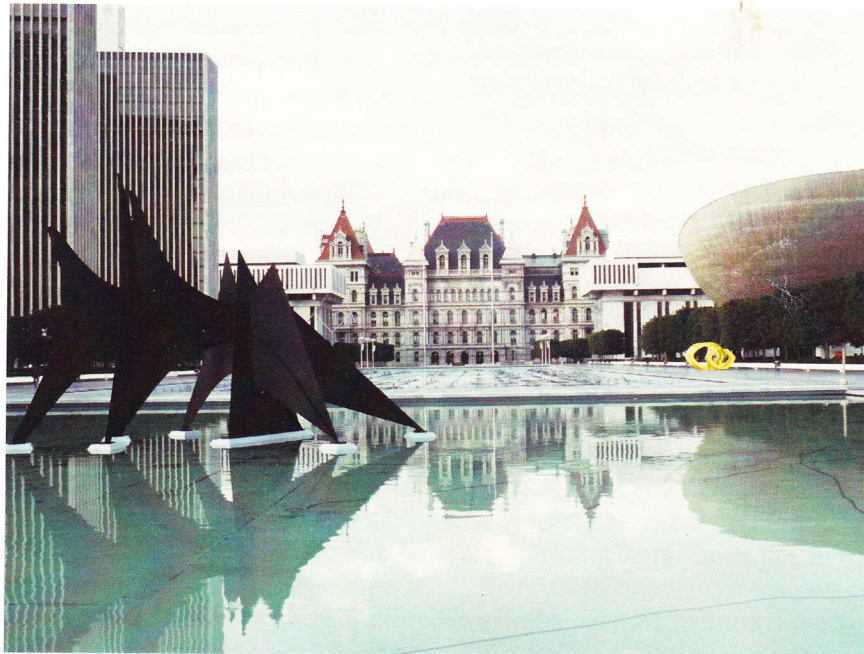


A NEW **NEW YORK**: THE CONSTITUTIONAL DIMENSION

Rockefeller Institute – 411 State Street, Albany

Thursday, November 29, 2012

8:00 A.M. – 2:00 P.M.



Sponsored by EffectiveNY.com and the Center for Research, Regional Engagement and Outreach (CRREO) at SUNY New Paltz with the Rockefeller Institute of Government, and the Albany Law School

*A New **New York**: The Constitutional Dimension is supported by funds from the New Roosevelt Foundation*

AGENDA

- 8:00 CHECK-IN AND CONTINENTAL BREAKFAST
- 8:30–8:45 **Importance of Constitutional Change for an Effective New York**
William Samuels, Chairman, New Roosevelt
- 8:45–9:00 **State Constitution and State Constitutional Change**
Gerald Benjamin, Director, CRREO
- 9:00–10:30 **PANEL I – Pending Actions and Recent Debates: Additions to the Constitution**
PANEL CHAIR
Peter Galie, Emeritus Professor of Political Science at Canisius College, Buffalo, New York
COMMENTATORS
Richard Rifkin: Special Counsel to the NYS Bar Association
Robert Batson: Government Lawyer in Residence at the Government Law Center of Albany Law School
Bruce Gyory: Political and Strategic Consultant at Corning Place, adjunct faculty, SUNY Albany
- 10:30–10:45 BREAK
- 10:45–12:15 **PANEL II – Should the NYS Constitution Be Shortened, and, if So, How?**
PANEL CHAIR
Christopher Bopst, Partner, Goldberg Segalla LLP, Buffalo, New York
COMMENTATORS
Dan Feldman: Associate Professor of Political Science, John Jay College, attorney, former Assembly member
Alan Tarr: Distinguished Professor of Political Science and Director of the Center for State Constitutional Studies, Rutgers University-Camden
Gerald Benjamin: Distinguished Professor Political Science, SUNY New Paltz and Director CRREO
- 12:15–12:30 **Unfunded Mandates: Real or Imagined**
Hon. Brian Kolb, Minority Leader, New York State Assembly
- 12:30 LUNCH
- 1:00–1:15 **The NYS Constitution: A View From the Bench**
Judge Albert Rosenblatt, Judicial Fellow, New York University School of Law, Former Associate Judge, New York State Court of Appeals

PANELISTS AND SPEAKERS

ROBERT BATSON is Government Lawyer in Residence at the Government Law Center of Albany Law School where he teaches classes in Federal Indian Law and State Constitutional Law. He served in various legal positions in New York State government between 1976 and 2003 where he specialized in municipal law, administrative law and government regulation. From 1978 to 1995 he served as a liaison between New York State and the governments of various Indian nations, and represented the State in negotiations on many issues, including land claims and gaming compacts.

