
6 qualities, but what is particularly important
7 is the reputation of fairness that he's
8 developed over these years, a reputation as a
9 legal craftsman, as somebody who looks at the
10 case on the merits, in fairness, without
11 bringing any ideological view to it, and I
12 certainly have been critical of the Governor
13 at times; so I think it's only fair to commend
14 him when, in my view, he makes such an
15 outstanding appointment and I think it's
16 particularly interesting that the Governor who
17 started out, and I thought was very unfairly
18 critical of the Court of Appeals, has now
19 made, I think, two very distinguished
20 appointments to that court, Judge Wesley and
21 now Judge Rosenblatt who, of course, will be
22 confirmed by us, and it really keeps the
23 tradition of this court as one of the finest
24 benches, if not the finest bench that we have
25 in the United States.

1 So that I think we can be very
2 proud of what we do today in confirming
3 somebody to what is such a terribly important
4 court for all the people of the state of New
5 York. It's a court that we want to maintain
6 the highest quality, and we certainly do that
7 by confirming Judge Rosenblatt.

8 ACTING PRESIDENT KUHL: The
9 Chair recognizes Senator Leibell, on the
10 nomination.

11 SENATOR LEIBELL: Thank you,
12 Mr. President.

13 Judge Rosenblatt, as you
14 continue your career on to the New York Court
15 of Appeals, you will undoubtedly be working
16 many late evenings writing decisions, and
17 we're giving you a demonstration tonight that
18 you will not be alone. We will also be
19 working late at night for the common good.

20 I join my colleagues in
21 praising this nomination. I think once again,
22 Governor Pataki has sent us someone whom this
23 body can feel warmly about and take great
24 pride in recommending.

25 The judge before us has had a

1 tremendous career. I first became aware of
2 his credentials when I was a young assistant
3 district attorney in Westchester County. He
4 was well known there for his efforts and
5 especially in writing -- writing about the
6 Rockefeller drug laws.

7 Over the last few years, of
8 course, he's had a distinguished career as a
9 jurist. He has impressed us all with his
10 common sense and his great ability to relate
11 to all parties who have come before the
12 court. We can all take great pride, I
13 believe, this evening in seeing this judge
14 come before us to go to the New York Court of
15 Appeals.

16 Thank you, sir.

17 ACTING PRESIDENT KUHL: The
18 Chair recognizes Senator Stafford, on the
19 nomination.

20 SENATOR STAFFORD: Mr.
21 President. I always try to wait until most
22 everyone has spoken because people speak so
23 well and say so many good things, and I just
24 want to second them for this nomination.

25 A number of times, I've stood

1 here since the Governor took over and said
2 once again we have a very, very fine
3 nomination and, my friends, this evening again
4 we do, and we are so pleased to be able to say
5 that.

6 I have chaired a couple
7 committees when the judge was the
8 administrative judge for the state, and I
9 second what's been said about being a scholar,
10 about being so dedicated to the law, but I
11 also want to point out -- and it's so
12 important -- with the responsibilities that
13 the judge will assume, a person -- a person,
14 who, yes, can be firm, he's shown that he can
15 do that in his career, but always, no matter
16 what he's considering, no matter what the
17 issue is, no matter how big or how small -
18 and very often the issues that we were dealing
19 with were small, technicalities in the law -
20 but he showed a real understanding and a
21 concern and a sensitivity for a person and
22 people.

23 I will close by saying this,
24 and you can't say this about everyone, but I
25 think I've mentioned this on the floor before,

1 the type of person that Judge Rosenblatt is.
2 I had a ski coach that once said that the way
3 you ski is the way you live your life, and I'm
4 not sure that's necessarily true. But if that
5 is true, well, the judge is living his life
6 very well, as Senator Lack mentioned; but when
7 he has made his decisions professionally -
8 and I'm sure any decisions that he makes, no
9 matter what he has to determine or what he has
10 to tell someone or maybe even if he has to say
11 no -- he leaves that person so that if he
12 would run out of gas in our rural area, and he
13 knows the rural area of New York, if he was to
14 run out of gas in front of that person's house
15 out in the country, he could knock on the door
16 and not hesitate to ask for gas and he'd get
17 it.

18 This is a tremendous
19 appointment, and I'm sure the judge will make
20 a tremendous contribution to the Court of
21 Appeals.

