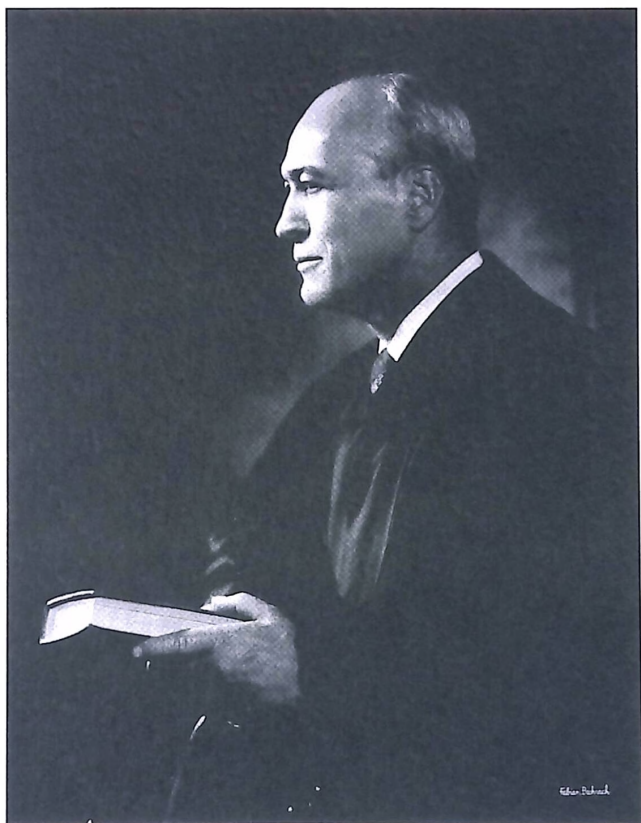


IN MEMORIAM



MAX ROSENN

(February 4, 1910- February 7, 2006)

**Funeral Service
of
Max Rosenn**

Ohav Zedek Synagogue
242 South Franklin Street
Wilkes-Barre, Pennsylvania

Thursday, February 9, 2006
Eleven-thirty AM

ORDER OF READINGS AND COMMENTS

Rabbi Meir Rosenberg and Rabbi Larry Kaplan

Psalms 1

Psalms 15

Psalms 23

Psalms 92

EULOGIES

Daniel Wohl Rosenn

Keith Samuel Rosenn

CONCLUDING HYMN

Adon Olam

Cantor Ahron Abraham

Psalm 1

- 1) *Forward strides that man who has never walked in the counsel of the lawless, never stood in the path of the frivolous, and who has never sat where the scornful sit.*
- 2) *But whose striving is in the teaching of the Lord and who meditates in His Law day and night.*
- 3) *He shall be like a tree planted by choice upon brooks of water, which brings forth its fruit in its season and whose leaf does not wither; and whatever he does, he will carry through successfully.*
- 4) *The lawless are not so! They are like the chaff which the wind drives away.*
- 5) *Therefore the lawless shall not stand up in judgment nor the frivolous in the congregation of the righteous.*
- 6) *For the Lord knows the way of the righteous, and the way of the lawless shall perish.*

Psalm 15

- 1) *A Psalm of David. Lord, who shall sojourn in Thy Tabernacle, who shall dwell upon the mountain of Thy Sanctuary?*
- 2) *He that walks in moral integrity and practices righteousness and speaks the truth with his heart.*
- 3) *He who has borne no slander upon his tongue, nor done evil to his fellow nor tolerated any aspersion cast upon his neighbor.*
- 4) *In whose eyes that which is blameworthy is despised, and he honors those who fear the Lord. He has sworn this once to evil and does not change [his vow.]*
- 5) *He who has not put out his money for usury, nor has taken a bribe against an innocent man—he who so acts as by these principles will not waver forever.*

Psalm 23

- 1) *A Psalm of David. The Lord is my shepherd, I shall want for nothing.*
- 2) *He makes me lie down in pleasant green pastures; He leads me besides the peaceful waters.*
- 3) *Again and again he restores my soul; He desires to lead me in the paths of justice for His Name's sake.*
- 4) *Yea, though I walk in the valley overshadowed by death, I will fear no evil, for Thou art with me; Thy rod and Thy staff, they comfort me.*
- 5) *Thou preparest a table before me in the presence of my oppressors; once Thou didst anoint my head with oil; my cup has been full ever since.*
- 6) *Only goodness and lovingkindness shall follow me all the days of my life, and then I shall return to the House of the Lord—forever.*