GERALD BENJAMIN was appointed as Associate Vice President for Regional Engagement and Director of the Center for Research, Regional Education and Outreach (CRREO) at SUNY New Paltz in 2008. He joined the New Paltz faculty as an Assistant Professor of Political Science in 1968, achieved the University's highest rank in 2002 when he was appointed Distinguished Professor by the SUNY Board of Trustees. He served as Chair of the Department of Political Science, Presiding Officer of the faculty and (for twelve years beginning in 1996) Dean of the College of Liberal Arts and Sciences. Formerly

Director of the Center for the New York State and Local Government Studies at SUNY's Rockefeller Institute of Government in Albany, between May of 1993 and March of 1995 Gerald Benjamin served as Research Director of the Temporary State Commission on Constitutional Revision appointed by Governor Mario Cuomo.

CHRISTOPHER BOPST is a partner at the law firm of Goldberg Segalla LLP in Buffalo, New York, practicing in the areas of commercial and constitutional litigation. He is a graduate of Canisius College and Notre Dame Law School, both with honors. Prior to Mr. Bopst's current position, he practiced law in Miami, Florida, where he was a partner in a national law firm. He was named a Florida Rising Star by Super Lawyers magazine in 2009 and 2011, as well as a Florida Legal Elite "Up and Comer" for the year 2011. Mr. Bopst has co-authored *The New York State Constitution*, 2d ed. (Oxford University Press, 2012), as well as numerous articles on a variety of legal topics, with a concentration on state constitutional law and history. His most recent article, "Anything Goes: A History of New York's Gift and Loan Clauses," co-authored with fellow panel chair Peter Galie, was recently published in the *Albany Law Review*.

DAN FELDMAN authored over 140 laws as a member of the Assembly from 1981 through 1998, including New York's Organized Crime Control Act and Megan's Law, and numerous laws protecting consumers and crime victims. From 1987, as chair of the Assembly Committee on Correction, he led the effort to repeal the Rockefeller drug laws. Attorney General Eliot Spitzer appointed him to a senior staff position in 1999 to litigate against handgun manufacturers, negotiate settlements with prominent banks and insurance companies, and advise on criminal justice legislation, among other matters. As Special Counsel for Law & Policy to New York State Comptroller Tom DiNapoli for three years, he directed the divestment of Iran- and Sudan-related holdings by the State's Common Retirement Fund, advised the Comptroller on budget, policy, and litigation issues, and helped to halve the three year backlog of pension hearing cases. He now teaches at John Jay College of Criminal Justice as Associate Professor of Public Management, and has written several books and many articles on American law and government, most recently, with Gerald Benjamin, *Tales from the Sausage Factory: Making Laws in New York State* (SUNY Press, 2010) and a chapter on the New York Attorney General's Office in *The Oxford Handbook of New York State*

Government and Politics (Gerald Benjamin, ed., Oxford University Press, 2012).

PETER J. GALIE has published numerous articles in the area of state constitutional law; two books, *The New York State Constitution: A Reference Guide*, 2nd ed. (Oxford University Press 2012) co-authored with Christopher Bopst, and *Ordered Liberty: A Constitutional History of New York* (Fordham University Press, 1996). He was retained by the Attorney General of New York as an Expert Witness to present a report to be submitted in the A-G appeal in *Hayden v. Pataki* entitled "The Felony Disenfranchisement Clause of the New York Constitution 1821-1938: Background, Chronology, Origin & Purpose." He was part of an amicus brief submitted to the New York Court of Appeals in the case of *Skelos v. Paterson* (2009) on the question: does the Governor have the authority to fill a vacancy in the Lieutenant-Governor's Office by appointment? He is the recipient of a John R. Oishei Foundation Three Year Teaching Professorship, "Rewriting the New York State Constitution," 1999-2002. He was named Distinguished Professor of the Year in the Canisius College All College Honors Program, in 2012. Along with co-author, Christopher Bopst, he has recently completed a lengthy examination of the gift and loan provisions of the state constitution published

in the *Albany Law Review*, 2012. Also with Christopher Bopst, he is currently working on the creation of series of lesson plans on the New York Constitution for use by social studies teacher throughout the state. The project is being funded by the New York State Bar Association's Law, Youth and Citizenship Program.

BRUCE GYORY served first as Assistant and then Deputy Appointments Officer to the Governor in the second Carey Administration and, more recently, served as Senior Advisor to Governors Spitzer and Paterson. In between periods of public service, he was a lawyer/lobbyist with the firm Hinman Straub in Albany from 1983 to 2007. Now an Adjunct Professor of Political Science at SUNY Albany and a political and strategic consultant at Corning Place Communication, Gyory no longer does any lobbying. In recent years, he has been a political consultant to Tom Suozzi and Sean Coffey after advising the first Mario Cuomo and Eliot Spitzer gubernatorial campaigns. His true passion is his over thirty year study of demographic and voting trends in New York City, New York State, and national politics. Gyory is a regular guest on YNN's *Capital Tonight's Insiders* segment hosted by Liz Benjamin. He frequently appears on NY1's *Inside City Hall*, hosted by Errol Louis, as well as Susan Arbetter's radio program,

The Capital Press Room. He has written op-eds for *Newsday*, the *Daily News*, and *City and State News*.