22 Thank you.

23 ACTING PRESIDENT KUHL: Senator
24 Dollinger, on the nomination.

25 SENATOR DOLLINGER: Thank you,

1 Mr. President.

2 I was the member of the
3 Judiciary Committee that was waylaid by a
4 defective propeller in Rochester, so I didn't
5 get a chance to talk with Judge Rosenblatt
6 before.

7 I just have two real quick
8 comments, Judge. One is, as part of our
9 constitutional scheme, occasionally you will
10 find members who are elected to the legis
11 lative branch and the executive branch be
12 critical of our judicial branch, and what we
13 oftentimes do is we say good things about all
14 these candidates who come before us, and I
15 agree with Senator Leichter, this Governor has
16 distinguished himself certainly by his
17 appointments to the bench and most particular
18 ly by his two appointments to the Court of
19 Appeals: Dick Wesley, superb judge and a
20 tremendous guy, and, Judge Rosenblatt, you
21 fall under both of those categories.

22 But I would just say to you,
23 Judge, that, as you continue the tradition of
24 the greatest common law court in this country,
25 the New York Court of Appeals, don't be afraid

1 to tell this Legislature one of two things.
2 Either when we've drafted a statute we haven't
3 done it right, and perhaps have not dotted
4 every "i" and crossed every "t" to make it
5 specific enough so that we can give guidance
6 to the people in this state as to what is
7 lawful and unlawful; and also don't be afraid
8 to tell us that there are times when we, in
9 this Legislature, acting in what we believe in
10 the public interest may be taking away
11 precious rights that the people kept to
12 themselves in both our state Constitution and
13 our federal Constitution.

14 It seems to me that that
15 delicate balance that the judiciary must
16 strike is one that we in the Legislature ought
17 to strive to protect and, when people make
18 comment about our Court of Appeals or our
19 judges, when they're interpreting the
20 Constitution to protect the people, we should
21 be loathe to criticize and to, frankly, take
22 what oftentimes appears to be a cheap shot at
23 the judiciary because they're enforcing those
24 important constitutional rights.

25 Judge, everything I've seen in

1 your resume and everything Senator Lack has
2 told me, everything I've heard about you
3 suggests that striking that important balance
4 is something that you can do extremely well,
5 and I wish you the best on the Court of
6 Appeals. You are a proud continuation of that
7 fine tradition.

8 ACTING PRESIDENT KUHL: Senator
9 Gold, on the nomination.

10 SENATOR GOLD: Thank you, Mr.
11 President.

12 Mr. President, we don't have to
13 review what's been said about the gentleman's
14 scholarship, and it's very obvious reading
15 this quite amazing resume that the judge is a
16 scholar and he belongs on the bench perhaps
17 for that reason alone; but again with the
18 resume, the thing that strikes me so
19 importantly is the fact that Judge Rosenblatt
20 is a really well-rounded individual who not
21 only has had a distinguished career on the
22 bench, but is involved with the community in
23 which he lives: The Poughkeepsie Jewish
24 Community Center, the opera house, the
25 Community Chest, ski instructor. I mean this

1 is somebody who not only understands textbook
2 law, but who lives, lives in the community,
3 and I think that's important when we deal with
4 the judiciary, particularly of the highest
5 court in the land.

6 He is also somebody who is
7 obviously loyal in remembrance, because I
8 notice in his resume he spoke at Harvard Law
9 School, moot court judge at Harvard Law
10 School, so even after he left the school he
11 was concerned about the future students to try
12 and lift their educational level to something
13 like perhaps a Cornell law education, so you
14 were able to do that.

15 I think, Judge, that in
16 probably the last words I'll say -- and
17 everybody is happy about that -- I do have to
18 echo it because it deserves to be echoed that
19 this particular Governor has certainly shown
20 his dedication to the quality of our
21 judiciary, and certainly leaving the
22 Legislature and having been on the Judiciary
23 Committee and voted for judges for over 20
24 years, I feel some sense of pride that we've
25 gone through a number of administrations, but

1 they have -- each governor in his turn has
2 seen to it that we have maintained the Court
3 of Appeals of this state as one of the
4 absolutely major courts in the country.