Psalm 92

{concluding verses}

- 13) *The righteous will flourish like the palm tree, he will grow tall like a cedar of Lebanon;*
- 14) *Planted in the House of the Lord, they will flourish in the courts of our God.*
- 15) *They will still bear fruit even in old age, they will remain full of vim and vigor forever,*
- 16) *To declare that the Lord is upright, my Rock, in Whom there is no injustice.*

Eulogy For My Father

(February 9, 2006)

I want to thank you for coming here this morning. But more than that, Keith and I want to thank the community at large for multitude of "living" eulogies and tributes Dad was fortunate to receive *during* his lifetime. The honors he has received these last many years have been much more meaningful and substantial than any eulogies Keith and I can say today. To his neighbors, relatives, friends, colleagues, doctors, and especially Virginia and his law clerks, let me express on behalf of the family my deepest gratitude for the caring, concern, and devotion you extended to him--especially in these last few years when he was more and more alone and ill.

It is hard to say when my father's illness actually began. It was a deceptive and tricky illness, filled with false stops, setbacks, and miraculous recoveries over the course of several years. When he was in his mid eighties, his rheumatic heart valves began to fail rapidly, and his only chance was massive, open-heart surgery. I spoke with a college classmate who was then Head of Cardiology at Boston's Brigham and Women's Hospital. He was against doing any operation, since 85-year-old men do not usually survive this kind of multiple valve replacement. I said to the doctor, "Just talk to him for 10 or 15 minutes, and then make up your mind." So we flew Dad in from Avoca for a brief meeting with the doctor. After an hour and 20 minutes, the doctor came out to the waiting room and said to me, "Your Dad is so charming and fascinating. He's like a 60 year old man. I could have spent the whole afternoon talking to him." The surgery was quite successful, and Dad had another 11 years of incredible contribution, service, and social connection.

He led as full and complete a life as any man could pray for. Toward the end of his life, he suffered the inevitable losses of the very old: his beloved wife, his devoted sisters, many dear friends, and repeated physical reverses--yet through these all he strode with dignity, courage, and optimism. But this last year, he was like a ship struggling in an increasingly heavy sea. With each crushing wave across his bows, he fought back to the surface, but with less energy and strength. For this robust and sturdy man, his illness was an ever-tightening constriction of possibility.

Despite the hardships, he was alert and clear to the very end. This weekend was his 96th birthday. We gathered in his hospital room--children, grandchildren, great grandchildren--sang Happy Birthday and the

Shehechiyonu. He looked at us and whispered, "I am honored." Two days later, he was gone.

In the last few years, I tried to persuade him to come up to Boston and live with us. But we all knew, his doctors better than anyone, that he would never retire. His legal career sustained him and literally kept him alive. Last year, during another health crisis, he was lying in the ICU hooked up to cardiac monitors. I could see on the screen above his head as I was talking with him just how irregular and rapid his heart rate was. And then Keith began discussing with him one of Dad's legal decisions, and to my astonishment, his rapid rate slowed and his rhythm dramatically improved. It was like the healing power of the Law literally flowed in his bloodstream. A few weeks ago, when he and I discussed Endings, he told me he was not ready to die yet. He still had several more decisions to finish.

But the second reason we all knew he would never live with us in Boston was that he could never bear to leave the Valley he loved. He said to me last Passover, "I was born here, and I've lived my life here. This is where I'll end my time."

He was born in his mother's bed in a ramshackle house in Midvale, just about a mile from where he died. The oldest of five children, he was parentified and adultified almost from the start. His mother, my Grandma Jen, used to tell the story of how she had a birthday party for him with some neighborhood kids when he turned six. Midway through the party, she had to run down to the store for more soda. When she got back, she found Max had sent everyone home because they were too noisy and they were misbehaving.

His father Joe was a cattle dealer. When Joe was on the road, Max often looked after the cows. One day when he was 7, a fancy Packard sped down the dirt road and killed one of the cows without stopping. Dad took a stick and wrote the license plate number of the car in the dirt. The car was traced, and Dad testified before a magistrate at the old courthouse. He was a competent, creditable, and unflappable 7 year old witness, and the culprit had to pay. I have always believed that this was one of the truly formative influences in his legal career.

