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NEW YORK STATE SENATE

THE  
STENOGRAPHIC RECORD

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 if 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 in 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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