5 And in closing, I want to say,
6 Judge, you understand the word "dayenu". I
7 take a look at your career in public life and
8 we could say, Dayenu. It would have been
9 enough. But as Jerry Herman said, The best of
10 times is now, and the best is yet to come, and
11 I, from the outside, will be very proud to see
12 your career on our finest court, because I
13 know that you will do nothing but bring it
14 dignity from day to day.

15 ACTING PRESIDENT KUHL: Senator
16 Balboni, on the nomination.

17 SENATOR BALBONI: Thank you,
18 Mr. President.

19 I, too, had the privilege of
20 sitting in with the Judiciary Committee today
21 and watched the myriad of speakers come before
22 the committee and talk about this man that was
23 before us. In today's world, when we have so
24 many people who question the integrity of
25 every branch of government and every

1 individual associated therewith, to have a
2 person who comes before us with impeccable
3 qualities, a resume that anyone in
4 professional life, particularly in law, would
5 die for, and then to have individuals who work
6 with him come before the committee and give
7 stories about the person, the character, one
8 woman in particular in Dutchess County, and I
9 believe she was former president of the
10 Women's Bar Association of Dutchess County.
11 She gave a sterling story about her days in
12 the D.A.'s office, and then Senator Leichter,
13 even though we were on a tough time schedule
14 he asked questions, substantive questions, and
15 you know, instead of finding myself sitting
16 back saying, Oh, please, you know let's get
17 moving, we need to get to conference, I was
18 literally hanging on the words of the judge
19 because for the first time you began to see a
20 little bit of the thought process of this man
21 who's about to go to the bench, the
22 formulation that he was talking about, brought
23 back the lectures of law school, but more
24 importantly brought back the logic of law.

25 In this day and age, we have so

1 few people that we could perhaps aspire to
2 want to be like, and want our children to
3 aspire to be like. In the many years when I
4 had the privilege of serving as counsel to the
5 Senate Judiciary Committee, I have sat on
6 many, many occasions where judges were
7 confirmed and, in fact, by my count, five
8 Court of Appeals justices. I must tell you,
9 not to offend any of my friends who are
10 currently on the bench, this individual has
11 probably the finest resume and background that
12 I've ever seen. It is a tribute not only to
13 this state and to this body, but to this
14 Governor, to reach out and to pick a man of
15 these credentials and to bring him before us,
16 let him continue his public works on the
17 highest court of our state.

18 Mr. President, it will be an
19 honor and privilege to support this
20 nomination.

21 ACTING PRESIDENT KUHL: Senator
22 Larkin, on the nomination.

23 SENATOR LARKIN: Mr. President,
24 Judge, as one of the non-lawyers here to stand
25 up in your support, it just seems like

1 yesterday we were running for the last
2 campaign, and I remember going around and
3 people would say, you know, Look at him, you
4 know he stands up, he speaks straight, talks
5 to young people. Young people ask this judge
6 questions about law, and he addressed them in
7 a manner that he was a teacher. He was giving
8 them guidance.

9 I think somebody said to me
10 today when they were calling from home and
11 said, Please support him; he is a judge that
12 understands the people as well as
13 understanding the law, and I think that that
14 says a lot.

15 Since the nomination by the
16 Governor, I've had probably 25 or 30 phone
17 calls, not just from lawyers, from some of
18 your colleagues on the bench, but some people
19 who served on juries with you years ago. One
20 lady said she remembered when you were the
21 district attorney, and she said, "I felt sorry
22 for him and he won the case." It just says
23 something about a man that our Governor has
24 selected for this very important, important
25 position.

1 You know, we always talk about
2 people in the courts and some of us that are
3 not lawyers always can find fault, but I think
4 it really tells us something about, when you
5 look at the resume of Judge Rosenblatt, you
6 start to see a man who has extended himself on
7 every level. I've talked to people who have
8 talked to me about your skiing, and have said,
9 Yeah, you could learn a little bit more,
10 Judge, but they always said how intent he was
11 on helping somebody else, no matter what it
12 was, whether it was Bard Avon or what else.
13 You were a player in the community, as Senator
14 Gold said; your heart and soul was in the
15 community that you're in and you built up to
16 what you are today.