At any rate, he didn't go to public school until he was eight, went to Cornell when he was only sixteen, and entered University of Pennsylvania Law School just three years after that. He was always incredibly focused, goal-directed, and motivated.

He was the epitome of a small-town person, in the best sense of the word. He seemed to know everyone in the Valley. Walking with him from the courthouse to the Westmoreland Club for lunch was an exercise in stopping and starting. Every few steps he would turn to greet one person then another. He had a phenomenal memory not just for names and faces, but also for lineage. He would introduce me to an elderly lady, and when she left, he would tell me what town down the river her family came from and to whom her mother was married.

He was never interested in running for office, but he truly liked people. And they liked him. He somehow engendered respect wherever he went. He never exaggerated or bragged. He was always in control. In all my life, I never knew him to really lose his temper. He never swore or told an off-color story. He neither under-stated nor over-stated. He said what he thought, and sometimes if you were his son, it wasn't what you wanted to hear. He himself was a marvelous listener--very alert, quizzical and enquiring. My friends and colleagues loved to talk with him when he came up to Boston to visit.

On the other hand, he also had a Presence--it's hard to describe--an aura of poise and quiet authority. He was a leader. People turned to him for advice, and they relied on him. Once when I was in fourth grade, in the midst of polio season, I saw a movie about a child in an iron lung. For weeks I kept my terror to myself, but eventually I became so frightened about spending my life in an iron lung that I had trouble sleeping and eating. Finally, one evening I told my father, and he calmly said, "You don't have to worry about that anymore." And, miraculously, I didn't. When Dad said something, you could always believe him. His strength and his composure protected our family and kept us from worry.

His life was inextricably bound up with the Valley. He met my mother across the river from here at Kirby Park playing tennis when he was sixteen. She was the only woman in his life, and he loved her with a deep, abiding, idealizing love.

He married her under a *Huppa* where I stand now. They were inseparable, and her love for him sustained and steadied and completed him. The single most irredeemable sadness of his long, long life was that she slipped away from him in 1992.

Yet after her death, Dad seemed to mellow, to be less critical. To me, he seemed more accessible and took on to himself a softer, more nurturing role with his children and grandchildren. It was as if in some way he had internalized Tillie's ineffable motherliness and made this a part of himself.

Along with his family and his legal career, his private religious beliefs were a central, organizing force in his life. I am **not** talking about his Jewish Community service, the many Jewish agencies, organizations, charities, and so forth he served on, and frequently led. In this, he was a paragon of civic responsibility and demonstrated an ideal of commitment to philanthropic giving and charity, which was often non-sectarian.

He loved the traditional values and observances of Judaism, and he lived his life according to them. He put on *Tefillin* every morning, kept Kosher, and went to *Shul* every Saturday that he was able to. He prayed loudly and tunelessly, and to pray next to him as I often did, was a mixed blessing. I remember one evening a few years back when he was visiting us in our second home in the Berkshire mountains in Massachusetts. We drove 20 miles through the mountains to a small congregation in Northampton on *eruv Tisha B'Av*, the night the Book of Lamentations is sung aloud in a special trope. He sang so loudly and so out of tune, that the tiny congregation became completely befuddled, and Barbara and I had to find a way to discretely tone him down. Nothing pleased him as much as a confidently sung *Moftir* or *Haftorah*, particularly if it was he who sang it.

He saw a central Truth in the biblical heritage of ancient Israel and the Mosaic Code. It was not necessarily the concept of the Jewish G-d, but the principles, the interlocking of community, personal integrity, and duty. He took a deeply personal pride in the historical insights of Judaism and the sacrifices his People made through the ages to keep themselves and their beliefs alive. Although he was always an incredibly rational and analytical man, he kept the traditional observances as best he could in the complicated secular world he lived in. A few weekends ago, I drove up from Boston to visit him in the ICU. He had just come off the respirator that Saturday morning after three brutal, painful days. He was groggy but oriented. I asked him if I could shave him, and he whispered, "wait 'til *Shabbos* is over."