HON. BRIAN KOLB (R,C,I-Canandaigua) was first elected to represent New York State's 129th Assembly District at a special election held in February 2000 and was overwhelmingly re-elected in 2000, 2002, 2004, 2006, 2008 and 2010. On April 6, 2009, he was unanimously elected Minority Leader by his colleagues. His district includes Cayuga, Cortland, Onondaga, Ontario and Seneca counties. Reducing taxes, improving the quality of education, fostering economic development, providing sound health care and reforming state government are among Leader Kolb's legislative priorities. He is co-founder of EffectiveNY.org along with Bill Samuels and Gerald Benjamin.

RICHARD RIFKIN was admitted to the Bar and entered into the private practice of law in 1966. From 1970 to 1973, he served during the legislative session as staff counsel to Assemblyman Leonard Stavinsky. He was appointed Counsel to the Bronx Borough President in 1973. In 1979, Attorney General Abrams appointed Mr. Rifkin Deputy First Assistant Attorney General; in 1984, Counsel to the Attorney General; and in 1991, First Assistant Attorney General. From

1994 to 1999, Mr. Rifkin served as Executive Director of the State Ethics Commission. He was appointed in 1999 by Attorney General Spitzer as Deputy Attorney General for the office's State Counsel Division. In 2007, he was appointed Special Counsel to the governor where he remained until June, 2008, when he assumed his current position of Special Counsel to the New York State Bar Association. Since 1984, Mr. Rifkin has served as a member of the Chief Administrative Judge's Advisory Committee on Civil Practice. He has served on various committees of the New York City Bar Association and New York State Bar Association, and was, for two terms, a member of the House of Delegates of the latter.

JUDGE ALBERT ROSENBLATT

served two terms as District Attorney of Dutchess County, New York, from 1969 to 1975. He then served as a Dutchess County Court Judge until November 1981, when he was elected to New York Supreme Court. He was New York's Chief Administrative Judge from 1987 to 1989. Judge Rosenblatt was appointed by Governor George Pataki as an Associate Justice of the New York Supreme Court, Appellate Division, Second Department. He served on that court from 1989 to 1998. After Governor George Pataki nominated Judge Rosenblatt to serve on the New York Court of

Appeals, the State's highest court, he was confirmed by the Senate on December 17, 1998. Judge Rosenblatt served as an Associate Judge of the Court of Appeals until December 2006, when he retired from the bench. He is currently of counsel to McCabe & Mack LLP, in Poughkeepsie, New York. He also teaches part-time at the New York University School of Law, where he holds the title of Judicial Fellow.

BILL SAMUELS formed the non-partisan EffectiveNY.org, along with co-founders Assembly Minority Leader Brian Kolb and Professor Gerald Benjamin through his foundation, New Roosevelt. EffectiveNY.org has one goal: restoring New York State's reputation as the national policy leader by studying both existing policies and the New York State Constitution's often outdated 1894 provisions that still contribute to statewide dysfunction. Bill Samuels is an innovative political thinker and social activist, has a lifetime of experience as a CEO and high tech entrepreneur. Currently, Bill is Managing Director of Carlyle Capital Group, the Executive Chairman of Resonant Software, a software technology company in San Francisco, and the Hills Treatment Center in Los Angeles, a facility dedicated to helping people overcome addiction. After the 2000 Census, he helped finance the lawsuit challenging the constitutionality of New

York's notoriously gerrymandered redistricting plan. In the 2008 elections, Bill served as Finance Chairman for the New York Democratic Senate Campaign Committee, leading to Democrats gaining control of the State Senate for the first time in decades. In this role, Bill saw up close the corrosive influence of special interest money on elections. Recognizing the kind of fundamental structural change that is needed, Bill launched the New Roosevelt, a multi-year campaign to achieve change around "Five Pillars of Reform" including a focus on New York's campaign finance rules: highlighting the need for public financing, lowered contribution limits with closure of loopholes that have otherwise rendered them useless, and improved enforcement, so that our State Legislature can regain the integrity, functionality and common sense the voters are demanding

G. ALAN TARR is Director of the Center for State Constitutional Studies and Distinguished Professor of Political Science at Rutgers University – Camden. He is the author or editor of several books on constitutionalism and on federalism, including *Without Fear or Favor: Judicial Independence and Judicial Accountability in the American States* (2012); *State Constitutions for the Twenty-first Century* (3 vols., 2006); *Constitutional Origins, Structure, and Change in Federal Countries*

(2005); *Federalism, Subnational Constitutions, and Minority Rights* (2004); and *Understanding State Constitutions* (1998). Three times the recipient of fellowships from the National Endowment for the Humanities and more recently of a Fulbright Fellowship, he has lectured on federalism and constitutionalism throughout the United States and in Africa, Asia, Europe, and South America.

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