17 It's going to be great to see
18 you in the new robes. I hope that you'll get
19 a new set because you are now going on to
20 something that we're all in this chamber, I
21 know, very proud. You've done us well. We
22 look forward to greater things from you.

23 Congratulations.

24 ACTING PRESIDENT KUHL: Senator
25 DeFrancisco, on the nomination.

1 SENATOR DeFRANCISCO: I never
2 met Judge Rosenblatt until today in the
3 Judiciary Committee meeting, and the resume
4 speaks for itself. I think Senator Balboni
5 indicated that most people would kill for or
6 die for this resume. Well, Judge Rosenblatt
7 did it the old-fashioned way, he worked for
8 the resume. He worked hard for the resume,
9 through his whole life doing what was right
10 and making certain that each step went to
11 something bigger and better, and I want to
12 thank not only Governor Pataki for nominating
13 the judge, but also Judge Rosenblatt for being
14 here in this day and age when you cannot
15 listen to a TV program, you cannot listen to a
16 radio. You can not pick up a paper or
17 magazine, without seeing public officials'
18 integrity and character being questioned and
19 constantly being criticized, which paints all
20 of us in that light. To have a man of your
21 character, integrity and scholarly manner is
22 truly something that I, and I know all of us
23 in this chamber, respect and it's a very
24 refreshing thing for us.

25 You reflect all of us, and

1 we're very pleased to be here to support your
2 nomination and, on a side note, anyone who
3 knows the difference between pled and pleaded
4 and knows the correct way to speak has got my
5 vote any day of the week.

6 Thank you.

7 ACTING PRESIDENT KUHL: Is
8 there any other Senator wishing to speak on
9 the nomination?

10 (There was no response.)

11 ACTING PRESIDENT KUHL: Hearing
12 none, the question is on the nomination of
13 Albert M. Rosenblatt to become an Associate
14 Justice of the Court of Appeals. All those in
15 favor of the nomination, signify by saying
16 aye.

17 (Response of "Aye.")

18 Opposed nay.

19 (There was no response.)

20 The nominee is unanimously
21 confirmed.

22 Judge Rosenblatt, we welcome
23 you here this evening. We congratulate you on
24 the tremendous accomplishments in the past.
25 We certainly wish you well in the future. We

1 know you're going to do us proud, and anybody
2 who can bring a crowd like this out on a snowy
3 Thursday night at ten o'clock has got to have
4 something going for him.

5 So good luck and
6 congratulations.

7 (Applause)

8 Senator Skelos.

9 SENATOR SKELOS: If we could
10 stand at ease, please. Do we have reports to
11 do?

12 ACTING PRESIDENT KUHL: We
13 haven't heard reports from select committees.

14 Communications and reports from
15 state officers.

16 Motions and resolutions.

17 SENATOR SKELOS: Then we'll
18 stand at ease.

19 ACTING PRESIDENT KUHL: Senate
20 will stand at ease.

21 (The Senate stood at ease at
22 9:52 until 11:00 p.m.)

23 SENATOR PATERSON: There will
24 be a conference of the Minority in 15 minutes
25 sharp, 11:15 sharp, in Room 314. There will

1 be a conference of the Minority in Room 314,
2 Minority Conference.

3 (The Senate stood at ease from
4 11:00 p.m. until 12:27 a.m.)

5 ACTING PRESIDENT SPANO:
6 Senator Skelos.

7 SENATOR SKELOS: There will be
8 an immediate meeting of the Rules Committee in
9 the Majority Conference Room.

10 ACTING PRESIDENT SPANO:
11 Immediate meeting of the Rules Committee in
12 the Majority Conference Room. Meeting of the
13 Rules Committee.

14 (The Senate stood at ease from
15 12:27 until 12:41 a.m.)

16 ACTING PRESIDENT KUHL: The
17 Senate will come to order. Ask the members to
18 take their chairs, the staff to take their
19 places.

20 The Chair recognizes Senator
21 Bruno.

22 SENATOR BRUNO: Mr. President,
23 there being no further business to come before
24 the Senate on this particular date, I move
25 that we stand adjourned until December 18th,

1 at 12:42.

2 ACTING PRESIDENT KUHL: Without
3 objection, the Senate stands adjourned until
4 December 18th at 12:42.

5 (Whereupon at 12:41 a.m., the
6 Senate adjourned.)

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