It was not the absolutism of Judaism and its observances that intrigued him, but rather the organicity of the written Commandments. The *Torah*, which to him was the birthplace of our U.S. Constitutional law he so revered, was interpreted and explained through the ages by a learned body of rabbis who weighed and construed the laws according to a just and humanistic understanding of G-d and Man. This is where his religion and his legal career came together.

When your father is ninety-six, you have so many memories they tend to blend into an over-lapping haze. Two nights ago, after his death, I was sorting through my folder of letter and cards Dad and I had exchanged over

the decades, and I came across a letter I had written to him several years ago. It is an oddly formal and embarrassingly pedantic letter, but formality and intellectuality were for better or for worse a defining part of our relationship. The note is dated December 2, 1999, and it reads as follows:

Dear Dad,

I just wanted to drop you a note of thanks for the terrific book that came today marked "Very Belated Birthday Gift." My only objection to this marking is that the gift is not that very late, and I actually had the vague recollection that you had already given me my birthday gift in September.

In fact, I strongly feel that you have already given me more than the full and expected quota of gifts that a son could wish for, including the gift of life, the model of a productive and caring grown-up to try to emulate, the instillation of an ideal of responsibility to family and community, a standard of excellence to aim for in my career, and a commitment to a spiritual life.

You know that I will forever be grateful to you and Mom for all that you have given me and to my own family through the years, and that these gifts are knitted into my being.

I look forward to getting together soon.

Love,
Dan

In my travels between Amherst, Stanford, and Harvard, I have personally known or worked with 4 Nobel Laureates and many other distinguished and honored professors and physicians. Yet I have no hesitation in saying that I respect and admire my father over any other person I have ever known. In a world of increasing dishonesty and deceit, he practiced an old-time, small-town morality of basic decency, fairness, courtliness, and modesty.

He was a good man, which, as someone once said, when all is said and done, is the finest thing that one can say about any man. Leaving all the tributes and the praise aside, my father was indeed a very good man.

Daniel W. Rosenn

Eulogy For Max Rosenn

(February 9, 2006)

I would like to reiterate Daniel's thanks to my Dad's secretary Virginia, and his law clerks, Ann and Coulter, and Drs. Engel and Rabinowitz, for all their help to my father and to us during Dad's final illness. I would also like to express our deep gratitude to Joe Savitz for masterminding the funeral arrangements and all his other assistance. And I would like to thank all of you for attending. I know that many of you traveled great distances and put aside important matters just to be here on this occasion.

It is not easy to eulogize a man who has been so often eulogized during his lifetime. A few months ago, I, like many in this synagogue, sat in Wilkes University and watched a marvelous film celebrating my father's life. Tributes to him appear in the pages of the federal reporter, in newspapers and magazines, and a more concrete memorial sits around the corner as the Max Rosenn Federal Courthouse.

My father cast a long shadow. That partly explains why my brother and I sought sunshine far from Wilkes-Barre, although sunshine is easier to find in Miami than in Boston. It was not easy to be your own person in a place where you were always Max's son. Dad was a model of virtue and rectitude, and living up to his high moral standards has not been easy. The only laws I ever saw him take liberty with were the speed limits. But that was genetic. One of his first cases was the defense of his father, Grandpa Joe, when the authorities sought to lift his license for excessive speeding violations. When he learned that his father had 12 convictions for speeding that year, and it was only June, he decided that it was in the public and his client's interest to let the license be suspended. My Grandfather always maintained that my father was a lousy lawyer because of that case.

Contrary to the suggestion of popular songs, the good do not always die young. Dad lived to the ripe old age of 96. Very few live to that age of 96 with their minds sharp as a tack, and virtually no one other than Dad continued to churn out high quality appellate opinions at that age. Our research librarian at the University of Miami set out to find out the exact number of opinions Dad authored. After finding more than 700 opinions, she gave up the task as hopeless. She also set out to find how often his opinions had been cited, and abandoned that quest after finding that just 40 of his opinions had been cited by other judges more than 3600 times. A few years ago I read a piece that claimed he was the fifth most cited federal court of

appeals judge, but I have not been able to find the piece since. My students are constantly telling me that they have read opinions by a Rosenn in their casebooks in other courses and ask if we are related.

Dad's work as a judge of the U.S. Court of Appeals for the Third Circuit provided him with his *raison d'être*, especially in the thirteen years since Mother's death. He went on the bench in 1970, when he was 60 years old and a very successful lawyer. Accepting a judicial appointment meant taking a substantial cut in income, but I never once heard him complain or express any regrets about having become a judge. It was a position he clearly loved.

It was also a position for which he was eminently suited. He brought to the bench a wealth of trial experience and practical lawyering skills. He had been both prosecutor and defense counsel, a lawyer for savings and loans and commercial banks, and a high powered labor lawyer. He managed to represent both management and labor unions, something few labor lawyers have accomplished.

Dad came to the bench with few preconceptions. He was the antithesis of an ideologue. He had a very strong sense of what was right, fair and just, and he abhorred bigotry and intolerance. But he also understood clearly that his task was not to sit like a *cadi* under a banana tree, dispensing justice as he saw fit. He worked within the confines of the Constitution and the law, the facts set forth in the record, and the arguments of counsel. He had great respect for other lawyers, and a well-deserved reputation for treating counsel arguing before him fairly and civilly. He also had great affection and admiration for his colleagues on the bench, and I have every reason to believe that they had great affection and admiration for him.

Both Dad and my Mother also treated the law clerks with extraordinary hospitality. They became part of our extended family, and they have shown their appreciation by generously establishing the Max Rosenn Lecture Series at Wilkes University, a lecture series that has brought in outstanding speakers to Wilkes-Barre for the past 26 years. It has also been an occasion for the clerks to come back and visit with my father and each other. Dad chose his law clerks with great care, and a great many have gone on to very distinguished careers. They share a fierce loyalty to my father and great pride in having been a Max Rosenn law clerk. My father in turn was immensely fond of his clerks and loved receiving visits and letters from them. He would attend and even occasionally officiate at their weddings and other family events.

Dad was not only a great judge, but also someone with great

dedication to public and community service. After graduating from the University of Pennsylvania Law School in 1932, no job at a large law firm awaited him. He had to struggle to establish a law practice in the heart of the Great Depression. He built his own practice, one client at a time, and he always felt a deep sense of obligation to this community that made that possible. He always told me: "A man can never have enough friends, but one enemy is one too many." He had friends wherever he went, and he cultivated those friendships. He also did a great deal of pro bono work and involved himself with numerous charitable, civic, educational, religious, and fraternal organizations, which he supported generously.

He enlisted in the U.S. Army during World War II and spent 18 months in the Philippines as a JAG Lieutenant. He served as Secretary of Public Welfare in both Governor Scranton and Governor Shafer's administrations. He spearheaded the effort to rebuild Wyoming Valley after it was devastated by the flood caused by Hurricane Agnes in 1972. Simply naming all the various organizations he belonged to and positions he held would require far more time than I have.

Dad also somehow managed to find time for family, which was very important to him. While he was building his practice, I found the best way to spend time with him was to learn to play golf. Some of my fondest memories were of the times we played golf together. He was generous with his advice, but could never understand why I never took it, especially when so many people paid him so much money for his advice. But I was very fortunate to have had him a role model.

Dad took great pride in the accomplishments of his children, grandchildren, and great grandchildren. He was extremely generous to all of us during his lifetime, not only financially, but more importantly with love and support. We shall miss him dearly.

Keith S. Rosenn

Adon Olam

Adon Olam is perhaps the best known and most frequently sung of all synagogue hymns. Its author is said to be Solomon ibn Gabriol (1021-1058), the great Spanish-Jewish poet-philosopher. It begins by praising God as infinite, the source and origin of all. But in the end the Creator of all is also man's Guardian, Friend, and Redeemer. In life and in death, we confidently place our destiny in His hands.

*Before creation shaped the world,
Eternally God reigned alone;
But only with creation done
Could God as Sovereign be known.*

*When all is ended, God alone
Will reign in awesome majesty.
God was, God is, always will be
Glorious in eternity.*

*God is unique and without peers,
With none at all to be compared.
Without beginning, endlessly,
God's vast dominion is not shared.*

*But still—my God, my only hope,
My one true refuge in distress,
My shelter sure, my cup of life,
With goodness real and limitless.*

*I place my spirit in God's care;
My body too can feel God near.
When I sleep, as when I wake,
God is with me; I have no fear.*



